ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE
March 28, 2014
3:30 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mike Chenault
Representative Bob Herron
Representative Dan Saddler
Representative Andy Josephson
Representative Craig Johnson

MEMBERS ABSENT

Representative Lora Reinbold, Vice Chair
Representative Charisse Millett

COMMITTEE CALENDAR

HOUSE BILL NO. 60
"An Act adopting and relating to the Uniform Real Property Transfer on Death Act."

- MOVED CSHB 60(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 230
"An Act allowing the Alaska Industrial Development and Export Authority to issue bonds for an oil or gas processing facility; and creating the oil and gas infrastructure fund to finance construction or improvement of an oil or gas processing facility."

- MOVED CSHB 230(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 281
"An Act relating to prescription of drugs by a physician without a physical examination."

- MOVED CSHB 281(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 288
"An Act creating the Arctic infrastructure development program and fund in the Alaska Industrial Development and Export Authority."

- HEARD & HELD

HOUSE BILL NO. 302
"An Act relating to the practice of public accounting; and relating to rules of professional conduct for the profession of public accounting."

- MOVED CSHB 302(L&C) OUT OF COMMITTEE

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."

- HEARD & HELD

HOUSE BILL NO. 253
"An Act providing for the licensing and regulation of private investigators and private investigator agencies; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 203
"An Act relating to payment or reimbursement of health care insurance claims."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 60
SHORT TITLE: UNIFORM REAL PROPERTY TRANSFERS ON DEATH
SPONSOR(s): REPRESENTATIVE(s) GRUENBERG

01/16/13	(H)	PREFILE RELEASED 1/11/13
01/16/13	(H)	READ THE FIRST TIME - REFERRALS
01/16/13	(H)	L&C, JUD
03/21/14	(H)	L&C AT 3:15 PM BARNES 124
03/21/14	(H)	-- MEETING CANCELED --
03/24/14	(H)	L&C AT 3:15 PM BARNES 124
03/24/14	(H)	Heard & Held
03/24/14	(H)	MINUTE(L&C)
03/28/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 230
SHORT TITLE: AIDEA BONDS FOR PROCESSING FACILITIES

SPONSOR(s): REPRESENTATIVE(s) SEATON

01/21/14	(H)	PREFILE RELEASED 1/10/14
01/21/14	(H)	READ THE FIRST TIME - REFERRALS
01/21/14	(H)	L&C, FIN
02/21/14	(H)	L&C AT 3:15 PM BARNES 124
02/21/14	(H)	Heard & Held
02/21/14	(H)	MINUTE(L&C)
03/14/14	(H)	L&C AT 3:15 PM BARNES 124
03/14/14	(H)	Heard & Held
03/14/14	(H)	MINUTE(L&C)
03/24/14	(H)	L&C AT 3:15 PM BARNES 124
03/24/14	(H)	Heard & Held
03/24/14	(H)	MINUTE(L&C)
03/28/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 281
SHORT TITLE: PRESCRIPTION WITHOUT PHYSICAL EXAMINATION
SPONSOR(s): REPRESENTATIVE(s) GATTIS

01/27/14	(H)	READ THE FIRST TIME - REFERRALS
01/27/14	(H)	HSS, L&C
02/13/14	(H)	HSS AT 3:00 PM CAPITOL 106
02/13/14	(H)	Heard & Held
02/13/14	(H)	MINUTE(HSS)
02/27/14	(H)	HSS AT 3:00 PM CAPITOL 106
02/27/14	(H)	Moved CSHB 281(HSS) Out of Committee
02/27/14	(H)	MINUTE(HSS)
02/28/14	(H)	HSS RPT CS(HSS) 4DP
02/28/14	(H)	DP: SEATON, PRUITT, KELLER, HIGGINS
03/17/14	(H)	L&C AT 3:15 PM BARNES 124
03/17/14	(H)	Heard & Held
03/17/14	(H)	MINUTE(L&C)
03/26/14	(H)	L&C AT 3:15 PM BARNES 124
03/26/14	(H)	Heard & Held
03/26/14	(H)	MINUTE(L&C)
03/28/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 288
SHORT TITLE: AIDEA: ARCTIC DEVELOPMENT PROGRAM/FUND
SPONSOR(s): REPRESENTATIVE(s) HERRON

01/29/14	(H)	READ THE FIRST TIME - REFERRALS
01/29/14	(H)	L&C, FIN
02/28/14	(H)	L&C AT 3:15 PM BARNES 124
02/28/14	(H)	Heard & Held
02/28/14	(H)	MINUTE(L&C)

03/17/14	(H)	L&C AT 3:15 PM BARNES 124
03/17/14	(H)	Heard & Held
03/17/14	(H)	MINUTE(L&C)
03/28/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 302
SHORT TITLE: PUBLIC ACCOUNTANTS
SPONSOR(s): REPRESENTATIVE(s) THOMPSON

02/10/14	(H)	READ THE FIRST TIME - REFERRALS
02/10/14	(H)	L&C
03/05/14	(H)	L&C AT 3:15 PM BARNES 124
03/05/14	(H)	-- MEETING CANCELED --
03/28/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 328
SHORT TITLE: BOARD/LICENSING OF MASSAGE THERAPISTS
SPONSOR(s): REPRESENTATIVE(s) NAGEAK

02/21/14	(H)	READ THE FIRST TIME - REFERRALS
02/21/14	(H)	L&C, FIN
03/05/14	(H)	L&C AT 3:15 PM BARNES 124
03/05/14	(H)	-- MEETING CANCELED --
03/10/14	(H)	L&C AT 3:15 PM BARNES 124
03/10/14	(H)	Heard & Held
03/10/14	(H)	MINUTE(L&C)
03/21/14	(H)	L&C AT 3:15 PM BARNES 124
03/21/14	(H)	-- MEETING CANCELED --
03/28/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 253
SHORT TITLE: PRIVATE INVESTIGATORS/AGENCIES
SPONSOR(s): REPRESENTATIVE(s) HUGHES, GRUENBERG

01/21/14	(H)	PREFILE RELEASED 1/17/14
01/21/14	(H)	READ THE FIRST TIME - REFERRALS
01/21/14	(H)	L&C, FIN
03/28/14	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MAX GRUENBERG
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as prime sponsor of HB 60.

REPRESENTATIVE PAUL SEATON

Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as prime sponsor of HB 230.

REPRESENTATIVE LYNN GATTIS
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as prime sponsor of HB 281.

LYNNETTE BERGH, Staff
Representative Steve Thompson
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified on behalf of the prime sponsor, Representative Steve Thompson, on HB 302.

REPRESENTATIVE BEN NAGEAK
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as prime sponsor of HB 328.

MARY SCHLOSSER, Staff
Representative Benjamin Nageak
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified during the discussion of HB 328.

VICTORIA DANCE, Massage Therapist
Juneau, Alaska
POSITION STATEMENT: Testified during the discussion of HB 328.

MARTY HESTER, Deputy Director
Juneau Office, Division of Insurance
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska
POSITION STATEMENT: Testified during the discussion of HB 328.

GINGER BLAISDELL, Staff
Representative Shelley Hughes
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified on behalf of one of the joint prime sponsors for HB 253, Representative Shelley Hughes.

H.H. "TRES" LEWIS III
Private investigator
Mendenhall Investigations, Inc.

Juneau, Alaska
POSITION STATEMENT: Testified during the discussion of HB 253.

ACTION NARRATIVE

3:30:48 PM

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:30 p.m. Representatives Herron, Johnson, Josephson, Chenault, and Olson were present at the call to order. Representative Saddler arrived as the meeting was in progress.

HB 60-UNIFORM REAL PROPERTY TRANSFERS ON DEATH

3:31:26 PM

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 60, "An Act adopting and relating to the Uniform Real Property Transfer on Death Act."

CHAIR OLSON removed his objection [Version C was before the committee].

3:32:03 PM

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, explained that HB 60 is a Uniform Real Property Transfers on Death Act and will allow people to sign a deed effective upon their death. The deed can be revoked later or superseded with another deed; a person can disclaim it so long as it is recorded so the chain of title is very clear. A "wild deed will," or a will that is not recorded, will not generally supersede it. He reported 21 states have adopted this and four others are considering it. It is now part of the uniform act with South Dakota being the most recent state to adopt these changes. This bill will help a lot of people and AARP has endorsed it, and he just received a letter from the Commission on Aging and the Alaska Association of Realtors, Inc. who are also endorsing the bill. He is not aware of any opposition unless it would be a few lawyers afraid of losing a little business. He reiterated that this should help people with estate planning and will continue to "tweak" the bill in the next committee of referral.

3:33:53 PM

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 60.

3:34:07 PM

REPRESENTATIVE JOHNSON moved to report HB 60, Version C, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, the CSHB 60(L&C) was reported from the House Labor & Commerce Committee.

3:34:06 PM

The committee took an at-ease from 3:34 to 3:35 p.m.

HB 230-AIDEA BONDS FOR PROCESSING FACILITIES

3:35:12 PM

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 230, "An Act allowing the Alaska Industrial Development and Export Authority to issue bonds for an oil or gas processing facility; and creating the oil and gas infrastructure fund to finance construction or improvement of an oil or gas processing facility."

CHAIR OLSON removed his objection [Version N, which was adopted on March 24, 2014, was before the committee].

3:35:48 PM

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, explained the changes in the proposed committee substitute (CS) for HB 230, Version N. He stated that this version will allow the Alaska Industrial Development & Export Authority (AIDEA) to issue development bonds for oil and gas processing facilities on the North Slope in order to incentivize obtaining additional oil in the pipeline, in particular from small independent operators. In addition, on page 2, lines 21-23, at the suggestion of legal services, language was added to make it easier to qualify for tax credits. He commented that this language needs to be further addressed; hence the pending amendment.

3:36:56 PM

REPRESENTATIVE JOHNSON moved to adopt Amendment 1, labeled 28-LS1053\N.1, Nauman, 3/24/14, which read:

Page 1, lines 2 - 3:
Delete "**providing a tax credit for the construction or improvement of an oil or gas processing facility;**"

Page 2, lines 16 - 28:
Delete all material.

Renumber the following bill sections accordingly.

CHAIR OLSON objected for the purpose of discussion.

3:37:25 PM

REPRESENTATIVE SEATON explained that Amendment 1 will remove the tax credit since it would also have inadvertently affected SB 21 tax credits. There was no intention to do so, he said.

CHAIR OLSON removed his objection. There being no further objection, Amendment 1 was adopted.

3:37:54 PM

REPRESENTATIVE JOHNSON moved to adopt Amendment 2, labeled 28-LS0153\N.2, Nauman, 3/25/14, which read:

Page 2, line 4:
Delete "for allow"
Insert "allow for"

CHAIR OLSON objected for purpose of discussion.

REPRESENTATIVE SEATON thanked Representative Saddler for pointing out the inversion of words. He characterized this as being a technical change.

There being no further objection, Amendment 2 was adopted.

3:38:50 PM

REPRESENTATIVE JOHNSON moved to report the proposed CS for HB 230, Version N, labeled 28-LS1053\N, Nauman, 3/17/14, as amended, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, the CSHB 230(L&C) was reported from the House Labor & Commerce Standing Committee.

3:40:44 PM

The committee took a brief at-ease.

HB 281-PRESCRIPTION WITHOUT PHYSICAL EXAMINATION

3:40:57 PM

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 281, "An Act relating to prescription of drugs by a physician without a physical examination." [CSHB 281(HSS) was before the committee.]

CHAIR OLSON stated the committee has heard the bill several times. During the last hearing on March 26, 2014, the committee experienced some technical audio difficulties yet was able to take testimony.

REPRESENTATIVE JOHNSON moved to adopt the proposed committee substitute (CS) for HB 281, labeled 28-LS1234\N, Martin, 3/27/14, as the working document.

CHAIR OLSON objected for the purpose of discussion.

3:42:16 PM

REPRESENTATIVE LYNN GATTIS, Alaska State Legislature, said that Version N will recognize the telemedicine practices by the Department of Corrections (DOC) and the Department of Health and Social Services (DHSS).

3:43:18 PM

REPRESENTATIVE JOSEPHSON asked if subparagraph (B) on page 1, lines 11-14 addresses DOC's concerns.

REPRESENTATIVE GATTIS answered that it does.

3:43:47 PM

CHAIR OLSON removed his objection. There being no further objection, Version N was before the committee.

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 281.

REPRESENTATIVE JOSEPHSON commented that he "feels better about this legislation." He referred to a March 18, 2014, letter from the state medical board and he was unsure of the board's concerns, whether the board is "a tough nut to crack", but he is somewhat more comfortable with the bill.

3:44:50 PM

REPRESENTATIVE JOHNSON moved to report the proposed committee substitute (CS) for HB 281, Version N, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, the CSHB 281(L&C) was reported from the House Labor & Commerce Standing Committee.

3:45:10 PM

The committee took an at-ease from 3:45 p.m. to 3:48 p.m.

HB 288-AIDEA: ARCTIC DEVELOPMENT PROGRAM/FUND

3:47:57 PM

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 288, "An Act creating the Arctic infrastructure development program and fund in the Alaska Industrial Development and Export Authority."

CHAIR OLSON explained that the committee has requested a new committee substitute for the bill and the sponsor has asked to have the bill held over to a future date.

[HB 288 was held over.]

3:48:00 PM

The committee took an at-ease from 3:48 p.m. to 3:51 p.m.

HB 302-PUBLIC ACCOUNTANTS

3:51:05 PM

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 302, "An Act relating to the practice of public accounting; and relating to rules of professional conduct for the profession of public accounting."

3:51:36 PM

REPRESENTATIVE JOHNSON moved to adopt the proposed committee substitute (CS) for HB 302, labeled 28-LS1292\N, Martin, 3/11/14, as the working document.

CHAIR OLSON objected for purpose of discussion.

3:51:51 PM

LYNNETTE BERGH, Staff, Representative Steve Thompson, Alaska State Legislature, stated that HB 302 was drafted in response to the Alaska Board of Public Accountancy's (BPA) FY 2013 annual report recommendations. The proposed committee substitute (CS) for HB 302, Version N, addresses AS 08.04.080, the professional rules of conduct for the profession of public accounting. This section of statute sets the timeframe the BPA must use for the adoption of any rules or amendments and the effective date for each licensee or firm. The proposed CS, Version N, would amend the number of days for noticing from 60 days to 30 days. This timeframe is in line with the Division of Corporations, Business, and Professional Licensing's (DCBPL) guidelines.

3:53:02 PM

REPRESENTATIVE SADDLER asked for clarification on the change from 60 days to 30 days.

MS. BERGH characterized this as a housekeeping matter since the original statute didn't match with the division guidelines, and the BPA noted the discrepancy.

3:53:32 PM

REPRESENTATIVE SADDLER asked whether it was a clerical error.

MS. BERGH referred to AS 44.62.190, which provides division guidelines for noticing any regulation changes. She read subsection (a), "At least 30 days before the adoption, amendment, or repeal of a regulation, notice of the proposed action shall be...."

3:54:09 PM

CHAIR OLSON removed his objection.

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 302.

3:54:49 PM

REPRESENTATIVE JOHNSON moved to report the proposed committee substitute (CS) for HB 302, Version N, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, the CSHB 302(L&C) was reported from the House Labor & Commerce Standing Committee.

3:55:00 PM

The committee took a brief at ease.

HB 328-BOARD/LICENSING OF MASSAGE THERAPISTS

3:56:38 PM

CHAIR OLSON announced that the next order of business would be 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."

3:56:57 PM

REPRESENTATIVE JOHNSON made a motion to adopt Amendment 1, labeled 28-LS1431\N.2, Martin, 3/25/14, which read as follows:

> Page 7, line 31:
> Delete ", awareness, and education by Ida P. Rolf"
> Insert "and awareness who has graduated from a program or is a current member of an organization recognized by the International Association of Structural Integrators, including the Rolf Institute of Structural Integration"
>
> Page 9, line 4, following "medicines,":
> Insert "the practice of physical therapy,"

CHAIR OLSON objected for the purpose of discussion.

3:57:13 PM

REPRESENTATIVE BEN NAGEAK, Alaska State Legislature, thanked members for the opportunity to ask for support for HB 328. He explained that HB 328 would establish a Board of Massage Therapists and provide regulation for certification. Massage

therapists have requested licensure but have also asked for a few changes, which are incorporated into amendments "N.1" [not yet before the committee] and Amendment 1, [labeled 28-LS1431\N.2, Martin, 3/25/14, currently under consideration]. He asked his staff to explain the proposed amendments.

3:57:59 PM

MARY SCHLOSSER, Staff, Representative Benjamin Nageak, Alaska State Legislature, explained Amendment 1. She referred to page 7, line 31 of HB 328 and stated that the Alaska Massage Therapist Licensure Coalition (AMTLC) asked for this change because the International Association of Structural Integrators (IASI) wanted clarification that the practice of Rolfing would be exempted from this bill. She noted the Rolfing profession has very high standards. Secondly, on page 9, line 4, language was inserted to clarify that massage therapists do not practice physical therapy. This change was requested by the physical therapists. In response to a question, Ms. Schlosser said she wasn't familiar with other groups seeking licensure.

CHAIR OLSON remarked that athletic trainers would be addressed in a separate licensing bill.

4:00:09 PM

CHAIR OLSON removed his objection to Amendment 1. There being no further objection, Amendment 1 was adopted.

4:00:22 PM

VICTORIA DANCE, Massage Therapist, stated she is a massage therapist who works for a medical office in Juneau. She previously testified in opposition to the bill because it only requires a minimum of 500 hours of training since ordinances already require the same minimum hours. It didn't make any sense to go to the expense of a board for licensing. She said she has contacted the AMTLC to increase the minimum requirement for licensure, but the coalition has not been interested in changing the number of hours so she decided to testify before the committee with her request. She provided her background, such that she is a massage therapist who has been licensed in Arizona since 1983. She was the director of Continuing Education at the Desert Institute of the Healing Arts in Tucson prior to working as a massage therapist in a medical clinic in Juneau for the last five years. She also holds a Master's

Degree in Higher Education Administration. She asked to address the educational qualifications and aspects of HB 328.

4:02:06 PM

MS. DANCE suggested that the educational requirement should be increased to 600 hours since almost every standard-setting organization for massage therapy in the nation recommends a minimum of 600 to 625 hours training. [The Commission on Massage Therapy Accreditation] (COMTA), an organization recognized by the U.S. Secretary of Education to specialize in accrediting massage therapy schools, requires 600 hours. [The Entry-Level Analysis Project] ELAP [a research project initiated by the Coalition of National Massage Therapy Organizations in March 2012] has recommended a minimum of 625 hours training. She also discussed training hours with Pete Whitridge, president of the Alliance for Massage Therapy Education, [a non-profit organization established to serve as an independent voice, advocate, and resource for the entire education sector] who said, "There is a tremendous divergence between 500 hours and 625 or 700 hours." Mr. Whitridge further stated that setting the minimum requirement of 500 hours does the state a great disservice in terms of current suggested practice especially with the growing field of medical massage. He emphasized that it is important at the beginning of a massage therapist's career to have additional training and context of medicine and insurance billing, which is not possible in a 500-hour program.

MS. DANCE explained that a 500-hour program teaches massage therapists the basics of Swedish massage techniques for relaxation and introduces them to a potpourri of techniques to later study during continuing education credits. She emphasized her belief that it is not possible to teach massage therapists much beyond the basic protocols in an entry level 500-hour training program. The American Manual Medicine Association (AMMA), [a non-profit corporation serving all members of the health care community who serve the public health through manual therapy] recommends a minimum of 600 hours of training. Some state boards, including Ohio's, are currently in a predicament since these states must now amend their enabling statutes in order to increase the minimum qualifications for licensure. In fact, only 14 states currently require as few as 500 hours of training, she said. She characterized this bill as one that has been modeled after a boiler plate from the early 2000s, which needs updating.

CHAIR OLSON asked whether she has shared her concerns with the bill sponsor.

MS. DANCE related she has recently provided the sponsor's office with her concerns.

4:04:58 PM

MARTY HESTER, Deputy Director, Division of Insurance, Department of Commerce, Community & Economic Development, asked to address the applicability to health insurance policies. He explained that HB 328 does not amend Title 21, the Alaska insurance code. It would not change the ability of an insurer to write a policy that did not cover massage or that required a doctor or chiropractor to prescribe a massage in order to qualify for coverage. The licensure will not change the ability of an insurer to require that billing be processed through the prescribing doctor's office or in a particular manner; however, the Patient Protection and Affordable Care Act (PPACA) applies to all class providers and prohibits provider discrimination. One provision of PPACA prevents insurers from discriminating against entire classes of health care providers if the health care providers are willing to abide by the terms and conditions of participation and are acting within the scope of practice and in compliance with the state licensure requirements.

4:06:50 PM

REPRESENTATIVE SADDLER asked for clarification on the insurance aspects.

MR. HESTER said a question arose as to whether massage therapy would specifically be covered under health insurance policies and if a massage therapist could bill an insurer directly for the services they provided. He explained that HB 328 does not change the insurance code to affect those items nor does it change the PPACA mandating the insurer to provide that coverage for massage therapy.

REPRESENTATIVE JOSEPHSON said none of this surprised him.

4:08:02 PM

REPRESENTATIVE SADDLER asked whether it would be the status quo, and massage therapy will not be covered by insurance.

MR. HESTER said it depends on the insurance plan. Currently, Premera Blue Cross Blue Shield provides massage therapy coverage but Aetna or other insurance coverage may differ. This bill doesn't mandate the coverage these plans offer.

4:08:39 PM

REPRESENTATIVE SADDLER related his understanding that HB 328 does not change insurance law to mandate or not, that it depends on the policy and it does not affect the [PPACA's] mandate to cover massage therapy.

MR. HESTER answered yes.

REPRESENTATIVE JOSEPHSON related his understanding that it would depend on whether a doctor prescribed the massage therapy as to the insurance coverage. He suggested it might change the result if a doctor prescribed the massage rather than someone just going to a massage therapist.

MR. HESTER answered that it would depend on the health insurance the individual has as to the insurance coverage or reimbursement for massage therapy.

4:09:28 PM

CHAIR OLSON removed his objection. There being no further objection, Amendment 1 was adopted.

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 328.

REPRESENTATIVE JOSEPHSON asked whether the two amendments were incorporated into the bill.

The committee took a brief at-ease.

4:11:29 PM

CHAIR OLSON explained that members did not have adequate time to consider amendment [N.1] in members' packets so it will be taken up at a later date.

[HB 328 was held over.]

4:11:25 PM

The committee took a brief at-ease from 4:11 p.m. to 4:15 p.m.

HB 253-PRIVATE INVESTIGATORS/AGENCIES

4:15:33 PM

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 253, "An Act providing for the licensing and regulation of private investigators and private investigator agencies; and providing for an effective date."

4:15:40 PM

REPRESENTATIVE JOHNSON moved to adopt the proposed committee substitute (CS) for HB 253, labeled 28-LS1012\N, Martin, 3/11/14, as the working document [Version N].

CHAIR OLSON objected for the purpose of discussion.

4:16:00 PM

GINGER BLAISDELL, Staff, Representative Shelley Hughes, Alaska State Legislature, stated that HB 253 would create a new program to license private investigators. She explained that a few months ago a constituent brought information to Representative Hughes regarding the lack of professional requirements to become a private investigator in Alaska. Currently, an individual can become a private investigator by completing a one-page business license application, paying a $50 fee, and selecting the commercial business license code 561611 for investigative services. There are 139 active private investigator licensees in Alaska, including 30 licensees with Lower 48 mailing addresses and 109 in the state. She added that 42 other states have varying requirements to be licensed as a private investigator and HB 253 incorporates some of their provisions.

4:17:15 PM

MS. BLAISDELL stated that HB 253 requires private investigators to obtain a professional license to become a private investigator. It creates a misdemeanor if a person practices as a private investigator without the license. The bill identifies a scope of practice, outlining education and experience necessary to qualify for two classes of licensure. She explained that for a class A license, the individual must be 21 years of age, have at least a high school diploma or higher education, and have 1,500 hours of work in investigative

services. A class B license requires an individual be 18 years of age or older, hold a high school diploma or equivalent, and be employed by a private investigator. In addition, these individuals must provide fingerprints for a background check at the state and national levels.

MS. BLAISDELL related that a person falsifying information on an application is subject to a class A misdemeanor. She advised that the Department of Commerce, Community & Economic Development (DCCED) shall issue a class A or B license to qualified individuals. She related that the bill includes prohibited practices, including wearing a uniform or presenting a badge that would cause a reasonable individual to believe that the private investigator has official law enforcement authority. Further, a private investigator cannot solicit business for an attorney, and exemptions are included for those who conduct investigations but are not private investigators.

4:18:50 PM

MS. BLAISDELL reviewed the committee substitute, Version N, which removes a provision to require firearms so private investigators would not be granted authority to carry firearm. She related that fire investigators would also be exempt, and the proposed committee substitute also removes continuing education requirements since no one in the state is readily available to provide the instruction. Private investigators have expressed a willingness to pay for the cost for licensing fees and background checks. The primary concern for creating licensure for private investigators is to improve public safety for citizens. She explained that the people seeking private investigator services may be under duress or reaching out for help and may be vulnerable to unscrupulous investigators. For example, a person in need may be more willing to give out personal and private information to a professional who is presumed to have an association with a legal entity, such as a private investigator, and could be unwittingly taken advantage of during that time.

4:20:22 PM

MS. BLAISDELL shared the story that highlighted the need for this bill. She explained that a family's daughter went missing, and the case became a high profile case in Alaska. The family was approached by a private investigator offering services to locate their daughter. It later came to light that the person was an unscrupulous private investigator who was a convicted sex

offender in another state, had served many years in prison as a felon, and had a history of crimes committed in another state prior to moving to Alaska. She said it's time to protect Alaska's citizens by reviewing the individuals who are asking for a professional status to collect personal and private information so no others will prey on Alaskans in their time of need.

4:21:09 PM

MS. BLAISDELL provided an analysis of Version N. Section 1 would add a new regulation of private investigators and establish a new chapter in law. Section 2 limits the practice of private investigating to those individuals licensed under chapter 85. She stated that Section 2 will also provide the scope of practice and identify the kinds of information that private investigators can collect and outlines the general requirements, such that the person may not have a misdemeanor or a felony in the prior 10 years and may not be convicted of a crime of dishonesty or sexual misconduct. The person may not have a dishonorable discharge from the military, or have been determined to be mentally incompetent by a court of law. Additionally, the individual may not currently be a peace officer or in a position in law enforcement that may present a conflict of interest.

4:22:33 PM

REPRESENTATIVE CHENAULT referred to the general requirements for private investigators that prohibit individuals who have had a misdemeanor or a felony in the prior 10 years. He asked whether that would include driving under the influence of alcohol.

MS. BLAISDELL related her understanding that it would refer to any misdemeanor or felony in the prior 10 years.

4:23:11 PM

REPRESENTATIVE CHENAULT was unsure of the number of crimes that are included as misdemeanors.

CHAIR OLSON did not think it would limit it.

REPRESENTATIVE CHENAULT suggested that any misdemeanor would provide grounds for removal of a private investigator's license or prevent license renewal.

CHAIR OLSON asked whether these provisions were taken out of model language.

MS. BLAISDELL clarified that the language was taken from other state laws for licensing private investigators and many of these states broadly stated no misdemeanor or felony in the prior 10 years without providing any exceptions.

4:23:59 PM

REPRESENTATIVE JOSEPHSON saw a "carve out" for fire investigators and wondered if there was one for peace officers so they are not subject to this license.

MS. BLAISDELL referred to page 10, to exemptions, but suggested that peace officers are handled in another section. She referred to [page 3, paragraph (7)], which restricts currently employed peace officers from being private investigators.

4:25:33 PM

REPRESENTATIVE SADDLER referred to page 2, lines 20-21, which requires that private investigators must be a citizen or resident alien of the U.S. He asked if consideration was given to requiring private investigators to be residents of Alaska.

MS. BLAISDELL recommended against that since instances occur in which a private investigator is brought in from out-of-state who has special skills. She suggested that it may include investigators conducting confidential work for oil companies. In further response, she agreed the language was considered.

4:26:41 PM

MS. BLAISDELL referred to page 3, proposed AS 08.85.140, which outlines class A and B private investigator qualifications. She explained the reason to establish two separate classes was to provide progression for the profession. For example, a high school graduate might be hired by someone who does investigative work and can obtain job skills. Once the person obtains investigative skills, the person can obtain a higher level of professional licensure. She characterized it as a part of the process to make sure skilled people are providing information to courts and in the legal system.

4:27:32 PM

MS. BLAISDELL referred to page 4, AS 08.85.160, which outlines the criteria in the license application, including the requirement for fingerprints and local and national criminal background checks. This statute asks for letters of character references from three citizens with no prior felony record. She noted that the felony list is available on court view.

4:28:13 PM

REPRESENTATIVE HERRON asked whether restrictions on tattoos should be included. He wondered if a psychological test should be required instead of a statement of mental health.

MS. BLAISDELL answered that tattoos were not considered and she did not recall seeing tattoos in other states' laws. She offered to consider adding it. She recalled that two states did do a mental health examination, but most others did not include one. She was unsure whether Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements covered this. She offered to consider this matter for the committee.

REPRESENTATIVE HERRON said that given the reality shows he has seen that some private investigators need psychological testing.

REPRESENTATIVE SADDLER referred to page [5] line 7, which requires an Alaska driver's license number and expiration date. He asked whether the specific requirement for an applicant to provide an Alaska driver's license should be deleted since the bill doesn't require a private investigator to be an Alaska resident.

MS. BLAISDELL acknowledged that probably is a good point. She related that this language was put in to provide a secondary point of identification through the Division of Motor Vehicles as a means of providing identification. In further response to a question, she agreed it should require a driver's license.

4:30:59 PM

MS. BLAISDELL referred to page 6 to AS 08.85.170, related to investigation of applicants, which gives the department the authority to verify the applicant's information. She also referred to [AS 08.85.200] to reciprocity, which allows the department to issue a license card to someone licensed in another state and allow them to conduct specialized work in Alaska. She further referred to [AS 08.85.210] to license cards, which provides identification that the individual is a

private investigator and helps to ensure the individual has undergone some type of check rather than just printing off a business card with private investigator printed on it.

4:32:09 PM

MS. BLAISDELL referred to the private investigator agency certificate [AS 08.85.220], which allows investigators who hold class A licenses and are primary employees of a business that is licensed and bonded to hire a class B investigator and provide training similar to an apprenticeship program. She further referred to AS 08.85.230 to license renewal, which establishes the process for license renewal, which is non-transferable.

4:32:42 PM

REPRESENTATIVE JOSEPHSON referred to page 7 to the agency certification. He asked whether consistency exists for professions since some require errors and omissions insurance while others do not.

MS. BLAISDELL explained that the errors and omissions insurance is a requirement by almost every state. She suggested that individuals on line could more specifically answer how the process works.

4:33:50 PM

MS. BLAISDELL added that a provision for firearms training was removed. She pointed out that a number of private investigators requested firearms training; however, firearms are not normally required to conduct business as a private investigator.

REPRESENTATIVE JOHNSON related his understanding that the bill will set a higher standard for private investigators. He said that anyone can carry a firearm in Alaska. He asked whether it would be prudent to ask private investigators to have a concealed carry permit or some type of training for any private investigators who are carrying firearms.

MS. BLAISDELL answered that a concealed carry permit would be an individual's personal choice. She related that putting a section in the bill to require specific firearm training might have a tendency to give a higher authority to a private investigator, suggesting they should carry a firearm. She further related her understanding that other state laws allow concealed carry permits.

4:35:30 PM

REPRESENTATIVE JOHNSON suggested that perhaps the language might require any private investigators carrying firearms to have training. He offered his belief that if the goal of the bill is an attempt to raise the standards for private investigators, that higher standards should be required. He was unsure as to whether his suggestion is a good idea but he would like the sponsor to consider firearms training.

REPRESENTATIVE HERRON related his understanding that it was in an earlier version of the bill but dropped out. He also shared the concern that Representative Johnson expressed.

REPRESENTATIVE JOHNSON noted that police who carry firearms must have a higher standard. He did not want to take away the right of any individual to carry firearms, but if individuals are on the job as private investigators and are carrying weapons, that these professionals are in a different situation.

4:36:53 PM

MS. BLAISDELL referred to the original version of HB 253 to AS 08.85.240, which read: "Firearms training. A licensee may not carry a firearm while practicing as a private investigator until the license[e] has completed firearms training acceptable to the department." She was unsure whether DCCED would be the appropriate department to determine the training; however, perhaps something similar could be reinserted.

REPRESENTATIVE CHENAULT remarked that the DCCED is not the right department to issue firearm permits.

4:37:47 PM

REPRESENTATIVE JOSEPHSON commented that working as an attorney, he would infrequently have the need to hire a private investigator; however, he recalled that the private investigator would typically be doing research or would follow someone with a camera. He did not think that they had any intent to put themselves in danger, but other private investigators may also wish to be bodyguards. He suggested that perhaps there might be a variety of purposes for private investigators.

4:38:37 PM

REPRESENTATIVE CHENAULT asked whether this bill deals with bodyguards. He did not think that was part of the duties of private investigators although he was unsure.

CHAIR OLSON offered his belief that there is at least one private investigator who works as a bodyguard in Anchorage.

REPRESENTATIVE CHENAULT was not sure if that person was a private investigator.

4:39:05 PM

MS. BLAISDELL related that in speaking with a number of investigators in the state and discussing endorsements for private investigator's licensing that the profession could spill over into other areas such as bail enforcement, fugitive recovery, and executive protection. She said the focus was to put into place a background check to ensure that private investigators are not felons preying on people. She said that specific endorsements could be considered in the future.

4:39:59 PM

MS. BLAISDELL referred to AS 08.85.240, to confidentiality language, which ensures that private investigator's information is kept confidential and place of residence and other information is not released to the public.

MS. BLAISDELL referred to AS 08.85.250 to prohibited practices. For example, violations could be for such things as wearing a police uniform, flashing lights on a car, and making material misstatements.

4:41:28 PM

REPRESENTATIVE SADDLER referred to page 10, line 4, to paragraph (6) which prohibits the department from issuing a license to someone who has solicited business for an attorney in return for compensation. He asked whether that would constitute an ethics violation.

MS. BLAISDELL related her understanding that if a private investigator would solicit business that it would be similar to the situation in which an attorney would be considered an "ambulance chaser." She said that a private investigator cannot solicit someone who is in a vulnerable state. She pointed out

that people can easily find licensed private investigators themselves.

4:42:33 PM

REPRESENTATIVE SADDLER was unsure how one would solicit business for an attorney.

MS. BLAISDELL answered this is more a code of conduct. It was presumed that the private investigator would not solicit business. She agreed that a private investigator could dig up "dirt on a person" and generate business for an attorney to get the individual out of trouble.

4:43:44 PM

REPRESENTATIVE CHENAULT suggested that some states are more sophisticated than Alaska. He recalled hearing of an incident in which a young man was involved in a car accident. He discovered that some people monitor police reports and send letters to the individuals involved asking if anyone was hurt. He surmised that something similar might occur in Alaska and the middle man is just cut out.

4:44:37 PM

REPRESENTATIVE HERRON asked whether a prohibited practice should include the use of drones.

MS. BLAISDELL answered that the drones are operated by people and if the person shouldn't be gathering information in that way, including a certificate to fly and gather the information, the person should not be gathering it. She offered her belief that discussions on drones will crop up but a potential task force could consider it.

REPRESENTATIVE HERRON asked whether the sponsor would consider it as prohibited practice.

MS. BLAISDELL agreed to do so.

REPRESENTATIVE SADDLER thought the devices were unmanned aerial systems.

4:46:14 PM

REPRESENTATIVE CHENAULT believed that the bill for unmanned aerial aircraft also has provisions to not allow certain aspects. He didn't recall, but he envisioned that anything unlawful would be covered, whether the person was a private investigator or police officer, or other professional.

MS. BLAISDELL clarified that either unmanned aircraft or drones are considered to be universal terms.

4:47:06 PM

MS. BLAISDELL referred to AS 08.85.260, immunity for complainants, which provides immunity against damages resulting from a complaint filed in good faith. For example, if a private investigator has overstepped a personal boundary, if it is in good faith, an action can't be taken. Private investigators might be watching someone who doesn't want to be watched.

MS. BLAISDELL referred to AS 08.85.270 to the administrative procedures act, which allows the department to adopt regulations.

REPRESENTATIVE JOSEPHSON asked whether the immunity for complainants was written a little broadly. For example, he related a scenario in which the private investigator punches someone - a tort of personal injury - or says something bad publically, which would be a tort of defamation. He questioned whether this seems to say that a private investigator could be sued and he was unsure that was intended.

MS. BLAISDELL agreed it was somewhat broad.

REPRESENTATIVE JOSEPHSON suggested it might specify that a private investigator was acting in the official capacity as a private investigator.

CHAIR OLSON suggested it be tightened up.

MS. BLAISDELL referred to page 10, line 17, which references a person licensed under this chapter, but she noted it doesn't say while acting in that capacity, which could improve the language.

REPRESENTATIVE JOHNSON concurred.

4:49:36 PM

MS. BLAISDELL referred to AS 08.85.300 to exemptions. She explained that this statute refers to licensing requirements in this chapter that do not apply to certain individuals. For example, most of these exemptions apply to individuals who conduct investigative work in their normal work, such as an auditor investigating expenditures of a business, attorneys who investigate on behalf of their clients, and collection agencies. She recalled a request that a person conducting an investigation to determine the cause of a fire, explosion, or accident should also be exempt from the requirement to obtain a private investigator's license. However, only about four individuals conduct this type of investigation in Alaska and they are highly qualified in investigating fires, she said.

MS. BLAISDELL referred to AS 08.85.310 to the definition section. Additionally, [Sections 3, 4, and 5] provide the technical and transitional provisions of the bill.

4:51:47 PM

REPRESENTATIVE CHENAULT referred to the fiscal note for approximately $60,000. He didn't anticipate much change with the committee substitute, but assumed a new fiscal note will be issued that relates to the committee substitute (CS). He expressed concern that issuing identification cards and other costs associated with the bill will have some fiscal impact.

CHAIR OLSON surmised DCCED will testify at the next hearing.

4:52:45 PM

REPRESENTATIVE SADDLER asked how many people are engaged as private investigators.

MS. BLAISDELL answered that there are 139 business licenses for private investigators, with 109 in Alaska and 30 out of state. She recalled a retired police officer who is a bail bondsman indicated that he has tripled his wages. She was unsure of the salary, but perhaps the Department of Labor & Workforce Development has figures.

4:53:53 PM

REPRESENTATIVE SADDLER asked whether a private investigator's license is required to be a bail bondsman or to return someone who has jumped bail.

MS. BLAISDELL answered no; however, private investigators do conduct all kinds of tasks.

4:54:30 PM

H.H. "TRES" LEWIS III, Private investigator, Mendenhall Investigations, Inc., stated that he has worked as a private investigator in Alaska for 28 years. He was involved with the first bill related to licensing private investigators in Alaska. He said this bill has serious flaws and issues that could significantly impact the profession. In response to a question, he responded that he has held discussions with the prime sponsors of HB 253.

MS. BLAISDELL referred to page 2, lines [21-22], the requirement that a person may not be convicted of a misdemeanor. He stated that he is aware of one private investigator in Alaska who shoplifted a carton of cigarettes at the age of 18. That person served 10 years in the U.S. Army as a military policeman and later became an Alaska State Trooper; however, under the bill since this individual previously committed a crime of dishonesty the person would prohibited from being a private investigator. He asked members to consider striking this language.

4:56:27 PM

MR. LEWIS stated that Alaska has a set of regulations considered barrier crimes, which is used for many professions, including nurses and janitors. He offered his belief that those regulations, located in the Alaska administrative code (AAC) Title 7, offers greater protection to the public than the simple language of not having been convicted of a crime in the past 10 years. He offered his belief that other states have barrier of 10 years for felonies and 5 years for misdemeanors. He referred to [page 3, line 2 to paragraph (5)], which relates to dishonorable discharge from the armed forces. He said he is aware of several people discharged with a dishonorable discharge due to post-traumatic stress disorders. These soldiers came home and have managed to put their lives back together; however, these individuals could not serve as private investigators under the bill and this does them a disservice. He expressed concern about the multiple tier licensing system. He suggested one license is all that is required.

4:57:37 PM

MR. LEWIS did not object to an "apprentice license," but the person must have a letter that the private investigator is willing to hire the person as an apprentice. He found that the agency license would just be another avenue for the state to charge fees, which is not necessary, especially since most private investigators are solo practitioners.

MR. LEWIS expressed concern about the education requirements. He said he was aware of a successful private investigator in Anchorage who does not have a high school diploma or general education development (GED). This person would not qualify under the bill to be a private investigator. He expressed concern about the requirement for the 1,500 hours or more of billable hours required [on page 4, lines 5-11 of Version N]. He suggested some kind of formula is necessary. For example, if someone worked in the public defender's office for 20 years, the individual should receive credit. He surmised the 1,500 billable hours came out of the California law, but the majority of the private investigators in Alaska have worked in the public defender's agency, the Office of Public Advocacy, or law enforcement. He considered himself an exception, since he was mentored by an attorney who spent three years training him.

4:59:23 PM

MR. LEWIS expressed concerns about requirements for information on the application. For example, he did not find his wife's occupation to be relevant to his private investigator license.

MR. LEWIS expressed concern with the requirement for identification card and weapons. He said that the ID card is dangerous since the public may interpret that the investigator has some caliber of law enforcement. Instead, he suggested that private investigator's be required to place their license number on a business card. Further, the state could list all private investigators on the state's website so the public can determine whether the person is a legitimate private investigator. He said that in 28 years he has never had the need for a firearm. In fact, he emphasized that it should be a prohibited act for a private investigator to carry a firearm since it, again, would lead the public into thinking the private investigator is some sort of law enforcement officer. He objected to the bonding requirement since he found $100,000 ridiculously low. He reported that he could obtain a $1,000,000 policy as an unarmed private investigator for $800 per year. He could not find anyone in Alaska would issue a corporate bond in Alaska.

5:01:29 PM

REPRESENTATIVE JOSEPHSON asked whether private investigators want this licensure.

MR. LEWIS answered that some people do not want it. He offered his belief that "the absolute best of all worlds" would be to require private investigators to be registered, including listing their names, addresses, telephone number, and insurance policy. He suggested confirmation that the person has not been convicted of a felony or misdemeanor in the past 10 years, and that the private investigator's license was issued by the state. He said this type of registration would be similar to the method Colorado uses, which is a simple process, but would still offer a greater level of protection to the citizens of Alaska.

CHAIR OLSON noted that public comment will remain open.

[HB 253 was held over.]

5:02:29 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:02 p.m.