

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

January 25, 2016

3:17 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Shelley Hughes, Vice Chair
Representative Jim Colver
Representative Gabrielle LeDoux
Representative Cathy Tilton
Representative Andy Josephson
Representative Sam Kito

MEMBERS ABSENT

Representative Mike Chenault (alternate)

COMMITTEE CALENDAR

SENATE BILL NO. 53

"An Act relating to advanced practice registered nursing; relating to certified direct- entry midwifery; and providing for an effective date."

- MOVED HCS SB 53(L&C) OUT OF COMMITTEE

OVERVIEW: DIVISION OF BANKING & SECURITIES, DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT

- HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 53

SHORT TITLE: ADVANCED PRACTICE REGISTERED NURSES

SPONSOR(s): SENATOR(s) GIESSEL

02/18/15	(S)	READ THE FIRST TIME - REFERRALS
02/18/15	(S)	L&C, HSS
03/10/15	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/10/15	(S)	Heard & Held
03/10/15	(S)	MINUTE(L&C)
03/12/15	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/12/15	(S)	Moved SB 53 Out of Committee
03/12/15	(S)	MINUTE(L&C)

03/13/15 (S) L&C RPT 4DP 1NR
 03/13/15 (S) DP: COSTELLO, GIESSEL, MEYER, STEVENS
 03/13/15 (S) NR: ELLIS
 04/08/15 (S) HSS AT 1:30 PM BUTROVICH 205
 04/08/15 (S) Heard & Held
 04/08/15 (S) MINUTE(HSS)
 04/10/15 (S) HSS AT 1:30 PM BUTROVICH 205
 04/10/15 (S) Moved SB 53 Out of Committee
 04/10/15 (S) MINUTE(HSS)
 04/11/15 (S) HSS RPT 4DP
 04/11/15 (S) DP: STEDMAN, STOLTZE, GIESSEL, ELLIS
 04/11/15 (S) FIN REFERRAL ADDED AFTER HSS
 04/14/15 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/14/15 (S) Heard & Held
 04/14/15 (S) MINUTE(FIN)
 04/15/15 (S) FIN RPT 5DP 1NR
 04/15/15 (S) DP: MACKINNON, MICCICHE, BISHOP,
 DUNLEAVY, HOFFMAN
 04/15/15 (S) NR: OLSON
 04/15/15 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/15/15 (S) Moved SB 53 Out of Committee
 04/15/15 (S) MINUTE(FIN)
 04/16/15 (S) TRANSMITTED TO (H)
 04/16/15 (S) VERSION: SB 53
 04/16/15 (H) READ THE FIRST TIME - REFERRALS
 04/16/15 (H) L&C
 01/25/16 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

SENATOR CATHY GIESSEL
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Introduce SB 53, as prime sponsor.

JANE CONWAY, Staff
 Senator Cathy Giessel
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Speaking on behalf of Senator Giessel, sponsor, provided a sectional analysis of SB 53.

LAURA SARCONI, Certified Nurse-Midwife
 Co-Chair, APRN Alliance
 Anchorage, Alaska

POSITION STATEMENT: During the hearing of SB 53, answered a question.

JEFF WORRELL, Certified Registered Nurse Anesthetist
Anchorage, Alaska

POSITION STATEMENT: During the hearing of SB 53, testified and answered a question.

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

POSITION STATEMENT: During the hearing of SB 53, answered a question.

JULIE GILLETTE, Chair
Alaska Board of Nursing
Fairbanks, Alaska

POSITION STATEMENT: Speaking as the chair of the Alaska Board of Nursing, testified in support of SB 53.

KEVIN ANSELM, Director
Division of Banking and Securities
Anchorage Office
Department of Commerce, Community & Economic Development
Anchorage, Alaska

POSITION STATEMENT: Provided an overview of the functions of the Division of Banking and Securities, Department of Commerce, Community and Economic Development.

ACTION NARRATIVE

[3:17:53 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:17 p.m. Representatives Olson, Hughes, Colver, Tilton, Kito, and Josephson were present at the call to order. Representative LeDoux arrived as the meeting was in progress.

SB 53-ADVANCED PRACTICE REGISTERED NURSES

[3:18:24 PM](#)

CHAIR OLSON announced that the first order of business would be SENATE BILL NO. 53, "An Act relating to advanced practice registered nursing; relating to certified direct-entry midwifery; and providing for an effective date."

[3:18:35 PM](#)

REPRESENTATIVE HUGHES moved to adopt the proposed House committee substitute (HCS) for SB 53, labeled 29-LS0043\p, Bruce, 1/20/16. There being no objection, Version P was before the committee.

[3:18:52 PM](#)

SENATOR CATHY GIESSEL, Alaska State Legislature, speaking as the sponsor of SB 53, directed attention to the chart found in the committee packet entitled, "APRN ALLIANCE" which illustrated the current related Alaska statute and the statute changes proposed in SB 53. Senator Giessel said the bill would change the title of Advanced Nurse Practitioner (ANP) and Nurse Anesthetist (NA) to that of Advanced Practice Registered Nurse (APRN). She explained the change would bring the state into compliance with the national title conformity that is recommended by the National Council of State Boards of Nursing in order to eliminate the confusion of consumers and insurance entities. Nationally, interested parties agreed that APRN would be the "umbrella title." The aforementioned chart showed the current state situation which has Nurse Practitioner (NP), Certified Nurse Midwife (CNM), and Certified Clinical Nurse Specialist (CNS) included under the title of ANP, and a separate title for NAs. The bill creates a uniform title of APRN, under which all four of the clinical specialties would function, thus clarifying the specialties for consumers and insurers. Senator Giessel assured the committee that the bill does not change the scope of practice for any of the specialties; in fact, the bill is simply a title change, although it is lengthy because nurse practitioners serve in multiple aspects of health care, and the title corrections must be cited in many sections of statute. She offered to provide further testimony by staff and supporters of the bill.

CHAIR OLSON invited Senator Giessel's staff to provide a sectional analysis of the bill.

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REPRESENTATIVE COLVER noted that SB 53 is simply an update of the descriptions of nursing practices and asked, "Would you be fighting off any attempts to hijack your bill to like insert different agendas ... we can be assured that you're committed to this clean bill."

SENATOR GIESSEL responded yes.

REPRESENTATIVE HUGHES asked whether a nurse practitioner would be referred to as a nurse practitioner, or an APRN. She opined, the title "practitioner" depicts a higher level of scope of practice among members of the public.

[3:24:48 PM](#)

SENATOR GIESSEL agreed that nurse practitioners, nurse anesthetists, clinical nurse midwives, and nurse specialists are titles known to the public and will still be used; however, for credentialing purposes such as signing a prescription, the new titles will apply.

CHAIR OLSON expressed his belief that "hijacking bills" this early in the session is unacceptable.

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JANE CONWAY, Staff, Senator Cathy Giessel, Alaska State Legislature, provided a sectional analysis of SB 53 on behalf of Senator Giessel. She informed the committee that 26 sections of the bill are conforming amendments that only change the previous titles to that of APRN. The sectional analysis was as follows: section 1 allows APRNs to use their titles and initials on documents, signs, and advertising; sections 2-4 are conforming amendments; section 5 requires APRN regulations to apply to one who is a CRNA, CNS, CNP, or CNM, and makes conforming amendments; section 6 adds APRN to a list of licenses issued, and changes the term "professional nursing" to "registered nursing"; section 7 adds a new subsection that sets out the qualifications for an APRN license; section 8 repeals and reenacts AS 08.68.190 concerning license examinations to establish separate examinations for registered practitioners and APRNs; section 9 is a conforming amendment; section 10 requires the of Department of Commerce, Community & Economic Development (DCCED) to set fees, and deletes the term "vocational nursing"; section 11 removes licensed professional nurse from titles; section 12 is a new subsection authorizing the use of CRNA, CNS, CNP, and CNM, under that section; section 13 adds APRN as a person who can supervise a practical nurse; sections 14 and 16 are related to the impersonation of an APRN; section 15 requires institutions that are applying for accreditation to provide certain information; sections 17-19 are related to unlicensed practice; section 20 adds APRN to licensees who may delegate certain duties; section 21 is a conforming amendment; section 22

defines the practice of APRN nursing; sections 23 through 25 are conforming amendments; section 26 adds APRNs to persons who are considered justified in conduct that would otherwise be considered the use of force when delivering emergency medical care; sections 27 and 28 are conforming amendments; section 29 adds APRNs to licensees immune from civil liability while escorting an injured or sick person; section 30 is a conforming amendment; section 31 adds APRNs to practitioners authorized to draw blood for tests of persons charged with sex offenses; sections 32 and 33 are conforming amendments; section 34 clarifies that nurse-midwives and direct entry midwives are certified; sections 35 through 38 are conforming amendments; section 39 changes the term "registered professional nursing" to "registered nursing"; section 40 clarifies that nurse-midwives must be certified to be a provider in a hospital under AS 21.87; section 41 is a conforming amendment; sections 42 and 43 clarify that nurse-midwives are certified and make other technical amendments; sections 44 through 46 are conforming amendments; section 47 adds APRNs to the definition of health care provider in statutory provisions regarding prisons; section 48 is a conforming amendment; section 49 adds APRNs to licensees with specific training who may assess a child with respect to a waiver related to children and disabled persons under the Medicaid waiver; section 50 is a conforming amendment; section 51 adds APRNs to practitioners who are not liable for providing information to the Department of Health and Social Services (DHSS) for hearing screenings; sections 52 through 54 allow APRNs concerning mental health commitment determine if a person may be administered psychotropic medication without consent; section 55 adds APRNs to practitioners who may review a health care plan for an assisted living home resident; sections 56 through 59 are conforming amendments; section 60 repeals certain redundant statutes; and section 61 sets a new effective date.

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REPRESENTATIVE HUGHES directed attention to section 7, page 5, beginning line 15, which read:

Sec. 7. AS 08.68.170 is amended by adding a new subsection to read:

(c) An applicant for a license to practice advanced practice registered nursing shall submit to the board, on forms and in the manner prescribed by the board, written evidence, verified by oath, that the applicant (1) is licensed as a registered nurse in the state; and

(2) has successfully completed an advanced practice registered nurse education program that meets the criteria established by the board under AS 08.68.100.

REPRESENTATIVE HUGHES asked why the new subsection was necessary.

MS. CONWAY responded that this is the criteria to qualify for an APRN license.

REPRESENTATIVE HUGHES restated her question.

[3:36:12 PM](#)

LAURA SARCONI, Certified Nurse-Midwife; Co-Chair, APRN Alliance, explained that the current section relates to the qualifications of registered or practical nurse applicants; new section 7 adds a subsection that "pulls out the advanced practice registered nurse as a separate category from registered nursing and vocational nurses."

[3:37:30 PM](#)

REPRESENTATIVE JOSEPHSON remarked:

There is in the packet, there's a reference to - sort of a rebuttal - to Dr. Joshua Stream and I didn't see his letter. Can you give me a sense of what criticism he had?

[Neither of the aforementioned documents were provided.]

MS. CONWAY informed the committee that Dr. Stream provided written testimony which questioned whether nurse anesthetists were qualified to practice without doctor supervision. However, since 2003, nurse anesthetists in Alaska have practiced without doctor supervision, as this is decided by each state. She advised that Dr. Stream's comments were not germane to the bill.

[CHAIR OLSON and his staff recalled that Dr. Stream's written testimony was not received by any committee member.]

REPRESENTATIVE JOSEPHSON asked about the role of an anesthesiologist when a nurse anesthetist is present.

[3:39:52 PM](#)

JEFF WORRELL, Certified Registered Nurse Anesthetist, informed the committee he is past president of the Alaska Association of Nurse Anesthetists, and currently works independently at a large Anchorage hospital.

REPRESENTATIVE JOSEPHSON restated his question as to the need for an anesthesiologist and a nurse anesthetist.

MR. WORRELL explained that in current practice both specialties are qualified to provide anesthesia services in a variety of settings; however, the training differs: a CRNA is trained first as a nurse, followed by three years of specialty training, and a physician anesthesiologist is initially trained as physician, followed by anesthesia training. He advised that the titles are different but the work is the same.

REPRESENTATIVE HUGHES directed attention to the fiscal note and asked whether the fees for individual licenses would change; the sponsor indicated they would not.

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JANEY HOVENDEN, Director, Division of Corporations, Business, and Professional Licensing, DCCED, answered that the fiscal note identifies three programs in her division that would be affected by the changes proposed in SB 53. The average cost would be \$2,500 per regulation project, thus the fiscal note totals \$7,500. Her division would attempt to garner savings by combining this work with other ongoing regulation projects.

REPRESENTATIVE HUGHES asked whether there would be an adjustment of the fees charges to licensees.

MS. HOVENDEN said the licensing fees for the nursing program would not be affected.

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CHAIR OLSON opened public testimony on SB 53.

[3:45:17 PM](#)

JULIE GILLETTE, Chair, Alaska Board of Nursing, informed the committee she is the chair of the Alaska Board of Nursing, which is fully in support of the bill.

MR. WORRELL said adopting the APRN title allows for the portability of licensure across state lines, and for conformity to billing standards with other states.

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CHAIR OLSON, after ascertaining no one else wished to testify, closed public testimony.

[3:47:26 PM](#)

REPRESENTATIVE HUGHES moved to report the HCS for SB 53, labeled 29-LS0043\P, Bruce, 1/20/16, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS SB 53(L&C) was reported out of the House Labor and Commerce Standing Committee.

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The committee took an at ease from 3:47 p.m. to 3:50 p.m.

OVERVIEW: DEPARTMENT OF COMMERCE, COMMUNITY and ECONOMIC DEVELOPMENT, DIVISION OF BANKING AND SECURITIES

[3:50:46 PM](#)

CHAIR OLSON announced that the final order of business would be a presentation by the Division of Banking and Securities, Department of Commerce, Community & Economic Development (DCCED).

[3:51:03 PM](#)

KEVIN ANSELM, Director, Division of Banking and Securities, Anchorage Office, DCCED, informed the committee the mission of the Division of Banking and Securities is: to protect consumers of financial service and promote safe and sound financial systems. In addition, the division supports the mission of DCCED, which is to promote a healthy economy, support strong communities, and protect consumers in Alaska [slide 2]. Ms. Anselm said duties of her division include:

- Charter, license and register financial entities, institutions, salespersons and products and accept filings
- Examine licensees for compliance and investigate complaints relating to regulated industries and persons

- Provide financial education and information to consumers, industry, small businesses, and investors [slide 3]

MS. ANSELM continued to explain that her division regulates about twelve different programs - which are not limited to banking and securities - but also include premium finance companies, mortgage lenders, originators, money service businesses, investment advisors, broker-dealers, proxy solicitations for the Alaska Native Claims Settlement Act (ANCSA), and others [slide 4]. In response to Chair Olson, she said payday loan institutions are included in her division's purview, but pawn brokers are not. In response to Representative LeDoux, she said she would find out who regulates pawn brokers.

MS. ANSLEM further explained that in 2015 the division regulated over 94,000 licensees, processed over 7,000 filings, and received about \$15 million, of which \$3.6 million are used to fund its operations, with the remainder going into the general fund (GF) [slide 5]. Also in fiscal year 2015 (FY 15), the division issued 35 final orders in securities, mortgage lending, payday lenders, and ANCSA proxy solicitations. Information regarding orders is available on the DCCED web site [slide 6].

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REPRESENTATIVE JOSEPHSON asked for an example of an action that would cause an enforcement order to be issued.

MS. ANSELM gave examples of final orders against an applicant who does not meet the criteria, a securities order against an unlicensed company and an out-of-state stock broker, and a final order against a company.

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REPRESENTATIVE LEDOUX expressed her belief that securities law is federal law and asked how, besides ANCSA, state securities laws differ from federal laws.

MS. ANSELM responded that federal law relates to interstate transactions and state laws, AS 45.55, regulate any salesperson and firm that sells to Alaskans. In fact, there are 1,200 brokerage firms that must be licensed in Alaska, although many are not located here. In addition, there are state investment advisors that are only in Alaska that are state-regulated; a bifurcation in federal law allows any investment advisory firm

that has over \$100 million in assets under management to be federally regulated, and any investment advisor that has less than \$100 million under management to be state-regulated.

CHAIR OLSON asked about the division's involvement in proposed marijuana taxes.

MS. ANSELM said that because her division regulates banking, and many service businesses, it will be involved in the legal money that will be made by marijuana businesses. Due to current federal law, which identifies marijuana as a scheduled drug, it is difficult for banks and credit unions to handle funds from marijuana businesses. In further response to Chair Olson, she agreed that taxes from marijuana businesses may have to be collected in cash, which leads to public safety issues.

4:01:16 PM

REPRESENTATIVE COLVER asked how [marijuana] entrepreneurs process credit cards or debit cards.

CHAIR OLSON said credit and debit cards are not accepted, but in Colorado vendors have cash machines.

MS. ANSELM advised that if a financial institution follows the [Cole Memorandum on Medical Marijuana issued by the office of the U.S. Attorneys, U.S. Department of Justice] and files the required reports, it can handle the money albeit with risk and expense.

REPRESENTATIVE LEDOUX said she has heard that banks in Washington or Oregon are accepting money [from marijuana businesses].

MS. ANSELM confirmed that in Washington and Oregon, certain institutions are taking risks and are charging large fees to open accounts [for marijuana vendors].

REPRESENTATIVE COLVER asked whether any state chartered institutions are exempt from federal regulations.

MS. ANSELM said no. All Federal Deposit Insurance Corporation (FDIC) insured institutions, even if state chartered, must follow federal requirements.

REPRESENTATIVE LEDOUX asked whether any national banks in Alaska have decided to "take the risk."

MS. ANSELM said she was aware of none.

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REPRESENTATIVE KITO questioned whether there was an opportunity for an organization, such as a Native corporation, to establish a state bank, not subject to federal rules, to handle marijuana transactions.

MS. ANSELM responded:

Not that I'm aware of. There's really no way to get around the federal anti-money laundering FinCEN [Financial Crimes Enforcement Network] U.S. treasury requirements.

REPRESENTATIVE HUGHES said he has heard that marijuana businesses in Denver are using banks.

MS. ANSELM suggested it was possible with the Securities Exchange Commission (SEC) and the state, that an entity could file a securities offering to raise money, although those funds may have to be put into escrow.

CHAIR OLSON agreed the marijuana issue has no easy answers.

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MS. ANSELM returned to her presentation, noting her division provides educational outreach to consumer groups, small and large businesses, and others. Outreach in FY 2015 included: financial fitness fairs with other agencies; military/federal/state employee education regarding protections against fraud; 360 North investor protection programs broadcast on television in a partnership with AARP, and paid for by grants; an open house for ANCSA corporations and shareholders; a webinar for financial institutions about working with marijuana-related businesses [slide 7]. Ms. Anselm provided a comparison of the division's securities workload, to its budget and number of positions, over the past ten years [slide 8]. Also presented was a comparison of the division's non-securities registrations, filings, and licenses workload, to its budget and number of positions [slide 9]. She pointed out that the financial services industry in Alaska has significantly increased in the last ten years. A third graph was a comparison of the division's enforcement orders and exams for all programs, to its

budget and number of positions [slide 10]. Ms. Anselm provided an organizational chart of her division and advised that over the last eighteen months her division has streamlined and focused on areas of the highest activity: examinations, licensing, and enforcement and outreach. Some positions are being reclassified to meld with others and better reflect the division's work; in fact, most financial services are now blended, and thus financial institution examiners and securities examiners are trained in various disciplines, including money laundering. For example, trust companies deal with bank deposits and securities, and therefore examiners need to "crossover"; this also allows for better utilization of the division's limited staffing [slide 11]. She then turned to the division's movement from a spreadsheet-based reporting system to a database system - including access to national registries - which is helpful since most licensees are out-of-state. The division also uses technology to perform exams remotely when it is possible. Finally, she said the division is challenged in its mission to serve Alaskans because of Alaska's out-of-date financial services laws, which do not address the newest technologies, such as whether the division should regulate virtual currency [slide 12].

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REPRESENTATIVE JOSEPHSON asked whether the U.S. Attorney contacts the division for information.

MS. ANSELM said yes, the division works closely with federal and state law enforcement.

REPRESENTATIVE KITO asked whether there are concerns with payday loan lenders, or if the state has adequate protections against predatory lending practices that use collateral for high-interest loans.

MS. ANSELM cautioned that the state does not have adequate protections; in fact, there are problems with payday lenders. However, payday lenders do not usually take collateral.

REPRESENTATIVE LEDOUX asked whether Alaska has usury laws.

MS. ANSELM was unsure and said she would provide that information to the committee.

REPRESENTATIVE JOSEPHSON inquired as to the division's recommended FY17 budget.

MS. ANSELM said the commissioner of DCCED recommended budgeting her division for twenty-three positions in FY17. She added that the division lost one position at the end of last year.

[4:16:53 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:16 p.m.