

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 7, 2011

1:30 p.m.

MEMBERS PRESENT

Senator Bettye Davis, Chair
Senator Dennis Egan
Senator Johnny Ellis
Senator Kevin Meyer
Senator Fred Dyson

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 14

"An Act providing for the protection and reasonable accommodation of a health care provider's expression of conscience pertaining to a health care service; and providing for immunity, an exception, and prohibition of discrimination for an expression of conscience by a health care provider."

- HEARD AND HELD

SENATE BILL NO. 5

"An Act relating to eligibility requirements for medical assistance for certain children and pregnant women; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 14

SHORT TITLE: PROTECT HEALTH CARE PROVIDER CONSCIENCE

SPONSOR(S): SENATOR(S) DYSON, COGHILL

01/19/11	(S)	PREFILE RELEASED 1/7/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	HSS, JUD
03/07/11	(S)	HSS AT 1:30 PM BUTROVICH 205

BILL: SB 5

SHORT TITLE: MEDICAL ASSISTANCE ELIGIBILITY

SPONSOR(s): SENATOR(s) DAVIS, EGAN, ELLIS, FRENCH, WIELECHOWSKI

01/19/11 (S) PREFILE RELEASED 1/7/11
01/19/11 (S) READ THE FIRST TIME - REFERRALS
01/19/11 (S) HSS, FIN
03/07/11 (S) HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

CHARLES COBB, Staff to Senator Dyson
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented SB 14 for sponsor.

TOM OBERMEYER, Staff to Senator Davis
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented SB 5 for sponsor.

MARIE DARLIN
American Association of Retired Persons (AARP)
Juneau, AK

POSITION STATEMENT: Testified in support of SB 5.

ELIZABETH RIPLEY
Mat-Su Health Foundation
Wasilla, AK

POSITION STATEMENT: Testified in support of SB 5.

WILLIAM J. STREUER, COMMISSIONER
Department of Health and Social Services
Juneau, AK

POSITION STATEMENT: Answered questions regarding SB 5.

JOHN SHERWOOD, Medical Assistance Administrator
Department of Health and Social Services
Juneau, AK

POSITION STATEMENT: Answered questions regarding SB 5.

ACTION NARRATIVE

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CHAIR BETTYE DAVIS called the Senate Health and Social Services Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Dyson, Egan, Ellis, Meyer and Chair Davis.

SB 14-PROTECT HEALTH CARE PROVIDER CONSCIENCE

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CHAIR DAVIS announced the first order of business would be SB 14.

SENATOR FRED DYSON, sponsor of SB 14, said this bill was prompted by a conversation with a pharmacist who was tired of dispensing large amounts of Oxycontin to people on Medicaid. It is sold on the streets, and people have figured out how to smoke it and shoot it. Senator Dyson then read from the sponsor statement, as follows:

A health care professional's view of health, sickness, patient care and purpose of medicine comprise a well-formed professional conscience. This conscience is changed with new information and technology. A broad application of a right of conscience applies to the issues of end of life care, consumer genetic testing, the practice of pain management, psychotropic drug use, sterilizations, race-specific medications, infant circumcision, physician and nurse complicity in capital punishment, physician assisted suicide, abortion, etc.

This bill recognizes the societal benefits that divergent organizational identities bring; the relational dimension of professional conscience between health care institutions and providers, between providers and patients, and between providers and communities; and helps ensure the conditions necessary for the conversations of conscience to continue concerning the health care profession.

Most states have laws protecting the conscience rights of health care providers. Alaska law currently does not provide for a general health care provider protection of conscience.

SB 14 provides a guarantee for the exercise of health care provider conscience in an increasingly pluralistic environment. All health care providers must be treated equally, and must have recourse to the exception made for conscience.

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CHARLES COBB, Staff to Senator Dyson, summarized the bill, as follows:

- Provides within Alaska Statutes, Title 18, a protection and reasonable accommodation for a health care provider's expression of conscience pertaining to provision of a health care service;
- Establishes written notice as the method of communicating an expression of conscience, and that the employer will reasonably accommodate and not discriminate against the employee providing notice; and
- Provides that the notice does not have to include the reason for the objection, but must be related to the provider's conscience and not to a protected status of the patient; and
- Provides that an employer is not required to accommodate the employee if the employer demonstrates the accommodation poses undue hardship or the objecting employee is the only health care provider available in a life-threatening circumstance, and that the health care provider may not refuse to provide treatment or care in a life-threatening circumstance until an alternate health care provider is available; and
- Provides civil and criminal immunity to health care providers who express conscience in compliance with this section; and
- Provides that this section will be construed in a manner consistent with Title VII of the Civil Rights Act of 1964; and
- Defines terms.

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SENATOR MEYER said he was concerned about rural areas where there is only one health care provider.

SENATOR DYSON responded if it was a life threatening situation they must provide the care.

MR. COBB said the bill recognizes relationships. For instance, if one provider provides 99.9 percent of all requested services, we don't want that provider to be shut down. It is important that those things are discussed with patients. Conscience is different in each community.

SENATOR DYSON stated that most doctors think the bill is not necessary. One doctor did not want to use a particular

medication because patients were dying when he used it. His professional judgment was to use what was best for his patients.

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SENATOR DYSON noted the bill was endorsed by the state pharmacy board, as well as several doctors.

CHAIR DAVIS said she has gathered research information about the bill, which she will distribute to committee members. She announced that SB 14 would be held in committee.

SB 5-MEDICAL ASSISTANCE ELIGIBILITY

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CHAIR DAVIS announced the next order of business would be SB 5, the Denali Kid Care bill.

TOM OBERMEYER, staff to Senator Davis, said SB 5 is the same bill that was introduced as SB 13 last year. That bill passed both houses but was vetoed by Governor Parnell. He summarized the bill, as follows:

This bill increases and restores to original levels established 14 years ago the qualifying income eligibility standard to 200 percent Federal Poverty Level (FPL) for the State Children's Health Insurance Program (SCHIP) called Denali KidCare in Alaska. Alaska as one of the nation's wealthiest states is only one of four states which funds its SCHIP program below 200 percent FPL. This bill makes health insurance accessible to an estimated 1,277 more uninsured children and 225 pregnant women in Alaska. Denali KidCare is an "enhanced" reimbursement program receiving up to 70 percent federal matching funds.

Denali KidCare serves an estimated 7,900 Alaska children and remains one of the least costly medical assistance programs in the state at about \$1,700 per child with full coverage, including dental, which is about 20 percent of the cost of adult senior coverage. Early intervention and preventive care will greatly increase Alaska children's health and yield substantial savings to the state and public and private sector hospital emergency rooms which must admit indigent and uninsured patients for non-emergency treatment. It is estimated that the 18,000 or 9 percent uninsured children in Alaska with a

medical need are five times as likely not to have a regular doctor as insured children and four times more likely to use emergency rooms at a much higher cost.

MR. OBERMEYER further stated that a similar bill was overwhelmingly passed with bipartisan support by the Legislature in 2010. Governor Parnell subsequently vetoed the bill over concerns that increased eligibility to Denali KidCare would require an increase in state-funded abortion services which amounted to about 0.18% of the \$217 million Denali KidCare budget. Denali KidCare is required under a 2001 Supreme Court ruling to fund "medically necessary" abortion services if the program is to remain part of the state's Medicaid program. This bill, however, is not about abortions. It is about providing quality health care for our most vulnerable low income youth and pregnant women. It is pro-family, pro-life, and imbued with Alaska values by caring for the least able among us on the last frontier.

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Medicaid funds 51 percent of births in Alaska. In order to continue to receive federal funding for the state Medicaid program and in order to comply with state law, the state must provide medical services for pregnant women, including medically necessary terminations, as well as pre-natal and post-partum care. The Alaska Department of Health and Social Services (DHSS) estimated that no more than 22 more of induced terminations would result from increasing the Denali Kid Care Eligibility. Induced terminations under the entire Denali Kid Care program cost about \$384,000 annually, or less than .18 percent of the Denali Kid Care budget. Denali Kid Care is a small fraction of the state Medicaid budget. This law is uncomplicated, manageable, and could take effect immediately.

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CHAIR DAVIS opened public testimony.

SENATOR DYSON asked if there were any material differences between SB 5 and the bill vetoed by the governor last year.

CHAIR DAVIS answered no; it is identical.

MARIE DARLIN, representing AARP, said her organization supports SB 5. AARP is one of the world's largest organizations of grandparents. Many grandparents are raising their grandchildren. As of October 2007, Alaska had 8,188 children living in grandparent headed households, which was 4.3 percent of all

children in the state. Of those, 5,110 were living there without either parent present. A total of 5,419 grandparents report they are responsible for their grandchildren; 67.4 percent of those are under the age of 60, and many are still in the work force. Eleven percent of these live below the federal poverty level. This bill only raises the eligibility back to previous levels. Thousands of children could be receiving health care from this program.

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ELIZABETH RIPLEY, Mat-Su Health Foundation, said that the Mat-Su Health Foundation is a 501(c)(3) organization that owns part of the Mat-Su Regional Medical Center. They use revenues from their local hospital to make grants to improve the health of Mat-Su residents. Their mission is to improve the health and wellness of Alaskans living in the Mat-Su area, and their goal is to be the healthiest borough in the state of Alaska. One strategy is to reduce barriers to health care access. Lack of health insurance is a large barrier.

In 2007, of the 22,991 children in Mat-Su, approximately 6.5 percent were uninsured. However, a startling 650 of these children fell below 200 percent of the federal poverty level. The rate of uninsured children is higher the closer we get to the federal poverty level. Since Alaska decreased eligibility, the rate of uninsured children has grown each year by one or two percentage points. Alaska has also seen a 31 percent decline in the number of children covered by private health insurance. Uninsured children are nine times less likely to have a regular doctor, four times more likely to be taken to an emergency room, and 20 times more likely to miss school. Medicaid cost growth can be slowed by prevention and maintenance of health. Increasing income eligibility levels will increase health care access for children and families and improve overall public health outcomes for Alaskan children. Under current federal law, states may implement coverage up to 300 percent of the federal poverty level. Alaska is one of a tiny majority of states with eligibility levels as low as 175 percent. The Mat-Su Health Foundation Board of Directors has passed a resolution in support of Denali Kid Care eligibility levels being increased to at least 200 percent of the federal poverty level. SENATOR MEYER said everyone on the committee wants to provide health care for women and children in need, but it seems likely the governor will veto the bill again.

WILLIAM J. STREUER, Commissioner, Department of Health and Social Services, said it is the same bill.

SENATOR MEYER asked if the governor would veto it again.

COMMISSIONER STREUER said the department is vigorously trying to find a middle ground to allow the bill to go forward.

SENATOR MEYER said he appreciates the intent.

COMMISSIONER STREUER said it has not happened yet.

SENATOR MEYER asked if talks were ongoing.

COMMISSIONER STREUER said yes.

SENATOR MEYER asked if the new federal health care program would affect Denali Kid Care.

COMMISSIONER STREUER said the Affordable Care Act does not affect this population. It would expand Medicaid but the population covered in SB 5 is not affected.

JOHN SHERWOOD, Medical Assistance Administrator, Department of Health and Social Services, said there is maintenance of effort requirement through 2019, but no guarantee of long-term funding.

SENATOR DYSON asked where the money comes from to fund Denali Kid Care.

COMMISSIONER STREUER answered that it comes through the State Children's Health Insurance Program (SCHIP) authorization, which is 75 percent federal and 25 percent state.

MR. SHERWOOD said it is actually blended funding. SCHIP is 65 percent, then pregnant women under Medicaid. Tribal health care is 100 percent funded, so they take that funding first. The fiscal notes show a blending of different claiming rates.

SENATOR DYSON said so either federal taxpayers or state revenue subsidize the program. There is no guarantee that the federal program will continue indefinitely.

MR. SHERWOOD said the SCHIP program is authorized through 2015, with maintenance of effort provisions through 2019. There are limits to the current authorizations. It is not uncommon for federal programs to require reauthorization.

SENATOR DYSON stated, "So there is no requirement that Congress fund this."

MR. SHERWOOD said the program is funded through allocations to the states, and Congress has discretion whether or not to continue funding it.

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CHAIR DAVIS said if it goes to 2019 we should be in good shape, and she doubts if the federal government will drop it. Congress supports the program.

SENATOR DYSON noted some funding may be jeopardized at the federal level and we might look for another way to take care of this issue.

CHAIR DAVIS said that tribal health is 100 percent reimbursed, and the state should make better use of this.

SENATOR EGAN said the committee is discussing a bill that he personally believes means a lot to many people in this state, and asked if the administration is negotiating in good faith.

CHAIR DAVIS said she understands that this bill might be vetoed again, and she has been working with the present administration, trying to convince the governor not to veto it. She said she told him, "If you can't sign the bill, just let it go into law."

SENATOR DYSON noted the governor did support funding health care for children in need and would have been glad to let the bill go through until he was informed of the abortion issue. He has been trying to find a way to go forward, but it is a very significant human rights issue.

CHAIR DAVIS said she would not close testimony but set SB 5 aside for further consideration.

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There being no further business to come before the committee, Chair Davis adjourned the meeting at 2:14 p.m.