

**ALASKA STATE LEGISLATURE  
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

April 1, 2013

3:23 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Lora Reinbold, Vice Chair  
Representative Mike Chenault  
Representative Bob Herron  
Representative Charisse Millett  
Representative Dan Saddler

**MEMBERS ABSENT**

Representative Andy Josephson

**OTHER LEGISLATORS PRESENT**

Representative Craig Johnson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 187

"An Act relating to professional and occupational licensing fees, including renewal fees, duplicate license fees, examination fees, instructor license fees, temporary license fees, continuing education course certification fees, out-of-state permit fees, delinquency fees, application fees, penalty fees, and trainee license fees; and providing for an effective date."

- MOVED HB 187 OUT OF COMMITTEE

HOUSE BILL NO. 125

"An Act prohibiting a health care insurer from denying coverage for an additional limited quantity of prescription topical eye medication under certain circumstances."

- MOVED CSHB 125(L&C) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 187

SHORT TITLE: OCCUPATIONAL LICENSING FEES

SPONSOR(s): LABOR & COMMERCE

03/26/13 (H) READ THE FIRST TIME - REFERRALS  
03/26/13 (H) L&C, FIN  
04/01/13 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 125

SHORT TITLE: TOPICAL EYE MEDS PRESCRIPTION REFILLS  
SPONSOR(S): HOLMES

02/18/13 (H) READ THE FIRST TIME - REFERRALS  
02/18/13 (H) L&C  
03/27/13 (H) L&C AT 3:15 PM BARNES 124  
03/27/13 (H) Heard & Held  
03/27/13 (H) MINUTE(L&C)  
04/01/13 (H) L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

CRYSTAL KOENEMAN, Special Assistant  
Office of the Commissioner  
Department of Commerce, Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 187.

DON HABEGER, Director  
Division of Corporations, Business & Professional Licensing  
(DCBPL)  
Department of Commerce, Community & Economic Development (DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Provided information on HB 187.

AL BARRETTE, Registered Class A Guide  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 187.

KEN MCCARTY, President  
Alaska Division of the American Association of Marriage and  
Family Therapists;  
Member, Board of Marriage and Family Therapists  
Department of Commerce, Community & Economic Development (DCCED)  
Eagle River, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 187.

CHRISSY MCNALLY, Staff  
Representative Lindsey Holmes  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of the sponsor of HB 125, Representative Lindsey Holmes.

SCOTT LINDSTROM, Ophthalmologist;  
President; Alaska Society of Eye Physicians and Surgeons  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 125.

**ACTION NARRATIVE**

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**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:23 p.m. Representatives Herron, Millett, Reinbold, Saddler, and Olson were present at the call to order. Representative Chenault arrived as the meeting was in progress.

**HB 187-OCCUPATIONAL LICENSING FEES**

[3:24:36 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 187 "An Act relating to professional and occupational licensing fees, including renewal fees, duplicate license fees, examination fees, instructor license fees, temporary license fees, continuing education course certification fees, out-of-state permit fees, delinquency fees, application fees, penalty fees, and trainee license fees; and providing for an effective date."

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CRYSTAL KOENEMAN, Special Assistant, Office of the Commissioner, Department of Commerce, Community & Economic Development (DCCED), introduced herself.

DON HABEGER, Director, Division of Corporations, Business, and Professional Licensing (DCBPL), Department of Commerce, Community, & Economic Development (DCCED), introduced himself.

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MR. HABEGER explained that the division has heard from a number of its 63,000 professional licensees with respect to professional licensing fee increases. In 2011, during a draft regulations project for the Real Estate Commission (REC), the

REC commented in such a manner that it became a press issue. On November 1, 2011, the Juneau Empire printed an article entitled, "Legislature Hears Complaints About Real Estate Licenses - Agents, Brokers Urge Huge Increases Be Back - Cut Costs." Thus, the real estate clientele can become vocal when fee increases are significant. About the same time, in July 2011, the Legislative Audit Division released a special audit report entitled, "Select Occupational Licensing Enforcement Issues, Audit Control Number 08-30063-11," in which numerous audit recommendations were made. Recommendation 1 was that the Division of Corporations, Business and Professional Licensing's (DCBPL) director should ensure occupational licensing fees are adjusted annually in accordance with state law. State law requires the department to annually review each fee level and make adjustments when revenue and expenses are not approximately equal. He referred to AS 08.01.065, which relates to each occupation.

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MR. HABEGER noted the requirement to adjust each occupation is a significant issue, which is one of the drivers of HB 187. Each occupation is defined as part of a subgroup of the program under AS 08.01.01. In particular, the legislative audit recommended setting fees by occupation; however, doing so can be problematic. For example, registered guides include master guide-outfitters, registered guide-outfitters, class-A guides, assistant guides, and transporters. In order for the division to comply with the legislative auditor's recommendation, the division would need to track the revenues and expenses for each of these occupations. He related that HB 187 is the response to this issue since the department oversees numerous occupations.

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MR. HABEGER held up a chart [not distributed to members] and reported that the division has 115 different occupations with approximately 400 different fees, including professional licensing fees, examination fees, and copying fees. This bill would attempt to reduce the tracking burden for the department in three ways. First, the bill would extend the cycle of time for making fee adjustments. For example, in FY 12, the Board of Nursing had \$1.299 million in cumulative surplus of licensing fees. Although statute specifies that this surplus should be returned to licensees, the statute doesn't consider that revenues and expenditures are based on a two-year cycle such that when the period is extended, the fees and revenues tend to

level out over time. Currently, the licensing fee for nurses is set at \$175, and the division would like to extend the fee, hold discussions with the board, and set a stable proposed fee. Second, the bill would collapse fees within each occupation. He again referred to tracking sub-levels of the guiding industry, which can become administratively burdensome for the division. Additionally, other occupations have sub-levels, noting the State Medical Board has fees for osteopaths, physicians, and podiatrists. In FY 12, the division licensed 26 podiatrist licensees. An investigation held on another occupation exceeded \$100,000 in investigative costs that year, which would have resulted in a \$3,000 increase in licensing fees if the case had pertained to a podiatrist. Lastly, the third change relates to a general fund appropriation for investigations. The division is requesting \$1.7 million to cover investigative costs, which would allow the division to share the cost of investigations since the division's investigations benefit all Alaskans, not just licensees. Additionally, as previously mentioned, investigative costs can contribute to the spiking of licensing fees, which the division would like to avoid.

MS. KOENEMAN agreed that investigative costs is one reason for the bill, but the department would also like to ensure that licensees bear some costs, which is why the division is asking investigators to account for their time spent specifically on individual investigations. Thus, licensees would be responsible for bearing the cost of administrative hearings, mediations, or other legal costs for their profession to help ensure the occupations are responsive and share a portion of the costs.

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MS. KOENEMAN provided a brief section-by-section analysis of the bill. She related that Sections 1 and 2 are housekeeping measures that provide technical changes which reference the new establishment of fees under Section 4 or AS 08.01.065. Section 3 would remove specific fees set out by statute, thus giving the department the ability to consolidate fee types. As Mr. Habeger previously mentioned, the division has over 400 individual fees and this section would allow the division an opportunity to work with the boards to prioritize and determine fees.

MS. KOENEMAN explained that Section 4 is really the "heart" of the bill. It would allow the department the ability to establish fees using fees collected plus any appropriations, but the language change would not bind this legislature or future legislatures. This provision would allow the department to

average licensing group's revenues and expenditures for current and prior licensing cycles to establish fee levels. This provision would also allow the department to reduce a calculated fee if the specific fee would be significantly higher than the current fee. In some professions, such as realtors, licensees have experienced a 140 percent increase in professional licensing fees, which is significant. The department does not want to burden licensees; however, it does want businesses open and ready to conduct business. Additionally, the division is required to recover any costs that may result from a reduced fee over future licensing periods. Further, this section requires the department to post fee reductions on the department's website. Finally, the department is required to consider recommendations by the board and this section also defines "regulatory costs."

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MS. KOENEMAN stated that Sections 5 and 6 of the bill are "clean-up" or housekeeping provisions for establishing fees. Section 7 would define a new licensing group that will encompass all the license types regulated by a board, commission, or department, which will give the department more latitude when calculating fees.

MS. KOENEMAN related that Sections 8-10, are technical changes, not related to establishment of fees and Sections 11-26 reference the new language in Section 4. Section 27 would change the word "assure" to "ensure" as a technical change. Section 29 would remove a reference to AS 08.600.100(a), which will be repealed. Sections 30-34 are also technical changes to remove the reference to different types of fees as outlined under AS 08.01.065. Section 35 would remove a dollar amount for renewal penalty as this is defined under AS 08.01.065.

MS. KOENEMAN pointed out that Sections 36-43 would provide additional technical changes. Section 44 would set out the 32 chapters that are repealed, noting members have a list in their packets. Section 45 would provide transitional language to allow the department to adopt regulations and Section 46 would provide transitional language for current licensees. Section 45 would allow the department to adopt regulations immediately and Section 48 would establish a January 1, 2014, effective date.

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REPRESENTATIVE SADDLER referred to Section 2, paragraph (2), which would allow the department to establish fee levels. He asked how far back the department can go when establishing fees.

MS. KOENEMAN answered that the department could look at three biennial cycles or up to six years to establish the historical cost of licensing fees.

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AL BARRETTE, Registered Class A Guide, stated that he holds a professional license for hunting, fishing, and trapping as well as a driver's license and two professional occupational licenses. He related that he is self-employed as a class A registered guide and owns a fur tannery which falls under taxidermy licenses. He offered his belief that the system is broken since licensees' fees are prorated to cover the cost of investigations. He wondered why a licensee should be penalized for investigations. He surmised that other boards and commissions, such as the Board of Game or Board of Fish, make regulations yet their investigation system falls under public safety and not occupational licensing. He surmised Big Game Commercial Services Board's laws were also prosecutable under criminal law and he did not believe their costs were covered under licensing.

CHAIR OLSON offered his belief that the general fund will initially benefit from the provisions in HB 187. Additionally, the Board of Fish and the Board of Game members are not making their livelihood from the profession being regulated. He recalled one profession consisting of 35-40 members had a serious problem that resulted in investigation of one member resulting in costs over \$100,000. If licensing fees were spread over these 35-40 members, it would have represented a significant increase in their professional licensing fees. He suggested the goal of HB 187 is to provide a balance and achieve a more equitable system. He related that an investigation involving one or two claims for realtors disrupted the entire profession. In fact, some realtors were going to give up their profession since they could not afford the fee increases. This bill would offer a way for licensees or boards to pay their own way, while avoiding putting people out of business.

MR. BARRETTE responded that some people who serve on the Board of Fish and the Board of Game do have a personal interest [in the fish or game].

CHAIR OLSON answered that he is not debating the issue, but noted those board members must recuse themselves.

The committee took an at-ease from 3:50 p.m. to 4:01 p.m.

4:01:50 PM

KENNITH MCCARTY, President, American Association of Marriage and Family Therapists - Alaska Division (AAMFT-AK); Member, Board of Marriage and Family Therapists (BMFT), Department of Commerce, Community & Economic Development (DCCED), related that he also has a private practice in Eagle River as well as an office in Kodiak. While he likes HB 187, he expressed concern about the provision related to regulatory investigations and any fees incurred. He explained that the BMFT has been affected by an investigation that occurred 15 years ago, at which time the Department of Law (DOL) provided a bill for an investigation to the board for \$250,000. That bill caused an increase in costs in the marital and family therapists' licensing fees for over 15 years. He suggested the addition of a provision requiring every marriage and family therapist obtain liability insurance with the proviso to cover the state regulatory investigative fees. He reported that other states have similar statutes and a major insurance company, which is recognized by the Association of Marriage & Family Therapists, the California Association of Marriage & Family Therapists, psychologists, and licensed clinical social workers, recognize it as a standard in liability insurance. He pointed out that the burden would be placed on the licensees and not the state, and thus the end result is that the liability insurance of the licensee could be collected by the state to pay for the regulatory fees and the other licensees would not incur an increase in license fee because of that.

4:04:40 PM

CHAIR OLSON agreed this bill is similar to one that passed a prior legislature, at the request of the real estate industry; however, the language in HB 187 does not fall under the insurance section of statutes so the topic would need to be in a separate bill. He offered to meet with the Board of Marital & Family Therapists to work on this issue next year.

MR. MCCARTY suggested the proposed language could be under AS 08.63.100, which could require liability insurance.

CHAIR OLSON answered that it is too close to the end of session to consider adding liability insurance to HB 187. He offered to meet during the legislative interim on this issue.

[4:06:10 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 187.

[4:06:20 PM](#)

REPRESENTATIVE REINBOLD moved to report HB 187 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HB 187 was reported from the House Labor and Commerce Standing Committee.

The committee took an at-ease from 4:06 p.m. to 4:12 p.m.

**HB 125-TOPICAL EYE MEDS PRESCRIPTION REFILLS**

[4:12:03 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 125, "An Act prohibiting a health care insurer from denying coverage for an additional limited quantity of prescription topical eye medication under certain circumstances."

[4:12:39 PM](#)

CHRISSY MCNALLY, Staff, Representative Lindsey Holmes, Alaska State Legislature, offered to explain the changes in the proposed committee substitute.

[4:13:09 PM](#)

REPRESENTATIVE REINBOLD moved to adopt the proposed committee substitute (CS) for HB 125, labeled 28-LS0431\C, Bailey, 3/29/13, as the working document.

CHAIR OLSON objected for the purpose of discussion.

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MS. MCNALLY explained the changes incorporated into Version C of HB 125. She referred to page 1, line 8, which adds the language, "... to treat a chronic condition ..." to specify the

types of prescription eye drops being addressed under this bill. The second change [on page 1, lines 11-14, and page 2, lines 1-7] relates to when and how many times an early refill can be requested. Finally, on page 2, lines 11-12, the proposed CS would establish an effective date of January 1, 2014. The effective date was added to conform to the administrative practices of the health insurers. Finally, Version C corrects one drafting error, which is to change the reference to on page 2, line 2, to "68".

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REPRESENTATIVE REINBOLD moved to adopt Conceptual Amendment 1, as follows:

Page 2, line 2,  
Delete "58"  
Insert "68"

There being no objection, Conceptual Amendment 1 was adopted.

MS. MCNALLY related the fiscal note has also been changed to a zero fiscal note.

There being no further objection, the proposed committee substitute (CS) for HB 125, Version C, was adopted.

[4:15:11 PM](#)

REPRESENTATIVE SADDLER asked how many states have considered this or whether Alaska is the first to do so.

MS. MCNALLY answered that Alaska is the sixth state to adopt the model changes, with Connecticut, New York, Maryland, and New Mexico having adopted similar language, although she could not recall the fifth state.

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SCOTT LINDSTROM, Ophthalmologist; President, Alaska Society of Eye Physicians and Surgeons, stated that the society is in support of the bill. The bill would provide an important avenue for patients to obtain refills when they run short on medications, which is not uncommon. Frequently, patients may go as long as several weeks without their daily medication until they can obtain a refill. This bill would primarily affect patients with glaucoma and a few other eye diseases which can

cause irreversible damage to the patients' optical nerve with lapses in medication. In conclusion, he offered support for HB 125.

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 125.

[4:17:39 PM](#)

REPRESENTATIVE REINBOLD moved to report the proposed committee substitute (CS) for HB 125, labeled 28-LS0431\C, Bailey, 3/29/13, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 125(L&C) was reported from the House Labor and Commerce Standing Committee.

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#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:18 p.m.