

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 8, 2016

3:05 p.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Liz Vazquez, Vice Chair
Representative Neal Foster
Representative Louise Stutes
Representative David Talerico
Representative Geran Tarr
Representative Adam Wool

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 227

"An Act relating to medical assistance reform measures; relating to administrative appeals of civil penalties for medical assistance providers; relating to the duties of the Department of Health and Social Services; relating to audits and civil penalties for medical assistance providers; relating to medical assistance cost containment measures by the Department of Health and Social Services; relating to medical assistance coverage of clinic and rehabilitative services; and providing for an effective date."

- MOVED CSHB 227(HSS) OUT OF COMMITTEE

HOUSE BILL NO. 344

"An Act relating to the controlled substance prescription database; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 227

SHORT TITLE: MEDICAL ASSISTANCE REFORM

SPONSOR(S): REPRESENTATIVE(S) SEATON

01/19/16 (H) PREFILE RELEASED 1/8/16

01/19/16 (H) READ THE FIRST TIME - REFERRALS
 01/19/16 (H) HSS, FIN
 02/02/16 (H) HSS AT 3:00 PM CAPITOL 106
 02/02/16 (H) Heard & Held
 02/02/16 (H) MINUTE(HSS)
 02/09/16 (H) HSS AT 3:00 PM CAPITOL 106
 02/09/16 (H) -- MEETING CANCELED --
 02/16/16 (H) HSS AT 3:00 PM CAPITOL 106
 02/16/16 (H) Heard & Held
 02/16/16 (H) MINUTE(HSS)
 02/18/16 (H) HSS AT 3:00 PM CAPITOL 106
 02/18/16 (H) Heard & Held
 02/18/16 (H) MINUTE(HSS)
 02/23/16 (H) HSS AT 3:15 PM CAPITOL 106
 02/23/16 (H) Heard & Held
 02/23/16 (H) MINUTE(HSS)
 02/25/16 (H) HSS AT 3:15 PM CAPITOL 106
 02/25/16 (H) -- Testimony <Invitation Only> --
 03/01/16 (H) HSS AT 3:15 PM CAPITOL 106
 03/01/16 (H) Scheduled but Not Heard
 03/03/16 (H) HSS AT 3:15 PM CAPITOL 106
 03/03/16 (H) Heard & Held
 03/03/16 (H) MINUTE(HSS)
 03/04/16 (H) HSS AT 12:30 AM CAPITOL 106
 03/04/16 (H) -- Continued from 3/3/16 --
 03/08/16 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HB 344

SHORT TITLE: DRUG PRESCRIPTION DATABASE

SPONSOR(s): REPRESENTATIVE(s) SEATON

02/24/16 (H) READ THE FIRST TIME - REFERRALS
 02/24/16 (H) HSS
 03/01/16 (H) HSS AT 3:15 PM CAPITOL 106
 03/01/16 (H) Heard & Held
 03/01/16 (H) MINUTE(HSS)
 03/08/16 (H) HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

TANEKA HANSEN, Staff
 Representative Paul Seaton
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Introduced the committee substitute for HB 227 for the sponsor, Representative Seaton.

JON SHERWOOD, Deputy Commissioner
Medicaid and Health Care Policy
Office of the Commissioner
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion on HB 227.

JANEY HOVENDEN, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community & Economic Development
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during discussion of proposed HB 344.

ACTION NARRATIVE

[3:05:41 PM](#)

CHAIR PAUL SEATON called the House Health and Social Services Standing Committee meeting to order at 3:05 p.m. Representatives Seaton, Talerico, Stutes, and Foster were present at the call to order. Representatives Vazquez, Wool, and Tarr arrived as the meeting was in progress.

HB 227-MEDICAL ASSISTANCE REFORM

[3:06:23 PM](#)

CHAIR SEATON announced that the first order of business would be HOUSE BILL NO. 227, "An Act relating to medical assistance reform measures; relating to administrative appeals of civil penalties for medical assistance providers; relating to the duties of the Department of Health and Social Services; relating to audits and civil penalties for medical assistance providers; relating to medical assistance cost containment measures by the Department of Health and Social Services; relating to medical assistance coverage of clinic and rehabilitative services; and providing for an effective date."

[3:06:54 PM](#)

REPRESENTATIVE VAZQUEZ moved to adopt the proposed committee substitute (CS) for HB 227, labeled 29-LS1096\N, Glover, 3/7/16, as the working draft.

CHAIR SEATON objected for discussion.

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TANEEKA HANSEN, Staff, Representative Paul Seaton, Alaska State Legislature, explained the changes made in the proposed committee substitute, from the document titled "Summary of Changes Version H to Version N HB 227 - Medical Assistance Reform." [Included in members' packets.]

MS. HANSEN explained the changes to the bill title, which read:

Title: On line 6 the title has been expanded to include 'federal reimbursement for Alaska Native health services,' to reflect the new section 18.

MS. HANSEN moved on to discuss the changes in Section 1, which read:

Section 1. Subsection (2)(c) has been added to the legislative intent language. Subsection (2)(c) directs the Department of Health and Social Services to collaborate with clinics and centers that have historically provided behavioral health services.

MS. HANSEN explained the changes to Section 4, which read:

Section 4. Language was placed back into this section to return the number of annual audits required under this subsection to the current statutory level of 0.75% of all enrolled providers, with a minimum of 75 audits a years.

[3:09:48 PM](#)

MS. HANSEN directed attention to the changes in Section 5, which read:

Section 5. New subsections (1) and (2) have been added to AS 47.05.200(b) to state that the department may not assess interest on overpayments under this section if a provider self identifies and reports an overpayment independent of an audit and repays it within five months of reporting.

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MS. HANSEN shared the changes in Section 6, which read:

New Section 6. A new section 6 has been added to the bill. Section 6 adds subsection (f) to AS 47.05.200 allowing the department to collaborate with medical assistance providers to create educational material regarding common provider errors and overpayment types.

[3:11:22 PM](#)

MS. HANSEN pointed out the changes to the previous Section 11, which read:

Previous Section 11. deleted Section 11 of HB 227 version H has been removed from the bill. The language originally being removed from AS 47.07.036(b) under this section is no longer in conflict with new sections and will remain in statute.

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MS. HANSEN described the changes in Section 12, which read:

Section 12. Subsection (d)(1) has been amended to change the target population for the 1115 waiver application under this section from tribal health beneficiaries to recipients of behavioral health services. Language has been added to subsections (d)(2) and (3) to state that the department shall design the applications for the 1915(l) and 1915(k) options to result in cost savings to the state. The term 'design' has been deleted from subsection (f) to clarify that the department will not be required to design the demonstration project implemented under this section. Language has been added to subsection (g) to state that telemedicine can be performed between a provider and a recipient who are physically separated.

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MS. HANSEN moved on to discuss the changes in Section 15, which read:

Section 15. This section has been amended to change the pre-term birth reduction project from a

demonstration project conducted by the department into a care coordination pilot project contracted with a third party. The implementation date has been changed from January of 2017 to July. A report on the success of the pilot project is required after two years.

[3:14:45 PM](#)

MS. HANSEN shared the changes in Section 17, which read:

Section 17. The date of the report required by subsection (c) has been changed from February 1, 2019 and will now include two separate reports. The first report is due November 1, 2018, and the second is due November 1, 2019.

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MS. HANSEN noted that a new Section 18 had been added, which read:

New section 18. A new section has been added to the uncodified law directing the department to collaborate with Alaska tribal health organizations and the federal government to fully implement changes to federal policy regarding 100% reimbursement for American Indian and Alaska Native recipients. Collaboration may include incentives for providers to participate.

[3:16:54 PM](#)

MS. HANSEN concluded with the changes made to Section 22, which read:

Section 22. The effective date under subsection (d) has been updated from January 1, 2017 to July 1, 2017 to reflect the date change in section 15 of this bill. Other sections have been renumbered to reflect these changes.

CHAIR SEATON directed attention to the chart titled "FY17 Governor's Amended Budget to HB 227 Fiscal Notes" [included in members' packets] which detailed a compilation of the annual savings to unrestricted general funds (UGF) from the fiscal notes, which was \$223.2 million after six years.

MS. HANSEN reminded the committee that this chart was generated by the Legislative Finance Division based on the fiscal notes to the original bill version, and not on the current committee substitute, Version N.

CHAIR SEATON noted that any revised fiscal notes would also include an updated chart.

[3:20:57 PM](#)

CHAIR SEATON, in response to Representative Stutes, explained that the chart incorporated the federal match of 90 percent, and reflected the savings incurred.

REPRESENTATIVE STUTES clarified that the chart showed the decrease for the federal match during the upcoming years.

MS. HANSEN pointed out that this was a compilation, with a different format, from the charts presented at an earlier meeting.

[3:22:41 PM](#)

The committee took an at-ease from 3:22 p.m. to 3:26 p.m.

[3:26:25 PM](#)

CHAIR SEATON brought the committee back to order.

REPRESENTATIVE VAZQUEZ asked about the fiscal note labeled OMB Component 2662.

[3:28:25 PM](#)

The committee took an at-ease from 3:28 p.m. to 3:31 p.m.

[3:31:12 PM](#)

CHAIR SEATON brought the committee back to order.

REPRESENTATIVE VAZQUEZ directed attention to page 3 of the fiscal note labeled OMB 2662, and asked about the number of 1915(c) waiver recipients receiving personal care attendant (PCA) services and the general funds spent.

[3:33:10 PM](#)

JON SHERWOOD, Deputy Commissioner, Medicaid and Health Care Policy, Department of Health and Social Services, in response to Representative Vazquez, said that there were about 4,000, and that he would report on the exact number.

REPRESENTATIVE VAZQUEZ reflected that the 1,603 recipients on 1915(c) waivers also receiving personal care attendant (PCA) services, was just a portion of that total.

MR. SHERWOOD replied that this was correct. He explained that the 1915(k) option was only available to individuals who met an institutional level of care. He stated that these people received home and community based services through the 1915(c) waiver, and as it was known they met that institutional level of care, they could be moved into the 1915(k) for personal care services which had a higher [federal] match rate.

REPRESENTATIVE VAZQUEZ asked if there was a study indicating this exactly, and not just departmental projections.

MR. SHERWOOD offered his belief that these numbers were directly from the departmental records.

REPRESENTATIVE VAZQUEZ questioned whether the 1915(i) waiver would include individuals not currently receiving services.

MR. SHERWOOD explained that the waiver would include individuals not receiving home and community based services through the Medicaid program, although it was expected that these individuals would be receiving services through a state funded program.

REPRESENTATIVE VAZQUEZ suggested that there would be additional beneficiaries to the Medicaid program.

MR. SHERWOOD stated that the 1915(i) option did not expand eligibility for Medicaid, it expanded the number of services available to people in the Medicaid program. He pointed out that some people in the Medicaid program were currently receiving a combination of Medicaid and state funded services, and this waiver would move all the services into the Medicaid program.

REPRESENTATIVE VAZQUEZ mused that there were individuals currently not receiving any Medicaid benefits who would become Medicaid beneficiaries.

MR. SHERWOOD expressed agreement that there were individuals who did not currently receive Medicaid home and community based services benefits who would become beneficiaries of those services.

REPRESENTATIVE VAZQUEZ asked if this was the same for the other option.

MR. SHERWOOD asked to what other options she was referring.

REPRESENTATIVE VAZQUEZ suggested that the 1915(k) option would expand services to existing Medicaid beneficiaries.

MR. SHERWOOD expressed agreement.

REPRESENTATIVE VAZQUEZ asked if there were any individuals currently not receiving services through the Medicaid program who would become eligible under the 1915(k) option.

MR. SHERWOOD replied that there were not any recipients who would be eligible to receive services through the Medicaid personal care program by adding this option. He stated that "generally speaking this would not expand eligibility or access to service."

REPRESENTATIVE VAZQUEZ asked if there were any states which had developed the (i) or (k) option.

MR. SHERWOOD replied that about 20 states had developed the 1915(i) option, and about 4 states had developed the 1915(k) option to date.

REPRESENTATIVE VAZQUEZ asked for a list of those states.

MR. SHERWOOD said that he did not remember which states.

CHAIR SEATON pointed out to Representative Vazquez that this had been previously discussed under the amendment process using the pie charts [included in members' packets].

[3:39:31 PM](#)

REPRESENTATIVE VAZQUEZ stated that she had not been able to locate any states using either the 1915(i) or (k) options.

MR. SHERWOOD said that he would provide the information.

[3:39:55 PM](#)

REPRESENTATIVE TALERICO, addressing the same fiscal note, labeled OMB 2662, asked for clarification that currently there were individuals for whom the state paid 100 percent of the cost, and that this option would cut the cost to the state by half, by offering a 50 percent federal match.

MR. SHERWOOD replied that this was correct.

[3:41:24 PM](#)

CHAIR SEATON removed his objection. There being no further objection, the proposed committee substitute (CS) for HB 227, labeled 29-LS1096\N, Glover, 3/7/16, was adopted as the working draft.

[3:41:38 PM](#)

REPRESENTATIVE VAZQUEZ expressed her objection to the committee substitute, Version N. She said that, although this was going on the right path, it would take time to implement these ideas and that it was optimistic to expect to see the savings "until a year down the road." She stated that the most disconcerting part of the bill was for the 1915(i) and 1915(k) provisions, as they would become entitlement programs, which the state would not be able to terminate. She stated that the current waiver programs had more flexibility for caps or limits. She said that using the 1915(i) and 1915(k) options would not allow the state to place limits, caps or waiting lists, and could create financial difficulty in upcoming years if the state fiscal situation did not improve. She noted that, if the state fails to comply, all the federal funding for Medicaid programs could be at risk. She declared that there were not any studies to the costs of these options, and she opined that "no other state has implemented these options."

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REPRESENTATIVE Foster moved to report CSHB 227, labeled 29-LS1096\N, Glover, 3/7/16, out of committee with individual recommendations and the accompanying fiscal notes.

[3:44:48 PM](#)

REPRESENTATIVE VAZQUEZ objected.

[3:44:59 PM](#)

REPRESENTATIVE TARR complimented Representative Vazquez for her diligence and that she would continue to remain engaged in the process. She stated her support for the proposed bill and the opportunity to spend dollars for better outcomes.

CHAIR SEATON expressed his appreciation for the work by the committee, and he opined that this would save money and improve health, which would mean longer term health savings.

[3:46:45 PM](#)

REPRESENTATIVE VAZQUEZ maintained her objection. She stated that these programs were essential to needy people, and they provided a safety net to the most vulnerable populations. She expressed her interest in the long term viability of these programs, noting that other states had limited programs. She offered an example of one state with a two year wait list for any waiver program. She declared that she wanted to see the viability of the program, as it was a critical safety net, and that, given that Medicaid had an annual cost of \$1.7 billion including the federal match, this was a serious matter. She acknowledged that it was a great idea to have more access to health care and a healthier population, but that the state was facing some difficult fiscal issues with no "end in sight." She expressed appreciation for the effort to maximize the federal match, although she cautioned restraint to ensure that the spending did not get out of control.

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A roll call vote was taken. Representatives Seaton, Tarr, Wool, Talerico, Stutes, and Foster voted in favor of the committee substitute (CS) for HB 227, labeled 29-LS1096\N, Glover, 3/7/16. Representative Vazquez voted against it. Therefore, CSHB 227(HSS) was reported out of the House Health and Social Services Standing Committee by a vote of 6 yeas - 1 nay.

[3:50:29 PM](#)

The committee took an at-ease from 3:50 p.m. to 3:53 p.m.

HB 344-DRUG PRESCRIPTION DATABASE

[3:53:26 PM](#)

CHAIR SEATON announced that the next order of business would be HOUSE BILL NO. 344, "An Act relating to the controlled substance prescription database; and providing for an effective date."

[3:53:50 PM](#)

CHAIR SEATON opened public testimony. After ascertaining no one wished to testify, closed public testimony.

[3:54:19 PM](#)

CHAIR SEATON directed attention to the answers to the committee questions provided by the Department of Commerce, Community & Economic Development [included in members' packets].

[3:55:09 PM](#)

The committee took an at-ease from 3:55 p.m. to 3:57 p.m.

[3:57:33 PM](#)

CHAIR SEATON brought the committee back to order.

[3:57:38 PM](#)

JANEY HOVENDEN, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community & Economic Development, clarified that the original fiscal note did not include the cost of software upgrades to update nightly or weekly. She stated that the department would adjust the fiscal note to match the proposed committee substitute.

CHAIR SEATON asked that the department provide an updated fiscal note.

[3:59:11 PM](#)

REPRESENTATIVE TARR asked about the cost to upgrade to weekly or daily.

MS. HOVENDEN explained that this had been corrected by the vendor to \$2,200 annually.

REPRESENTATIVE WOOL asked how often the software needed to be updated.

MS. HOVENDEN opined that the updating reflected current information either nightly or weekly and was not an upgrade for the system.

CHAIR SEATON noted that the proposed committee substitute would change "from near real time" to "at least weekly," although it was still a requirement for the pharmacist to submit to the data base.

MS. HOVENDEN expressed her agreement.

CHAIR SEATON referenced the question about the methadone clinics, considered to be psychiatric treatment and; therefore, protected under federal law. He offered an anecdote regarding a patient given something at an Emergency Room which interacted badly with methadone, and resulted in the patient's death. He suggested that methadone be included in the database, or, if this was not allowed by federal law, were there any suggestions.

CHAIR SEATON asked how current information to the database would be updated by practitioners who did not have access to the internet.

MS. HOVENDEN said that she wanted to clarify, although she stated that there were ways to work around for those who did not have internet access. She offered her understanding that faxes could be submitted.

CHAIR SEATON asked for a statement of the ways to work around so the committee substitute could be aligned.

REPRESENTATIVE WOOL asked about the requirement for notarization to verify identity.

MS. HOVENDEN relied that this was the current system.

REPRESENTATIVE WOOL suggested use of the "MyAlaska" accounts.

MS. HOVENDEN relayed that this was being explored, noting that this was only an option for Alaska residents already registered.

CHAIR SEATON asked if the requirement for license or registration offered an option other than the notarized identification.

MS. HOVENDEN explained that licensing offered a mechanism for discipline, otherwise there was not an avenue for discipline.

REPRESENTATIVE VAZQUEZ asked for clarification regarding the data updating.

CHAIR SEATON replied that the current committee substitute required it to be at least weekly, as it was now monthly. He pointed out that reporting daily was a potential problem for rural pharmacies. He reported that, as prescription abuse was not a one-time issue, requiring the reporting to be at least weekly would "catch most things in the system."

[4:08:04 PM](#)

REPRESENTATIVE VAZQUEZ asked if the committee substitute would clarify who had the responsibility to check the database, the provider, the dispenser, or both.

CHAIR SEATON explained that the committee substitute required the physician, or the pharmacist-in-chief, or a licensed or registered delegated staff. He reported that fewer than 13 percent of the providers in Alaska were currently registered to use the database, and the proposed bill would require them all to be registered. He stated that it was intended for providers to check the database prior to writing a prescription. He reported that the proposed committee substitute required the initial prescription to only be for seven days, as currently there was no limit, unless there was a specific condition or logistical reason for a longer dose for adults.

[4:11:12 PM](#)

REPRESENTATIVE STUTES asked if there was a fail-safe to ensure the database was kept current.

MS. HOVENDEN directed attention to the fiscal note which requested a program coordinator to manage the monitoring program.

REPRESENTATIVE STUTES asked if this person would maintain the system on a current basis.

MS. HOVENDEN replied that it would be the responsibility of the program coordinator, with the pharmacy licensing examiner in the back-up role.

CHAIR SEATON pointed out that there was not a single individual with this responsibility in the current program.

REPRESENTATIVE STUTES opined that there could be follow-up if it becomes an issue.

REPRESENTATIVE WOOL asked for clarification that the proposed committee substitute only dealt with disbursement and not prescription.

CHAIR SEATON replied that the proposed committee substitute required that all the prescribers, pharmacists, or their licensed delegates check the data base. He declared that the purpose of the proposed bill was to ensure accountability for use of this data base by the prescription authorities, as well as the pharmacists. He reiterated that there was also a requirement for a maximum seven day initial prescription, although the Centers for Disease Control and Prevention (CDC) had recommended a maximum three day initial prescription. He pointed out that the Department of Commerce, Community & Economic Development was only managing the database.

REPRESENTATIVE WOOL opined that the primary difference was for both the providers and the dispensers to be required to enter the data.

[HB 344 was held over.]

[4:19:29 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 4:19 p.m.