

HOUSE FINANCE COMMITTEE

April 3, 2014

8:41 a.m.

8:41:04 AM

CALL TO ORDER

Vice Chair Neuman called the House Finance Committee meeting to order at 8:41 a.m.

MEMBERS PRESENT

Representative Mark Neuman, Vice-Chair
Representative Mia Costello
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Lindsey Holmes
Representative Cathy Munoz
Representative Steve Thompson
Representative Tammie Wilson

MEMBERS ABSENT

Representative Alan Austerman, Co-Chair
Representative Bill Stoltze, Co-Chair

ALSO PRESENT

Representative Benjamin Nageak, Sponsor; Mary Schlosser, Staff, Representative Benjamin Nageak; Diane Kyser, Proprietor, Artemis Enterprise; Victoria Dance, Massage Therapist, Juneau; Sara Chambers, Director, Division of Corporations, Business, and Public Licensing, Department of Commerce, Community and Economic Development; Chere Klein, Staff, Representative Peggy Wilson; Amy Erickson, Director, Division of Motor Vehicles, Department of Administration.

PRESENT VIA TELECONFERENCE

Jill Motz, Licensed Massage Therapist, Chugiak and Eagle River; Amanda Unser, Alaska Massage Therapy Licensing Coalition, Anchorage; Volker Ruby, Self, Anchorage.

SUMMARY

HB 293 BEAR LICENSE PLATES

CSHB 293(STA) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (ADM).

HB 324 CONTROLLED SUBST. PRESCRIPTION DATABASE

HB 324 was SCHEDULED but not HEARD.

HB 328 BOARD/LICENSING OF MASSAGE THERAPISTS

CSHB 328 (L&C) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

Vice-Chair Neuman relayed that HB 324 had been removed from the meeting agenda.

#hb328

HOUSE BILL NO. 328

"An Act establishing the Board of Massage Therapists; relating to the licensing of massage therapists; and providing for an effective date."

[8:41:39 AM](#)

REPRESENTATIVE BENJAMIN NAGEAK, SPONSOR, introduced the legislation. He stated that HB 328 established a Board of Massage Therapists and provided regulation for certification. The legislation included ethical standards, accountability, business development, grievance processes, and facilitated better access to therapy.

MARY SCHLOSSER, STAFF, REPRESENTATIVE BENJAMIN NAGEAK, shared that Alaska was one of six states that did not regulate massage therapy. She relayed that regulation was a matter of public safety and professionalism. Regulation facilitated standards for care and the state was "behind the curve" in regulation of massage therapy. Licensure allowed massage therapists to become "in network" providers and directly bill insurance companies, which "endorsed small business" by allowing the therapist to operate more independently. She cited that Forbes Magazine (Fall 2013) rated states for business friendliness; Alaska rated 37th

out of 50 and Alaska was ranked 44th for its regulatory environment. She believed that the legislation encouraged greater professional opportunities in a growing profession. Eighty-four percent of massage therapists supported state licensure. She urged the committee to support the legislation.

Representative Wilson asked how regulating the industry would make the state more business friendly.

Ms. Schlosser replied that licensure allowed the massage therapist to directly bill insurance companies which encouraged self-employment.

Vice-Chair Neuman asked for an explanation of changes contained in the House Labor and Commerce Committee Substitute (CS).

Ms. Schlosser explained that the change on page 3, line 28 added a board approved apprenticeship program. Another change tightened exemption language for structural integration practitioners and Rolfers. The third change located on page 8, lines 1 through 8 combined a category of exempted practices without naming the individual modalities. She cited page 3, line 24 and page 4, line 18, and noted that the word "board" was changed to "department" for application processing purposes. Located in the transition language, the 500 hour requirement for licensure was waived for massage therapist already practicing in the state as long as outlying standards were met.

Vice-Chair Neuman asked if the sponsor agreed with the changes.

Ms. Schlosser replied in the affirmative.

Representative Munoz asked where the apprenticeship program was located in the legislation.

Ms. Schlosser replied that the provision was located on page 3, line 28.

Representative Munoz supported the program and was glad to see the bill moving forward.

Representative Edgmon appreciated the bill and viewed it as a pro-business bill. He asked for clarification regarding the required 500 hours for licensure.

Ms. Schlosser replied that a person would have to attend a board approved massage schools and that currently none existed in Alaska.

Representative Edgmon wondered whether the legislation would foster the establishment of a massage therapy school in the state.

Ms. Schlosser thought that presently not enough demand existed in the state.

Representative Edgmon asked whether licensing fees would be determined by the department.

Ms. Schlosser deferred the question to the Department of Commerce, Community and Economic Development (DCCED).

Representative Guttenberg supported the legislation. He questioned the membership of the board. He wondered whether the composition of the board; four practicing massage therapists and one member of the public, was standard practice of board membership. He thought that more of a balance between members of the public and licensed practitioners was typical for other boards.

Ms. Schlosser answered that the board was small and would allow more therapists to participate on the board.

JILL MOTZ, LICENSED MASSAGE THERAPIST, CHUGIAK AND EAGLE RIVER (via teleconference), spoke in support of the legislation. She announced that she was a massage therapist and believed that the legislation would further the profession by assuring educational standards and an opportunity to fully participate in the "evolving" field of health care. She thought that the public was entitled to a minimum level of protection provided by the bill. She reported that she currently practiced massage in two Burroughs and was assessed licensing fees in both locations and estimated that the state licensing cost would be less expensive than under the current structure. She did not believe the proposed licensing costs were burdensome.

[8:55:08 AM](#)

AMANDA UNSER, ALASKA MASSAGE THERAPY LICENSING COALITION, ANCHORAGE (via teleconference), testified in support of the bill. She stated that she served on the board of the Alaska chapter of the American Massage Therapy Association (AMTA). She explained that the coalition was formed in 2012 for the purpose of crafting a licensing bill. Other healthcare professions such as Chiropractors supported HB 328. She clarified that there was currently two massage therapy schools in Anchorage that offered 500 hour, nationally approved programs.

Representative Guttenberg asked whether she was the head of the coalition and if she was aware of the responsibilities of licensing board members.

Ms. Unser replied in the affirmative and relayed that discussions were held with other professional board members. She believed massage therapists were ready to govern their profession.

VOLKER RUBY, SELF, ANCHORAGE (via teleconference), spoke in favor of the legislation. He related that he was the Treasurer of the Alaska chapter of the AMTA and practiced massage therapy for twelve years. The bill would provide therapists with the freedom to practice massage anywhere in the state and only pay one yearly fee. He thought that the fees would be less expensive than municipal fees. The licensing fees would fund the board, which eliminated costs for the state. The proposed state license sets professional standards for massage therapy, protected the public, and expanded opportunities for massage therapists. He urged the committee to support HB 328.

DIANE KYSER, PROPRIETOR, ARTEMIS ENTERPRISE, testified in support of the legislation. She reported that she operated her own massage therapy business for twenty years. She spoke to her work history and various duties related to massage therapy. She voiced that the legislation set a standard for massage therapy training in the state. She pointed to page 3, line 22 and lines 26 through 29 that required evidence that the practitioner completed a 500 hour course of study to qualify for a license. The bill would authorize the board to determine the requirements for continuing education. She estimated that three massages per year would pay for her annual licensing fees and stated that the cost was tax deductible. She believed that HB 328 would provide consistent and updated educational standards

for massage therapy in the state and ensure consumer protection.

Representative Guttenberg thanked Ms. Kyser for her testimony. He noted that many people were nervous about going to massage therapists.

Ms. Kyser replied that she provided education and information to first-time clients on massage procedures, what to expect during a massage, and how to be a smart consumer of massage therapy services.

Representative Guttenberg asked for verification that currently massage therapists could not bill clients directly and that HB 328 would authorize direct billing by the massage therapist.

Ms. Kyser replied in the affirmative.

Representative Guttenberg asked whether a referral was necessary.

Ms. Kyser answered that direct insurance billing required a professional licensing board and referral from a medical doctor or chiropractor. She reiterated that the bill would provide massage therapists the option to bill insurance.

Representative Wilson wondered whether she understood that the licensing fee could be increased in the future.

Ms. Kyser replied in the affirmative. She had served as a medical licensing assistant and understood the issue.

Representative Gara noted that he had signed on as a cosponsor.

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VICTORIA DANCE, MASSAGE THERAPIST, JUNEAU, spoke in opposition to the bill. She reported that she was a licensed massage therapist in Arizona since 1984, was a member of AMTA, and currently worked for six years in a massage therapy clinic in Juneau. She offered that she only opposed the bill in its current structure. She confirmed through the AMTA that the 500 hour standard was arbitrary. The only available data was from AMTA through its Entry Level Analysis Project that concluded that competency was

achieved at 625 hours of training. She proposed that the 500 hour requirement in the legislation should be increased. She stated that massage therapists would not be able to bill insurance directly if the bill passed. She pointed to prior testimony from Marty Hester, Deputy Director of the Division of Insurance, DCCED. She spoke to the licensing fees associated with the bill. She cited an email she had received from Don Habeger, Director, Division of Corporations, Business and Professional Licensing, DCCED that stated that the fee would be approximately \$550. The fee was different than what the coalition had stated, was higher than what municipalities charged, and higher than the amount a doctor paid. She felt the cost would be a "burden." She added that California only required voluntary certification and massage was regulated through municipal ordinances. She believed that municipalities were regulating massage cost effectively and was not sure that state law was necessary to regulate the field.

Ms. Dance reported that the massage therapy board was modeled after the social worker board. She believed that massage therapy licensure was "vulnerable" to higher licensing fees due to investigations. The "massage parlor" trade did not exist in other professions and made massage therapy more susceptible to investigations. She was informed that investigative costs were not the responsibility of the board but discovered that was not true. She mentioned that other boards were currently in deficit and the investigation issue "made her nervous" in relation to the potential for increasing licensing fees. She related that she was confused by the fiscal note.

Ms. Dance continued to discuss her opposition to the bill. She communicated that she had received 22 signatures in the past one and a half days in opposition to the bill and wondered why the supporters of the legislation spoke of "overwhelming support." The legislation did not define massage therapists as health care providers. She reiterated her concerns related to the bill.

Ms. Dance stated that a competency standard of 500 hours was sufficient for relaxation massage but not adequate for medical massage. She noted the flaw in the survey used to justify support for the bill. She pointed out that only 40 percent of 43 survey participants wanted licensure if the bill "was done right." She shared that her goal was to ensure massage licensing was "done right."

Vice-Chair Neuman noted that Sara Chambers, Director, Division of Corporations, Business, and Public Licensing, DCCED would address the committee.

Ms. Dance requested that Ms. Chambers show the committee how the licensing fees were calculated and whether it was possible to calculate fees in relation to projecting board deficits which take years to accrue.

Representative Guttenberg did not believe the legislature was qualified nor could develop a perfect model for the board. He noted that the board could set higher standards if it wanted. The legislature approved an optimum model for setting up the board and let the professionals govern themselves. He indicated that the therapists would not want the legislature micromanaging its board. He stated that a perfect bill was hardly ever seen.

Ms. Dance spoke about the Alaska Constitution. She was inspired by the process of its creation. She noted that when massage therapy was initially licensed mistakes were made. One-third of states in the Lower 48 had increased hour requirements. She recommended that the bill include a provision that the board could raise hour requirements.

Representative Guttenberg noted that the board did not need the legislature's permission.

Ms. Dance asked for clarification.

Vice-Chair Neuman noted that the department would respond.

Representative Edgmon wondered what professional experiences in or out of the state were driving her opposition to the bill and how long she had been practicing massage in Alaska.

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Ms. Dance answered that she had been in Juneau for 6 years and had been a massage therapist for 30 years. She relayed that she was close to retirement and "had nothing to gain" in her position on the bill.

Representative Edgmon clarified that he was not trying to undercut Ms. Dance's testimony. He wondered whether a health care provider should be added to the board.

Ms. Dance responded in the affirmative. She explained that it was especially important in light of the professions movement into medical massage. In some state statutes massage therapists were designated as health care providers. She felt that the designation was important and recommended inclusion if the bill aimed to support the profession.

Representative Wilson commented on municipal ordinance versus state licensing. She noted the opposing points of view. She wondered whether the municipalities could regulate massage therapy.

Vice-Chair Neuman surmised that municipalities had the authority to require licenses.

Representative Thompson agreed with the statement.

Representative Wilson wondered whether municipalities would be relieved from licensing with passage of the bill.

Representative Thompson stated that with passage of the bill both entities would be involved in licensing. He discerned that the reason municipalities regulated massage therapy was to ensure public safety. Once a community or municipality realized that massage therapy was state licensed and regulated they would most likely withdraw their requirements.

Representative Wilson wondered whether municipalities would relinquish its regulatory role if the bill was adopted. She questioned whether the legislation allowed for direct insurance billing.

Ms. Unser replied that the insurance company dictated the billing requirements; who can bill and whether a referral was necessary. She shared that she was licensed in Washington and billed insurance for 6 years. She cited page 9, Section 7 beginning on line 12 and noted that the section clarified the state versus municipality licensing issue:

Sec. 7. AS 29.35 is amended by adding a new section to read: Sec. 29.35.146. Licensing of massage therapists.
(a) The authority to license massage therapists is reserved to the state, and, except as specifically provided by statute, a municipality may not enact or

enforce an ordinance requiring professional licensure of massage therapists. (b) This section applies to home rule and general law municipalities.

Ms. Unser reported that currently Anchorage, Valdez, Fairbanks, and Palmer regulated massage therapy. Each municipality regulated massage differently and state licensure would homogenize regulations. She stated that once state regulation was established "municipalities would more than likely withdraw."

Representative Munoz asked how many practitioners were anticipated to take advantage of the legislation.

SARA CHAMBERS, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS, AND PUBLIC LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, replied that the department estimated approximately 600 licensees.

Representative Munoz reported that the fiscal note (FN1 (CED) contained an annual appropriation of \$50 thousand and would be revenue neutral. She noted that divided among 600 licensees the \$550 figure quoted for annual fees was high. She asked what the anticipated amount of the annual licensing fee was.

Ms. Chambers answered that the fiscal note appropriation did not reflect the department's full costs. She explained that the fiscal note was prepared according to the Office of Management and Budget (OMB) standards and did not include potential future anticipated additional costs outlined in the last paragraph of the fiscal note analysis. The fiscal note and additional costs were based on comparable existing licensing programs such as the Board of Social Work Examiners. The division's rough estimate was approximately \$550 to \$600 and the first biennial could cost more than the out years due to set up costs.

Vice-Chair Neuman requested that she discuss the information regarding all of the fiscal aspects, true startup costs, and indirect costs of board establishment.

Representative Munoz stated that a \$550 fee would generate over \$250 thousand in revenue and that the fiscal note appropriated \$69.8 thousand in FY 14 and \$49.9 thousand in the out years. She asked for clarification.

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Ms. Chambers replied that the fiscal note indicated the "difference in the requested appropriation not the full cost of the program."

Representative Munoz asked whether the program costs would increase to \$250,000 to \$300,000.

Ms. Chambers answered that the fiscal note was based on anticipated expenses according to the fee setting statute, AS 08.01.065.

Representative Munoz believed that the figure was very high and requested "more clarity" on the issue. She asked whether massage therapist would be able to directly bill insurance.

Ms. Chambers expressed uncertainty and offered that the issue was a Division of Insurance function.

Representative Wilson asked whether there was a sunset included in the bill.

Representative Holmes pointed to Section 3, page 2, lines 14 through 15 and relayed that the board sunsets on June 30, 2018.

Representative Wilson observed that short sunset dates provided for revisions if necessary.

Vice-Chair Neuman noted that there would be a mandatory legislative budget and audit sunset review. He asked about the fiscal implications of the board costs, startup costs, and indirect costs.

Ms. Chambers responded that the Board of Social Work Examiners provided the most similarities for the division the use as a model for the massage therapy board. She detailed that the division employed the information from the social work board extracted from the divisions annual report provided to the legislature (found on DCCED website). The division averaged the cost figures for the social work board over the last six years, or three biennium (the licensing period ran for one biennium and the report spanned three biennium). The costs were approximately \$200,000 for the last three biennial periods.

The costs had increased slightly and total revenues for each biennium had been \$200,000. The social work board had varied above and below the \$200,000 figure and the division planned to recommend a fee increase. She continued that the direct expenditures of the board included personal services for staff and travel, contractual services with entities such as Department of Law (DLAW) and Office of Administrative Hearing, and day-to-day commodities and totaled roughly \$200 thousand in the last biennium. The investigative cost was included in the direct costs for the board.

Ms. Chambers discussed investigative procedures. She expounded that each board was mandated to investigate any potential licensing violations and were carried out by the division's investigative unit. The board of massage therapy would fall under the department's purview of normal operation of investigations concerning civil investigations in order to maintain standards and the board would bear the full cost of civil investigations. Criminal investigations such as prostitution would fall under the jurisdiction of municipal law enforcement. The costs were not incurred by the licensees. She mentioned that if a licensee was convicted of prostitution the conviction could lead to a license action. She noted that the law was not atypical and her examples were based on very "real possibilities of investigative action."

Ms. Chambers related that indirect expenditures were a cost allocation program that filtered down through the division and born by all licensees and reflected an "overhead cost of doing business." She listed some indirect costs: lights, desks, human resources, technical support, etc. The law required that all of the costs were the responsibility of the licensee.

Representative Munoz, in response to a question by, Vice-Chair Neuman, reiterated her concern regarding the licensing fee matching the costs of the program and not assessing higher fees than necessary.

Ms. Chamber restated that the fiscal note "was not the method used to determine the full costs" for the licensees. She offered to provide a more detailed analysis than provided in the fiscal note.

Representative Thompson questioned the amount that doctor's paid for their professional licensing.

Ms. Chambers explained that the full cost of the activity incurred by the board was shared by the number of licensees. A 600 member board had a higher licensing fee than a larger board of 2,500, which was the size of the board for physicians. Other factors that affected costs were operational and investigative costs. The direct costs of the massage therapy board were estimated to be less than the physician's board. The medical board paid approximately \$200 biannually.

[9:41:23 AM](#)

Representative Edgmon remarked that the bill was very detailed but he did not see provisions regarding board member confirmation. He cited page 11 and noted the provision which required initial board members to have practiced massage for three years prior to appointment. He asked for clarification about the subsequent confirmation process.

Ms. Chambers replied that the division would review the transitional language with the governor's Office of Boards and Commissions determining the process of "grandfathering" individuals based on their background. The transitional language would be used to determine eligibility for the initial board appointments.

Representative Edgmon wondered why the massage therapy board members would not need confirmation by the legislature.

Ms. Chambers understood that the typical confirmation process would be followed for the massage therapy board and legislative approval was required.

Representative Edgmon asked why a licensed massage therapist had to wait three years before a therapist could be appointed to the board.

Ms. Chambers deferred to the sponsor to answer the question.

Ms. Unser answered that massage therapists requested three years of experience prior to board appointment to be able

to make more informed decisions from a real world understanding of the profession.

Representative Edgmon wondered why a licensed health care professional was not designated a seat on the board.

Ms. Unser replied that the members of the coalition did not want another health care provider on the board to avoid conflicts of interest with the health care provider's particular profession.

Representative Guttenberg asked about qualification for licensing. He noted that certification required at least 500 hours of education or via a board certified apprenticeship program. He surmised that the board could increase the 500 hour requirement but could not decrease the requirement below 500 hours or the individual must attend an accredited school. He asked whether his statement was correct.

Ms. Chambers understood that the board would have the discretion to increase the number of hours above 500 if the board determined the increase was in the best interest of the profession.

Vice-Chair Neuman CLOSED public testimony.

Representative Gara requested a legal opinion from Legislative Legal Services regarding the confirmation process. He declared that the prosecution of prostitution would not be an additional cost borne by the board.

Representative Munoz requested clarity on the direct billing question.

Representative Wilson reviewed the fiscal note from the Department of Commerce, Community and Economic Development, FN1 (CED). She noted that \$69.8 thousand was appropriated in FY 15 and the amount of \$49.9 thousand was appropriated in the out years FY 16 through FY 20.

Representative Wilson MOVED to REPORT CSHB 328(STA) out of committee with individual recommendations and the accompanying fiscal note.

Representative Guttenberg OBJECTED for discussion. He appreciated the dialog and believed HB 328 was "a model

piece of legislation," which allowed the board to govern their profession.

Representative Guttenberg WITHDREW his OBJECTION. There being NO further OBJECTION, it was so ordered.

CSHB 328 (L&C) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

[9:51:19 AM](#)

AT EASE

[9:53:20 AM](#)

RECONVENED

#hb293

HOUSE BILL NO. 293

"An Act relating to motor vehicle registration plates; and providing for an effective date."

[9:53:43 AM](#)

CHERE KLEIN, STAFF, REPRESENTATIVE PEGGY WILSON, discussed the legislation. She explained that the bear license plate was originally the state's bicentennial license plate and was recognized in the Lower 48 as an iconic "symbol of Alaska." She cited a recent carinsurance.com pole that discovered that Alaska's plain yellow license plate was the least favored of all states. The legislation provided residents the option of obtaining the bear plate as their primary license plate. She referenced a discussion with a past commissioner of the Department of Public Safety (DPS) who explained that the bear was chosen in 1975 because the bear represented a commonality for all Alaskans. Bear habitat was found throughout the entire state. She reported that the legislation changed words in statute for specialty license plates for "active" and "former" firefighters and EMTs. The bill removed the words "active" and "former" so that all firefighters; volunteer, paid, former, or retired had the opportunity to be recognized for their service and it decreased the years of service requirement for former or retired firefighters and EMTS from ten years to five years. The cost of the license plate would be \$30.

Vice-Chair Neuman suggested that the license plate could more easily identify a person as medical personnel.

Representative Holmes appreciated the bill. She expressed support for the bill. She clarified that the intent of the legislation was to provide two official license plates at the cost of \$30.

Ms. Klein replied in the affirmative.

Representative Wilson discussed the fiscal note from the Department of Administration (DOA) FN1 (ADM). She relayed that \$3.2 thousand was appropriated in FY 15 and was a zero note in the out years.

AMY ERICKSON, DIRECTOR, DIVISION OF MOTOR VEHICLES, DEPARTMENT OF ADMINISTRATION, responded to Representative Holmes' question regarding cost. She commented that the legislation would not change the fees and the bear would be an alternate primary plate.

Representative Holmes shared that people she polled preferred the look of the original license plate calling the design "retro." She requested that the department keep the original design.

Representative Wilson MOVED to REPORT CSHB 293(STA) out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 293(STA) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (ADM).

#hb324
HOUSE BILL NO. 324

"An Act relating to the controlled substance prescription database."

HB 324 was SCHEDULED but not HEARD.

ADJOURNMENT

10:01:16 AM

The meeting was adjourned at 10:00 a.m.