

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

April 1, 2013

1:07 p.m.

**MEMBERS PRESENT**

Representative Wes Keller, Chair  
Representative Bob Lynn, Vice Chair  
Representative Neal Foster  
Representative Gabrielle LeDoux  
Representative Charisse Millett  
Representative Lance Pruitt  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Doug Isaacson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 173

"An Act defining 'medically necessary abortion' for purposes of making payments under the state Medicaid program."

- HEARD & HELD

HOUSE BILL NO. 3

"An Act relating to voter identification at the polls; and relating to the counting of absentee and questioned ballots."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 173

SHORT TITLE: RESTRICT MEDICAID PAYMENT FOR ABORTIONS

SPONSOR(S): REPRESENTATIVE(S) LEDOUX

03/15/13	(H)	READ THE FIRST TIME - REFERRALS
03/15/13	(H)	JUD, FIN
03/29/13	(H)	JUD AT 1:00 PM CAPITOL 120
03/29/13	(H)	Heard & Held

03/29/13 (H) MINUTE(JUD)  
04/01/13 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 3

SHORT TITLE: PHOTO IDENTIFICATION VOTING REQUIREMENT

SPONSOR(S): REPRESENTATIVE(S) LYNN, KELLER

01/16/13 (H) PREFILE RELEASED 1/7/13  
01/16/13 (H) READ THE FIRST TIME - REFERRALS  
01/16/13 (H) STA, JUD  
02/21/13 (H) STA AT 8:00 AM CAPITOL 106  
02/21/13 (H) Heard & Held  
02/21/13 (H) MINUTE(STA)  
03/14/13 (H) STA AT 8:00 AM CAPITOL 106  
03/14/13 (H) Moved Out of Committee  
03/14/13 (H) MINUTE(STA)  
03/14/13 (H) STA RPT 2DP 1DNP 1NR 2AM  
03/14/13 (H) DP: KELLER, LYNN  
03/14/13 (H) DNP: KREISS-TOMKINS  
03/14/13 (H) NR: GATTIS  
03/14/13 (H) AM: HUGHES, ISAACSON  
04/01/13 (H) JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

JENNIFER ALLEN, Director  
Public Policy

Planned Parenthood Votes Northwest (PPVNW)  
Seattle, Washington

**POSITION STATEMENT:** Testified in opposition to HB 173.

LAURA EINSTEIN, Chief Legal Counsel  
Planned Parenthood of the Great Northwest (PPGNW)  
Seattle, Washington

**POSITION STATEMENT:** Responded to a question during discussion  
of HB 173.

CLOVER SIMON  
Anchorage, Alaska

**POSITION STATEMENT:** Urged the committee to vote no on HB 173.

EILUNED A. HOGENSON, M.D.  
Obstetrician/Gynecologist (OB/GYN)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified against HB 173.

PAMELA SAMASH, President

Right to Life Interior (ph)  
Nenana, Alaska

**POSITION STATEMENT:** Asked the committee to pass HB 173.

LANCE ROBERTS  
Fairbanks, Alaska

**POSITION STATEMENT:** Asked the committee to support HB 173.

JEFFREY A. MITTMAN, Executive Director  
American Civil Liberties Union of Alaska (ACLU of Alaska)  
Anchorage, Alaska

**POSITION STATEMENT:** Expressed concerns with HB 173.

ELANN MORAN  
Palmer, Alaska

**POSITION STATEMENT:** Expressed concerns with HB 173.

PAT CHAMBERS  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 173.

SUSAN SCHRADER  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 173.

BARBARA BELKNAP  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 173.

CAREN ROBINSON, Lobbyist  
Alaska Women's Lobby  
Juneau, Alaska

**POSITION STATEMENT:** During discussion of HB 173, provided comments.

ANN FIORELLA  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 173.

KAREN CRANDALL  
Big Lake, Alaska

**POSITION STATEMENT:** Testified in support of HB 173.

GEORGE W. BROWN, M.D.  
Douglas, Alaska

**POSITION STATEMENT:** Provided comments and responded to questions during discussion of HB 173.

KAREN LEWIS, Director  
Center for Bio-Ethical Reform  
Palmer, Alaska

**POSITION STATEMENT:** Indicated approval of HB 173.

CAROL BRADY (ph)  
(No address provided)

**POSITION STATEMENT:** Provided comments during discussion of  
HB 173.

ROBERTA N. HUNTER, Executive Director  
Fascinating Womanhood Alaska Center for Woman  
Salcha, Alaska

**POSITION STATEMENT:** Testified in support of HB 173.

AMY BOLLENBACH  
Homer, Alaska

**POSITION STATEMENT:** Testified against HB 173.

DEE LONGENBAUGH  
Juneau, Alaska

**POSITION STATEMENT:** Testified against HB 173.

REGINA C. CHENNAULT, M.D.  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments during discussion of  
HB 173.

CATHY GIRARD  
Anchorage, Alaska

**POSITION STATEMENT:** Urged the committee to vote "No" on HB 173.

RICHARD CLAYTON TROTTER, General Counsel  
The Justice Foundation  
Anchorage, Alaska

**POSITION STATEMENT:** Urged the committee to vote in favor of  
HB 173.

JOAN FRANZ  
Fairbanks, Alaska

**POSITION STATEMENT:** Urged the committee to vote "No" on HB 173.

JEAN WATSON JAMES (ph)  
Fairbanks, Alaska

**POSITION STATEMENT:** Urged the committee to oppose HB 173 and  
vote "No" on it.

KARL BAURICK, M.D.  
Obstetrician/Gynecologist (OB/GYN)  
Fairbanks, Alaska

**POSITION STATEMENT:** Urged the committee to vote "No" on HB 173.

JOYCE ZOUNIS  
Denver, Colorado

**POSITION STATEMENT:** Asked the committee to support HB 173 and vote "Yes" on it.

#### **ACTION NARRATIVE**

[1:07:46 PM](#)

**CHAIR WES KELLER** called the House Judiciary Standing Committee meeting to order at 1:07 p.m. Representatives Keller, LeDoux, Lynn, Pruitt, Gruenberg, and Foster were present at the call to order. Representative Millett arrived as the meeting was in progress. Representative Isaacson was also in attendance.

#### **HB 173 - RESTRICT MEDICAID PAYMENT FOR ABORTIONS**

[1:09:54 PM](#)

CHAIR KELLER announced that the first order of business would be HOUSE BILL NO. 173, "An Act defining 'medically necessary abortion' for purposes of making payments under the state Medicaid program."

CHAIR KELLER mentioned that members' packets now contain possible amendments.

REPRESENTATIVE GRUENBERG noted that members' packets now contain a memorandum from Legislative Legal and Research Services dated April 1, 2013.

[1:11:15 PM](#)

JENNIFER ALLEN, Director, Public Policy, Planned Parenthood Votes Northwest (PPVNW), referring to a PowerPoint presentation titled, "The Case for Opposing House Bill 173: Protect Freedom, Privacy and Fairness for All Alaskan Women", requested that the committee oppose HB 173 in order to protect the freedom and privacy of all Alaskan women - regardless of income - in making their own reproductive decisions in consultation with their physicians. After speaking briefly about Planned Parenthood of

the Great Northwest (PPGNW), she noted that the term, "elective abortion" is not used at PPGNW because it's been imbued with a great deal of judgment, and is typically used to demean and shame women who make the decision to end their pregnancies; PPGNW instead uses the terms, "medically necessary" and, "not medically necessary." The difficulty with providing a definition for [such terms], however, is that only a trained physician, in consultation with the individual woman and taking into account her unique set of health circumstances, can determine what is medically necessary. And it's [this practical limitation] that speaks specifically to the reason why PPGNW opposes HB 173. Planned Parenthood of the Great Northwest, she relayed, worked extensively with the Department of Health and Social Services (DHSS) on its new regulation adding an extra layer of certification in order to ensure that all Medicaid-funded abortions occurring in Alaska are medically necessary. And although PPGNW doesn't "love" this new regulation, it does appear to be constitutional, she remarked.

MS. ALLEN said it is therefore not clear why this new regulation "isn't being allowed to work." In response to questions, she declined to speak to whether she views all abortions as medically necessary, based on the fact that she herself isn't a physician; offered her understanding that there haven't been any requests for payment of public funds for an abortion wherein there has been any reason to suspect that the physician made an inappropriate determination with regard to the medical necessity of the abortion; and pointed out that physicians make medical-necessity determinations on a case-by-case basis, because each patient's situation and health issues are unique. Requiring physicians to make such determinations based on a statutory list is never going to be an effective way to address women's health issues, she warned.

[1:24:21 PM](#)

MS. ALLEN relayed that the PPGNW is asking the committee to oppose HB 173 because it could put women's health at risk by causing them to deter or delay seeking abortion care, thereby increasing the risk that a health-threatening pregnancy would be continued or not terminated until later in the pregnancy; because decisions regarding whether to carry a pregnancy to term should be made by the women themselves in consultation with their physicians; and because the Alaska Supreme Court has already addressed the issue and ruled that the Alaska State Constitution requires that a women's pregnancy decisions - whether to terminate the pregnancy or carry it to term - be

given equal protection under the law. On the latter point, she added that this means that abortion services must be provided to low-income women so that their choices regarding their pregnancies are not restricted by their economic status; furthermore, the definition of the term, "medically necessary abortion" may not be further limited without it resulting in discrimination against women who rely on government for healthcare.

MS. ALLEN remarked that this really is a simple matter of fairness, and predicted therefore that should HB 173 pass, it would likely become the subject of litigation, which will in turn cost the state. Again, there is no evidence of misapplication of the existing [Medicaid] medical-necessity standard, and thus HB 173 appears to be a solution in search of a problem - at high cost to the state. In conclusion, she urged the committee not to move HB 173 forward.

[1:27:19 PM](#)

LAURA EINSTEIN, Chief Legal Counsel, Planned Parenthood of the Great Northwest (PPGNW), in response to questions and comments, explained that Alaska's Medicaid rules stipulate that the medical necessity of a procedure shall be determined by a physician's standards of practice. Medicaid trusts Alaska's physicians to evaluate their patients' needs and provide appropriate care. In other words, for all procedures, what constitutes a medically-necessary procedure is determined by the standards of practice of each physician. House Bill 173 would establish something completely different just for abortion procedures - something outside the norm of what is required by Medicaid for any other procedure. Again, because each patient's situation and health issues are unique, physicians in Alaska - whether they provide abortion services or not - make determinations regarding whether a certain procedure is medically necessary for a particular patient on a case-by-case basis.

[1:31:55 PM](#)

CLOVER SIMON urged the committee to vote no on HB 173, opining that only physicians can determine what procedures are medically necessary, and that decisions related to pregnancy should be left up to the pregnant women themselves in consultation with their physicians. Such determinations and decisions should not be being made by politicians. Offering her understanding that members have already been provided with information illustrating

that HB 173 is unconstitutional and that the Alaska Supreme Court has already made determinations regarding abortions paid for with public funds, she opined that HB 173 would do more than just define terms but would instead also impact the lives and families of women facing unintended pregnancies. Everyone in Alaska is protected by the Constitution regardless of his/her socio-economic status, and it is therefore not acceptable to single out families that are poor. In conclusion, she provided comments regarding what she referred to as Alaska's continued higher-than-average rates of unintended pregnancies, which disproportionately affect minority women and women of low income.

[1:34:59 PM](#)

EILUNED A. HOGENSON, M.D., Obstetrician/Gynecologist (OB/GYN), mentioning that should the bill pass, her practice would be affected, said she would be testifying against HB 173. She doesn't perform "elective" abortions but does perform medically-indicated abortions, she noted, and offered her belief that HB 173 would create more bureaucracy within the state's Medicaid program, would be difficult to [comply with], and may prevent women with limited funds from accessing necessary medical care. In a lot of ways, the bill is both too vague to accomplish its goal, and oddly specific, and the bill's list of medical conditions seems quite arbitrary. Why does it enumerate [only some] dangerous medical conditions if Medicaid would allow other such conditions to be included? Furthermore, the bill lists "seizures" "convulsions", "eclampsia", "epilepsy", and "status epilepticus", but these could all be covered under the term, "seizures", and the bill lists "pulmonary hypertension" that impairs "a major bodily function", but the concern with [that language] is that such a problem brings with it a 40 percent chance of maternal death during pregnancy or delivery, not just a disability. It's almost as if no medical professional was consulted during the drafting of the bill, she observed, and pointed out, as another example, that the bill doesn't list the many serious maternal cardiac and vascular conditions that can be fatal or dangerous.

DR. HOGENSON explained that obstetricians spend four years as residents studying the serious health conditions that accompany pregnancy, and expressed concern that it just isn't possible to create a comprehensive list of such conditions. Instead, physicians must look at the patient in front of them and make determinations of risk based on that individual patient, who will then decide what to do. Furthermore, the bill doesn't yet

define what is meant by the term, "serious" as it's used to modify the term "medical conditions". For example, would a 10 percent chance of maternal fatality or impairment be construed as "serious"? Would a 50 percent chance? Or a 1 percent chance? Such issues must be addressed on an individual basis, but the bill would limit the ability of physicians to do so. For example, the bill would preclude [the use of public funds for] an abortion even in cases where the fetus has no chance of surviving [outside the womb] - a not uncommon problem that can result from anencephaly or severe derangements of chromosomes. Most reasonable people would consider having an abortion in such a traumatic situation - considering it to be a medically-necessary abortion because of the risks involved with carrying such a pregnancy to term.

DR. HOGENSON pointed out that Medicaid already requires physicians to document the medical necessity of any procedures performed, and thus she does not see that the bill would add anything other than confusion. In conclusion, she encouraged the committee to vote against HB 173, opining that it is a very poorly written bill.

[1:39:26 PM](#)

PAMELA SAMASH, President, Right to Life Interior (ph), asked the committee to vote "yes" on HB 173, said she totally agrees with the bill, and opined that there should be specific codes, treatments, and diagnoses associated with medically-necessary abortions. She offered her belief that the bill wouldn't come between patients and their physicians, or prevent abortion, and instead only sets guidelines pertaining to the use of public funds.

[1:42:07 PM](#)

LANCE ROBERTS asked the committee to support HB 173 and move it forward, offering his belief that a good statutory definition of the term, "medically necessary abortion" is needed.

[1:44:01 PM](#)

JEFFREY A. MITTMAN, Executive Director, American Civil Liberties Union of Alaska (ACLU of Alaska), mentioning that the ACLU of Alaska's written testimony - included in members' packets - provides a legal analysis of HB 173's constitutional infirmity's, offered his belief that Alaska's [new regulation] appropriately addresses the State's concerns about only using

public funds to pay for medically-necessary abortions. Referring to pages 3-4 of the ACLU of Alaska's written testimony, he explained that the terms, "medical necessity" and "medically necessary" are already used throughout Alaska's Medicaid regulations, and yet, unlike what's being proposed via HB 173 for abortion procedures, nowhere is there also a list specifying what then constitutes "medical necessity" or "medically necessary". And this current lack has not resulted in any problems for the state in managing its Medicaid program. Attempting to specify in law what constitutes "medical necessity" or "medically necessary", as the bill is proposing, would interfere with the medical process, he warned, and predicted that the courts would look to the State's existing Medicaid standards and therefore find that HB 173 is unconstitutional. "This" issue has already been litigated many times, and thus passage of the bill would result in entangling the State in needless litigation without improving anything, he remarked in conclusion.

[1:47:02 PM](#)

ELANN MORAN said she finds it most confusing that what constitutes a medically-necessary procedure is being defined by legislation instead of by physicians or other medical professionals, and relayed that she wholeheartedly agrees with those who have testified in opposition to HB 173. Restricting abortion services for poor women will only create a need for what she termed, "back alley abortions," because access to safe, legal abortions for such women would be curtailed. Characterizing the illegal abortion that she underwent after being raped as the worst experience of her life, she opined that the bill's reference to and exemption for the crime of rape is vague and completely unrealistic, particularly given that many rape victims don't wish to disclose to anyone other than their physician or counselor that they've been raped. Her greatest fear, she relayed in conclusion, is that poor women will once again be forced to resort to using coat hangers to try to control the number of mouths they have to feed.

[1:49:50 PM](#)

PAT CHAMBERS expressed her support of HB 173, and opined that the state should define the term, "medically necessary" for abortion procedures, and that abortion procedures shouldn't be allowed for any reason.

[1:50:57 PM](#)

SUSAN SCHRADER said she opposes HB 173 because it represents yet another attempt by politicians to intervene in the very personal decisions that Alaskan women are faced with when pregnant. Such decisions should be left up to the women themselves in consultation with their families, religious faiths, and physicians. Politicians have no place in such personal decisions, and for no other procedure - for example procedures for the treatment of hypertension or procedures for the treatment of cancer - are politicians attempting to define what constitutes a "medically necessary" procedure. Some people recognize the complexity of the issues and challenges faced by women when they must decide whether to give a baby up for adoption, whether to raise the child themselves, or whether to terminate the pregnancy. And, as asserted in the bill's sponsor statement, although limiting access to abortions funded by Medicaid won't prevent abortions from occurring in Alaska, it would limit access to safe, legal abortions and therefore likely drive women to seek illegal and therefore unsafe abortions, just as occurred prior to the U.S. Supreme Court decision in Roe v. Wade. In conclusion, she ventured that providing all Alaskan women with easy access to family-planning services and birth control would result in a decrease in the number of abortions performed but without also trampling on Alaskan women's freedom of choice in healthcare decisions.

[1:56:13 PM](#)

BARBARA BELKNAP said she is testifying in opposition to HB 173. Throughout history, the burden has been - and still is - on women to decide what to do with an unwanted pregnancy, because although men think a great deal about having sex, far too few give any consideration to what happens when women then become pregnant. Women her age, she relayed, know of women and girls who've died after obtaining an illegal abortion, or who've suffered infections that then left them sterile. She offered her understanding that in Roe, the court ruled that most laws against abortion violate the right to privacy, and overturned all state laws outlawing or unduly restricting abortion. However, women are still dying in the United States because they cannot access safe abortions in their communities, and making access to abortions as onerous as possible isn't going to stop men from getting women and girls pregnant, but will instead only result in more misery for those women and girls. Using HB 173 to limit access to Medicaid funding for abortions will also fail to prevent men from getting women and girls with little or no income pregnant. She predicted that HB 173 would be ruled by

the courts as unconstitutional, violating a woman's right to privacy. In conclusion, she asked the committee to "drop" HB 173.

[2:01:48 PM](#)

CAREN ROBINSON, Lobbyist, Alaska Women's Lobby, said the Alaska Women's Lobby is unable to support HB 173 in general, and specifically opposes limiting the definition of the term, "medically necessary abortion" such that it excludes mental illnesses. The Alaska Women's Lobby believes that all women, including poor women, have the right to control their own reproduction; that their medical decisions should remain private between themselves and their physicians; and that physicians should be free to use their medical judgment based on the consideration of all factors. She offered her understanding that the court has already defined the term, "medically necessary" very broadly in order to provide attending physicians with the flexibility they need to make their best medical determinations. The aforementioned new regulation, which goes into effect today, already clarifies the rules regulating when Medicaid funds may be used for abortion procedures. She asked, therefore, that in lieu of moving the bill forward, that that new regulation be given a chance to work. In conclusion, she offered suggestions for reducing the number of unintended pregnancies occurring in Alaska, and the associated costs.

[2:06:23 PM](#)

ANN FIORELLA, mentioning that she used to work for [Centers for Medicare & Medicaid Services] for a number of years, ventured that [HB 173] is unnecessary given that Medicaid regulations already prevent reimbursement for procedures that are not medically necessary, and the State's existing system already ensures program integrity and provider compliance. Under the Medicaid regulations, "medical necessity" is determined by a physician's standards as judged by his/her peers. The principle of autonomy - the right of an individual to make his/her own decisions regarding healthcare - is embodied in both the Alaska State Constitution's right to privacy, and in the Medicaid regulations and requirements such as those that stipulate that the State shall provide for such things as "person-centered" planning; even people who are developmentally and intellectually disabled are allowed to make decisions regarding healthcare. Pregnant women do not lose their capacity to make decisions regarding their own healthcare, but efforts to [pass legislation such as HB 173] appear to abandon the principle of autonomy and

instead strive to force pregnant women to forfeit their autonomy in ways that are not being required of either men or non-pregnant women. This is impermissibly inconsistent - allowing competent adults to make their own decisions regarding healthcare unless they are pregnant.

MS. FIORELLA opined that there are already sufficient safeguards in place in the Medicaid regulations to ensure that abortions that are not medically necessary are not paid for with public funds. She said she thinks that HB 173 is overly proscriptive, confusing in many ways, and particularly flawed in that neither it nor the definition of abortion in AS 18.16.090 contain a provision addressing fetal abnormalities. Referring to a pregnancy that occurred in her own family involving a fetal abnormality wherein the fetus didn't have a brain, she said she would not wish for any pregnant woman to have to carry such a pregnancy to term. Again, HB 173 makes no provision for such [medical] conditions. In conclusion, she said:

I am appalled that the State, under this bill, would act as an agent ... to force birth; I ask you to choose respect for women and recognize that the principle of autonomy requires that the State not interfere with a woman's decision regarding her healthcare even when she receives State funding for pregnancy services.

MS. FIORELLA, in response to comments, opined that one cannot define the term, "medical necessity" simply by producing a list of "allowed" diagnoses - there are just too many medical issues that could be involved. She again pointed out the lack of provision for fetal abnormalities.

[2:14:14 PM](#)

KAREN CRANDALL relayed that she supports HB 173 because, by defining the term, "medically necessary abortion" for purposes of Medicaid reimbursement, it addresses an important moral issue; and offered her belief that it isn't necessary to use public funds to pay for the abortion of pregnancies that result from rape.

[2:18:11 PM](#)

GEORGE W. BROWN, M.D., mentioning that he's a pediatrician, said he doesn't believe that HB 173 is going to address what he, as a physician, considers to be the underlying serious and

challenging health problem of unintended pregnancies. He urged [legislators] to instead find common ground and address that health problem, and recommended therefore that the bill be heard by the House Health, Education and Social Services Standing Committee. In response to questions, he said he doesn't believe it's possible to view a pregnant woman's physical health, behavioral health, and mental health separately; explained that if a woman carries a pregnancy to term but regrets doing so, that's clearly going to impact both her mental health and her physical health; opined that once pregnant, the complicated decision of what to do about it should be left up to the individual woman to make; and offered his belief that HB 173's proposed list of what constitutes a medically-necessary abortion should include fetal abnormalities that are likely to result in the death of the fetus, because carrying a fetus with such a problem to term could be injurious to the woman's physical and mental health.

CHAIR KELLER mentioned that HB 173 is attempting to make a distinction between medically-necessary abortions and elective abortions.

[2:32:03 PM](#)

KAREN LEWIS, Director, Center for Bio-Ethical Reform, offered her belief that the U.S. Supreme Court's ruling in Roe would be overturned, and indicated approval of HB 173.

[2:36:22 PM](#)

CAROL BRADY (ph) spoke briefly about the pregnancy and child that resulted when her sister was raped back in 1939.

[2:39:59 PM](#)

ROBERTA N. HUNTER, Executive Director, Fascinating Womanhood Alaska Center for Woman, said she supports HB 173 as legislation that would reduce the number of abortions occurring in Alaska and the public funding thereof.

[2:42:06 PM](#)

AMY BOLLENBACH relayed that she agrees entirely with Dr. Brown and Dr. Hogenson; referred to the difficulty of statutorily listing all the medical conditions that [could result in the need for a] medically-necessary [abortion]; offered her belief that every individual, regardless of income, should have an

opportunity to have medical care; and said she is very much against HB 173.

[2:43:54 PM](#)

DEE LONGENBAUGH said she is testifying against HB 173, and commented on the costs of carrying a damaged fetus to term and then attempting to sustain it, when part of the brain is missing or there are other severe problems, for example.

[2:45:35 PM](#)

REGINA C. CHENNAULT, M.D., said she very much supports legislation defining what constitutes a medically-necessary procedure for purposes of ensuring that public funds are not used to pay for abortions. She offered her understanding that the term, "medical necessary" is already defined as meaning a service or treatment that's absolutely necessary to protect what she referred to as "the health status as a condition of a patient," and offered her belief that there are very few medical conditions - except those wherein the fetus is dead or lacks a brain, or those causing the pregnant woman's vital signs to become unstable - which absolutely indicate that an abortion should be performed. In conclusion, she indicated a belief that neither the termination of unintended pregnancies nor the abortion of fetuses with abnormalities/diseases/syndromes should be paid for with public funds.

[2:53:20 PM](#)

CATHY GIRARD urged the committee to vote "No" on HB 173, adding that she takes issue with what appears to be an assault by politicians on private medical matters between a woman, her family, her faith, and her physician. She offered her understanding that legislation such as HB 173 has already been found by the Alaska Supreme Court to be unconstitutional, and that existing regulations already address [the issue of ensuring that public funds are only used for medically-necessary abortions]. She added:

No one seems to question whether tax payers or the State of Alaska has the fiscal responsibility to Medicaid recipients that find themselves with health complications associated with their personal decisions to overeat, to eat poorly, to smoke, to drink to excess, to use drugs, or to partake in other known risky behaviors that can produce expensive and well-

documented health consequences. But in contrast, I don't believe our legislature has ever proposed legislation to determine medical necessity for treating the health complications associated with unsavory behaviors.

MS. GIRARD relayed that to her, HB 173 - as another attempt to impose government-sanctioned morality under the guise of offering fiscal responsibility - constitutes bad fiscal policy, bad health policy, and bad social policy, and would likely embroil the State in costly litigation. In conclusion, she again urged the committee to vote "No" on HB 173.

[2:55:27 PM](#)

RICHARD CLAYTON TROTTER, General Counsel, The Justice Foundation, said he opposes having public funds used for abortions and elective procedures; offered his understanding that the diagnostic list used by Medicaid already includes all medically-necessary diagnoses; and urged the committee to vote in favor of HB 173. In response to questions, he opined that once a woman, in consultation with her physician, decides to have an abortion, then she - and not the public - should be responsible for paying for it; and offered his understanding that it's the legislature that decides which medical procedures shall be paid for with public funds.

[3:08:37 PM](#)

JOAN FRANZ urged the committee to vote "No" on HB 173, adding that she does not want state law to discriminate against low-income women and the private healthcare decisions they make in consultation with their physicians, characterizing such as an invasion of and a disregard for individual rights. She offered her understanding that physicians are already required to certify that an abortion is medically necessary before public funds may be used to pay for it, and thus further "definitions" are unnecessary and only serve to restrict personal freedom. In conclusion, she offered suggestions for reducing the number of unintended pregnancies, and again urged the committee to vote "No" on HB 173, opining that it's not necessary to define the term, "medically necessary" [as that term relates to abortions].

[3:11:23 PM](#)

JEAN WATSON JAMES (ph) mentioned that back when abortions were illegal, it didn't stop women from obtaining abortions but

instead only resulted in a lot of women being maimed or killed during illegal procedures; made reference to what's being done differently in countries that have abortion rates much lower than the U.S.; and said she strongly believes that determinations regarding whether an abortion is medically necessary should be made by the physician, not by the legislature or via legislative mandate, which can be misinterpreted. She offered her understanding that the term, "medically necessary" is already defined as a physician's best practice. She urged the committee to oppose HB 173 and vote "No" on it; offered suggestions to reduce the need for abortions; and mentioned that she is the widow of a physician who would have been very opposed to HB 173.

[3:13:57 PM](#)

KARL BAURICK, M.D., Obstetrician/Gynecologist (OB/GYN), urged the committee to vote "No" on HB 173; said he thinks that trying to define what constitutes a medical indication is a mistake and unnecessary; and cautioned against following the agendas of those opposed to abortion. He noted that the bill doesn't yet address fetal indications for medically-indicated abortions, and characterized that lack as a serious flaw. There are many serious flaws to be found when trying to define what constitutes a medically-necessary abortion, particularly given that pregnancy in and of itself can endanger a woman's life. He himself, he relayed, has addressed several high-risk pregnancies endangering the life of the mother. Forcing a woman to carry a fetus with a lethal chromosomal abnormality - such as Trisomy 18, for example - to term, might endanger her life and cause great psychological damage to her. He said he doesn't believe it's possible, truly, to encompass all the [medical] indications for an abortion, and again recommended a "No" vote on HB 173.

[3:16:32 PM](#)

JOYCE ZOUNIS, offering information about the seven abortions she'd had, asked the committee to support HB 173, expressing concern that women would use state-funded abortions as birth control, as she'd done. In conclusion, she opined that the term, "medically-necessary abortion" needs to be defined, and asked the committee to vote "Yes" on HB 173 and protect the lives of the unborn in Alaska.

CHAIR KELLER closed public testimony on HB 173.

[HB 173 was held over.]

## HB 3 - PHOTO IDENTIFICATION VOTING REQUIREMENT

[3:21:07 PM](#)

CHAIR KELLER announced that the final order of business would be HOUSE BILL NO. 3, "An Act relating to voter identification at the polls; and relating to the counting of absentee and questioned ballots."

[3:21:56 PM](#)

REPRESENTATIVE LYNN, as one of the joint prime sponsors, explained that under HB 3's proposed changes, Alaskans voting in person would be required to present one form of photographic ("photo") identification (ID), or two forms of non-photo ID, in order to vote. The bill also provides an exemption for voters who can instead have their identity verified by two election officials who know them, and, if unable to comply with HB 3's identification requirements, or qualify for the exemption it provides, voters may instead cast provisional or questioned ballots. The goal of the bill, which he referred to as a proactive measure, is to protect Alaska's voting system against potential voter-fraud by ensuring that voters really are who they say they are. Close elections are common in Alaska, and thus even one case of voter fraud is one case too many, particularly given that an election in Alaska can be decided by as few as one vote. Calling photo ID ubiquitous, and noting that it's now required for many purposes, he offered his belief that nothing in the bill would prevent a person who is registered to vote and who is motivated to vote, from voting. In conclusion, he asked the committee for its support of HB 3.

[HB 3 was held over.]

[3:25:36 PM](#)

### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:25 p.m.