

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

April 6, 2016

3:32 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)

**OTHER LEGISLATORS PRESENT**

Representative Lora Reinbold  
Representative Louise Stutes

**COMMITTEE CALENDAR**

HOUSE BILL NO. 372

"An Act relating to insurance; relating to expenses for insurance examinations; relating to regulations for insurance utilization review, benefits determination, health care insurance grievance resolution procedures, independent review of adverse determinations or final adverse determinations, independent review organizations, and continuing education providers; relating to required provisions for health care insurance contracts and policies, including health care provider choice; establishing civil penalties for insurers for failure to provide requested records; amending the definition of 'wet marine and transportation' insurance; amending provisions on limited licenses to include crop insurance; relating to third-party administrator notification requirements; relating to certification filing by reinsurance intermediary brokers; relating to rate filings, delivery of insurance policies or endorsements; relating to refunds of variable life insurance policies and variable annuities; establishing limitations on issuance of long-term care insurance; relating to requirements for group health insurance policies; amending the definition of 'group health insurance'; relating to motor vehicle service

contracts; relating to notice requirements for meetings of stockholders or members of a domestic insurer; establishing a definition of 'bona fide association'; relating to requirements and penalties for committing a fraudulent or criminal insurance act; updating criteria for examinations; relating to rate filing deviations; establishing civil penalties for certain wilful violations; and providing for an effective date."

- MOVED CSHB 372(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 234

"An Act relating to insurance coverage for mental health benefits provided through telemedicine."

- HEARD & HELD

SENATE BILL NO. 148

"An Act relating to reporting of workplace injuries to the division of labor standards and safety."

- MOVED CSSB 148(L&C) OUT OF COMMITTEE

SENATE BILL NO. 142

"An Act relating to insurance coverage for anti-cancer medications."

- HEARD & HELD

#### **PREVIOUS COMMITTEE ACTION**

BILL: HB 372

SHORT TITLE: OMNIBUS INSURANCE

SPONSOR(S): LABOR & COMMERCE

|          |     |                                 |
|----------|-----|---------------------------------|
| 03/21/16 | (H) | READ THE FIRST TIME - REFERRALS |
| 03/21/16 | (H) | L&C                             |
| 03/28/16 | (H) | L&C AT 3:15 PM BARNES 124       |
| 03/28/16 | (H) | Heard & Held                    |
| 03/28/16 | (H) | MINUTE (L&C)                    |
| 03/30/16 | (H) | L&C AT 3:15 PM BARNES 124       |
| 03/30/16 | (H) | Heard & Held                    |
| 03/30/16 | (H) | MINUTE (L&C)                    |
| 04/04/16 | (H) | L&C AT 3:15 PM BARNES 124       |
| 04/04/16 | (H) | Heard & Held                    |
| 04/04/16 | (H) | MINUTE (L&C)                    |
| 04/06/16 | (H) | L&C AT 3:15 PM BARNES 124       |

BILL: HB 234

SHORT TITLE: INSURANCE COVERAGE FOR TELEMEDICINE

SPONSOR(S): REPRESENTATIVE(S) VAZQUEZ

01/19/16 (H) PREFILE RELEASED 1/8/16  
01/19/16 (H) READ THE FIRST TIME - REFERRALS  
01/19/16 (H) HSS, L&C  
03/15/16 (H) HSS AT 3:00 PM CAPITOL 106  
03/15/16 (H) Heard & Held  
03/15/16 (H) MINUTE (HSS)  
03/17/16 (H) HSS AT 3:00 PM CAPITOL 106  
03/17/16 (H) Moved HB 234 Out of Committee  
03/17/16 (H) MINUTE (HSS)  
03/18/16 (H) HSS RPT 3DP 1NR 1AM  
03/18/16 (H) DP: TARR, VAZQUEZ, WOOL  
03/18/16 (H) NR: TALERICO  
03/18/16 (H) AM: SEATON  
04/06/16 (H) L&C AT 3:15 PM BARNES 124

BILL: SB 148

SHORT TITLE: EMPLOYER REPORT OF WORKPLACE INJURY/DEATH

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/16 (S) READ THE FIRST TIME - REFERRALS  
01/19/16 (S) L&C  
02/02/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
02/02/16 (S) Heard & Held  
02/02/16 (S) MINUTE (L&C)  
02/04/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
02/04/16 (S) Moved CSSB 148(L&C) Out of Committee  
02/04/16 (S) MINUTE (L&C)  
02/08/16 (S) L&C RPT CS 4DP NEW TITLE  
02/08/16 (S) DP: COSTELLO, GIESSEL, MEYER, STEVENS  
02/24/16 (S) TRANSMITTED TO (H)  
02/24/16 (S) VERSION: CSSB 148(L&C)  
02/26/16 (H) READ THE FIRST TIME - REFERRALS  
02/26/16 (H) L&C  
04/06/16 (H) L&C AT 3:15 PM BARNES 124

BILL: SB 142

SHORT TITLE: INSURANCE FOR ANTI-CANCER MEDICATION

SPONSOR(S): SENATOR(S) GIESSEL

01/19/16 (S) READ THE FIRST TIME - REFERRALS  
01/19/16 (S) L&C  
02/04/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
02/04/16 (S) Heard & Held

|          |     |                                       |
|----------|-----|---------------------------------------|
| 02/04/16 | (S) | MINUTE (L&C)                          |
| 02/16/16 | (S) | L&C AT 1:30 PM BELTZ 105 (TSBldg)     |
| 02/16/16 | (S) | Moved CSSB 142(L&C) Out of Committee  |
| 02/16/16 | (S) | MINUTE (L&C)                          |
| 02/17/16 | (S) | L&C RPT CS 4DP SAME TITLE             |
| 02/17/16 | (S) | DP: COSTELLO, GIESSEL, MEYER, STEVENS |
| 03/02/16 | (S) | TRANSMITTED TO (H)                    |
| 03/02/16 | (S) | VERSION: CSSB 142(L&C) AM             |
| 03/04/16 | (H) | READ THE FIRST TIME - REFERRALS       |
| 03/04/16 | (H) | L&C                                   |
| 04/06/16 | (H) | L&C AT 3:15 PM BARNES 124             |

**WITNESS REGISTER**

KONRAD JACKSON, Staff  
 Representative Kurt Olson  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Presented Amendment 1, to the committee substitute (CS) for HB 372, on behalf of Representative Olson, Chair of the House Labor and Commerce Standing Committee, sponsor,

MEGAN WALLACE, Attorney  
 Legislative Legal and Research Services  
 Legislative Affairs Agency  
 Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 372.

DONALD HALE, Insurance Specialist  
 Division of Insurance  
 Department of Commerce, Community & Economic Development (DCCED)  
 Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 372.

FRED PARADY, Deputy Commissioner  
 Department of Commerce, Community & Economic Development (DCCED)  
 Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 372.

REPRESENTATIVE LIZ VAZQUEZ  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 234, as sponsor.

ANITA HALTERMAN, Staff  
Representative Liz Vazquez  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 234, on behalf of Representative Vazquez, sponsor.

AROM EVANS M.D., Medical Director  
Orion Behavioral Health Network  
Eagle River, Alaska

**POSITION STATEMENT:** Testified in support of HB 234.

JOE THOMAS, Deputy Commissioner  
Department of Labor & Workforce Development (DLWD)  
Anchorage, Alaska

**POSITION STATEMENT:** Presented CSSB 148, on behalf of the Senate Rules Committee by request of the governor.

KARI NORE, Staff  
Senator Cathy Giessel  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented Amendment 1 to CSSB 142, on behalf of Senator Giessel, prime sponsor.

EMILY NENON, Alaska Government Relations Director  
American Cancer Society/Cancer Action Network  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 142.

ERIC HANSEN, Spokesperson  
International Myeloma Foundation  
Unknown Location

**POSITION STATEMENT:** Testified in support of SB 142.

KIMBERLY THEIS, Advocacy Manager  
Leukemia & Lymphoma Society  
San Francisco, California

**POSITION STATEMENT:** Testified in support of SB 142.

## **ACTION NARRATIVE**

[3:32:50 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:32 p.m. Representatives Tilton, Kito, Josephson, Hughes, and Olson were present at the call to order. Representatives Colver and LeDoux arrived as the meeting was in progress.

**HB 372-OMNIBUS INSURANCE**

[3:33:05 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 372, "An Act relating to insurance; relating to expenses for insurance examinations; relating to regulations for insurance utilization review, benefits determination, health care insurance grievance resolution procedures, independent review of adverse determinations or final adverse determinations, independent review organizations, and continuing education providers; relating to required provisions for health care insurance contracts and policies, including health care provider choice; establishing civil penalties for insurers for failure to provide requested records; amending the definition of 'wet marine and transportation' insurance; amending provisions on limited licenses to include crop insurance; relating to third-party administrator notification requirements; relating to certification filing by reinsurance intermediary brokers; relating to rate filings, delivery of insurance policies or endorsements; relating to refunds of variable life insurance policies and variable annuities; establishing limitations on issuance of long-term care insurance; relating to requirements for group health insurance policies; amending the definition of 'group health insurance'; relating to motor vehicle service contracts; relating to notice requirements for meetings of stockholders or members of a domestic insurer; establishing a definition of 'bona fide association'; relating to requirements and penalties for committing a fraudulent or criminal insurance act; updating criteria for examinations; relating to rate filing deviations; establishing civil penalties for certain wilful violations; and providing for an effective date."

[Although not stated on the record of the House Labor and Commerce Standing Committee meeting of 4/4/16, the committee treated HB 372, Version H, as adopted and before the committee.]

[3:33:28 PM](#)

REPRESENTATIVE HUGHES moved to adopt Amendment 1 labeled 29-LS1379\H.1, Wallace, 4/5/16, which read:

Page 8, lines 16 - 22:

Delete all material and insert:

"(15) "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that a prudent person who possesses an average knowledge of health and medicine could reasonably expect that the absence of immediate medical attention would result in serious impairment of bodily functions, serious dysfunction of a bodily organ or part, or would place the person's health or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy."

CHAIR OLSON objected for discussion purposes.

3:33:57 PM

KONRAD JACKSON, staff to Representative Kurt Olson, Alaska State Legislature, informed the committee that Amendment 1 addresses concerns expressed regarding page 8, Section 11, which is the definition of an emergency medical condition. Amendment 1 changes the definition to more closely mirror what exists in the Patient Protection and Affordable Care Act of 2010 (PPACA). He pointed out that the word "layperson" was not included in the requested change in order to conform to the Manual of Legislative Drafting.

REPRESENTATIVE LEDOUX asked if there is a difference between a "reasonable person" standard and a "prudent person" standard.

3:35:31 PM

MEGAN WALLACE, Attorney, Legislative Legal Counsel, Legislative Legal Services, Legislative Affairs Agency, asked Representative LeDoux to repeat the question.

REPRESENTATIVE LEDOUX asked for the difference between the standards applied to define a reasonable person versus a prudent person. Usually, she commented, the term prudent person is used with regard to investment decisions; whereas, a person who has committed a wrong and, as a layperson, should have known better is characterized as a reasonable person.

MS. WALLACE replied that, in this case, the prudent person is modified by "a prudent person that possesses an average

knowledge of health and medicine" and opined the term is not out of place. She deferred to the Division of Insurance for specialized knowledge as to which term is preferred; further, neither prudent person nor reasonable person is defined in statute.

[3:38:05 PM](#)

DONALD HALE, Insurance Specialist, Division of Insurance, Department of Commerce, Community & Economic Development, deferred to an attorney.

REPRESENTATIVE LEDOUX noted that her question could be resolved in the next committee of referral.

CHAIR OLSON suggested that the intent of the change was also to achieve compliance with PPACA.

REPRESENTATIVE JOSEPHSON directed attention to page 8, Section 11: AS 21.07, Patient protections under the health care insurance policies. He noted that generally, there is a desire to keep people out of emergency rooms unless necessary. He then observed that the definitions of emergency medical condition in the proposed legislation and in the amendment as written set a high standard, and remarked:

You have to find that ... you could suffer serious dysfunction, impairment, or serious jeopardy. ... Are we saying that, that an insurance company could deny coverage at an emergency room, unless it's plausible that the visitor or the patient was reasonably going to expect some of those types of egregious or serious conditions? ... So, I'm just wondering, where this definition gets applied.

MR. HALE expressed his understanding that the purpose is to protect someone who seeks emergency care "and [their problem] is not what they thought it was."

REPRESENTATIVE JOSEPHSON repeated Mr. Hale's statement that "it's not what they thought it was or it could be precisely what they thought it was."

MR. HALE agreed.

CHAIR OLSON opined that there are enough safeguards built in and the emergency room would err on the side of caution.

REPRESENTATIVE KITO said that, from personal experience, even medical professionals will recommend an emergency room visit out of caution. He said he hoped the definition would protect those individuals who believe they are in danger, or who are advised by medical professionals to go to an emergency room.

REPRESENTATIVE LEDOUX, noting that the bill does not have another committee referral, requested a definition of reasonable person versus prudent person from the Division of Insurance. Prudent person appears to be a stricter standard in that the person must be smarter than a reasonable person, she said.

MS. WALLACE said a quick search reveals that "a reasonably prudent person" and a "reasonable person" have been used in similar context. She opined that a "prudent person" does not represent a higher standard than a "reasonable person," but merely is a minor differentiation.

[3:46:30 PM](#)

FRED PARADY, Deputy Commissioner, Office of the Commissioner, Department of Commerce, Community & Economic Development (DCCED), advised that Amendment 1 is useful in that the section relates to patient protections under health care insurance policies, and the Department of Commerce, Community & Economic Development (DCCED) seeks to bring Alaska's insurance statutes up to code with models based on PPACA. He offered to provide additional guidance from the director of the Division of Insurance.

REPRESENTATIVE HUGHES expressed interest in the context of the definition; for example, some residents use an emergency room for nonemergency care, and she asked whether the [bill] establishes in statute that an insurance company might not have to cover a charge for a condition not described.

MR. PARADY reiterated that he would like to speak with his director in this regard. He stated that statute holds the requirements for contract provisions for health care insurance, one of which is that there be a utilization review process, and the language in the statute defines the review. He opined the definition is patient protection.

REPRESENTATIVE HUGHES said one reason health care costs are high is because emergency room care is used for nonemergency medical conditions. She asked whether there is an attempt here to not

cover something when a person goes to the emergency room for a nonemergency medical condition.

CHAIR OLSON opined there is more coverage under PPACA, not less.

[3:50:28 PM](#)

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

[3:51:21 PM](#)

REPRESENTATIVE HUGHES moved to report the committee substitute for HB 372, Version 29-LS1379\H, Wallace, 3/30/16, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 372(L&C) was reported out of the House Labor and Commerce Standing Committee.

[3:51:51 PM](#)

The committee took an at ease from 3:51 p.m. to 3:53 p.m.

**HB 234-INSURANCE COVERAGE FOR TELEMEDICINE**

[3:53:59 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 234, "An Act relating to insurance coverage for mental health benefits provided through telemedicine."

[3:54:42 PM](#)

REPRESENTATIVE LIZ VAZQUEZ, Alaska State Legislature, introduced HB 234, to be presented by Anita Halterman.

[3:55:10 PM](#)

ANITA HALTERMAN, staff to Representative Liz Vazquez, Alaska State Legislature, speaking on behalf of Representative Vazquez, advised that HB 234 is a mental health parity bill. The bill requires that the health insurance industry provide reimbursement for mental health coverage through the delivery mode of telemedicine. Alaska Medicaid has paid for mental health and substance abuse telemedicine for many years; however, only one insurer in Alaska has been providing reimbursement. The bill requires that insurers reimburse for telemedicine care

without requiring a face-to-face visit, which could improve access to mental health services for 15 percent of the population in Alaska. This bill does not provide new coverage, but it provides a new means of reimbursement for a coverage option currently available through the health insurance industry.

[3:56:21 PM](#)

MS. HALTERMAN said one concern related to HB 234 is the prohibition of face-to-face visits. She directed attention to a document entitled, "The American Telemedicine Association, 50 State Telemedicine Gaps Analysis" from the National Conference of State Legislators, which described the national status regarding telemedicine. The analysis indicated that 22 states have laws giving them the highest possible "grade" and Alaska received an A+ for telemedicine Medicaid reimbursement. However, Alaska received an F grade as to the private sector, and this bill is an effort to correct that issue. Most private insurers cover reimbursement for telemedicine without a face-to-face visit; the states of Texas and Arkansas appear to be the only states with a face-to-face requirement, and the state of Arizona is the only state requiring a face-to-face encounter before mental health services can be delivered. She pointed out that HB 234 does not prohibit a health care professional from requiring a face-to-face visit, but leaves the decision up to the medical professional, not the insurer. Further, she stressed that this is an insurance bill, not a medical bill.

[3:59:02 PM](#)

MS. HALTERMAN advised that the second concern raised pertained to licensing within Alaska, and she clarified that the bill requires a provider be licensed in Alaska in order to practice within the state. The third concern was a request to add substance abuse to the bill; however, the Alaska Statutes that originally required that substance abuse be provided were repealed in 1997. She said she has received input from stakeholders within the industry about what definitions might be useable, but Alaska has no clear definition of substance abuse in statute, so the issue of including substance abuse has been tabled. Ms. Halterman reiterated that this is a parity bill requiring the health insurance industry to do what Medicaid has been doing for many years.

CHAIR OLSON cautioned that the substance abuse issue would complicate the bill.

MS. HALTERMAN agreed. Returning attention to the first concern, she referred to a code of ethics and other guidance documents with regard to face-to-face requirements, and other issues that may affect this particular industry.

REPRESENTATIVE VAZQUEZ pointed out that she does not want to attempt to micromanage the medical profession and that it is up to them to require face-to-face visits.

REPRESENTATIVE COLVER asked for clarification that substance abuse telemedicine is not included in the bill.

MS. HALTERMAN advised that the sponsor had been asked to consider introducing a definition for substance abuse, but after consulting with Legislative Legal and Research Services, and individuals within the insurance industry, discovered there is no clean definition available currently in Alaska that has been vetted by stakeholders in this industry.

[4:03:05 PM](#)

REPRESENTATIVE COLVER expressed concern that this legislation not "opt out" smoking cessation, which is generally handled over the telephone. He also expressed concern regarding someone who just needs counseling as to where to go for treatment services for substance abuse. Representative Colver restated smoking cessation can be provided over the telephone, and urged that the proposed legislation not opt out smoking cessation services.

MS. HALTERMAN expressed her understanding that ICD-10 medical codes are uniformly used primarily for substance abuse and mental health. She explained that many individuals require services that are mental health in nature, may directly be substance abuse related, and which may be covered by this bill. Insurers such as AETNA have indicated that much of what would be included in a definition of substance abuse may already be covered because of the uniform use of ICD-10 codes for behavioral health. She advised stakeholder input is needed to determine what is necessary to ensure that whatever additional coverage might not be provided by this bill is considered next session.

REPRESENTATIVE HUGHES observed that a mental health care provider must be licensed in Alaska, and asked whether a telemedicine, mental health care provider could be located out-

of-state. She asked whether this legislation would broaden the scope of access for Alaskans.

MS. HALTERMAN deferred the question to an invited witness.

REPRESENTATIVE HUGHES spoke in support of consistency in providers and questioned whether it is advisable to provide a person's mental health services totally by telemedicine, or whether there should be face-to-face contact. If so, out-of-state providers could not provide that service. She stressed the importance of knowing if the bill allows for out-of-state providers.

[4:07:27 PM](#)

REPRESENTATIVE COLVER read from the end of the second paragraph of an email from John DeRuytern, Hope Counseling Center, addressed to Representative Vazquez, 1/16/16, available in the committee packet, which read as follows [original punctuation provided]:

However, I am very concerned that the bill's language specifically prohibits a requirement that face-to-face evaluation occur prior to telehealth services being reimbursed. This prohibition is a SIGNIFICANT end run around Best Practices and the safe delivery of mental health services using telehealth technologies.

REPRESENTATIVE COLVER asked Ms. Halterman to address the foregoing issue.

MS. HALTERMAN reminded the committee that the bill is an insurance bill and does not influence medical professionals. Therefore, the mandate of a face-to-face requirement is a mandate on the insurance industry and not on the medical professionals. There is no intent to change the best practices of the medical professionals, and they retain the right to require a face-to-face visit. This bill directs that insurers not impose a face-to-face requirement and that the decision is left to medical professionals.

[4:09:19 PM](#)

REPRESENTATIVE JOSEPHSON assumed that some face-to-face contact improves the efficacy of counseling. He asked whether a Juneau citizen could hire someone in Anchorage rather than hiring a Juneau practitioner.

MS. HALTERMAN confirmed that the bill allows some flexibility for the medical professional, and it will be up to that professional to determine whether or not it is appropriate to deliver mental health services without a face-to-face requirement. The risk assumed for not requiring a face-to-face visit would rest with the medical professional, who retains the right to establish practice rules allowing them to have a face-to-face requirement. In fact, it would be their liability if they didn't require a face-to-face visit. She said:

... this bill is not to influence the medical practice, but rather is trying to influence restrictions on the insurance industry that they not impose additional obligations. This bill is strictly restricting them from imposing a face-to-face requirement. It in no way restricts the medical professional from making a decision based on risk with their patients to require a face-to-face ...

[4:11:37 PM](#)

CHAIR OLSON asked whether using Skype would be considered face-to-face contact.

MS. HALTERMAN referred to the previous analysis document and opined Skype may be an option. She noted that Texas has a face-to-face requirement, but does not clearly define whether it is a physical face-to-face meeting. Neither Texas nor Arizona describe "what that face-to-face obligation actually is."

CHAIR OLSON noted that a telemedicine program has been operational in Kotzebue and around the North Slope using Skype or something similar.

MS. HALTERMAN reiterated that Medicaid has been reimbursing for telemedicine in Alaska since 1999-2005, when Alaska introduced the first telemedicine regulations in the nation. She noted Medicaid has not had any concerns with regard to mental health or substance abuse services delivered via telemedicine in Alaska. For instance, [Alaska Native health services] and the [U.S. Department of Veterans Affairs] have a lot of exceptions, and Medicaid has been openly reimbursing. Previous testimony from Director Margaret Brodie, Health Care Services, Department of Health and Social Services, related that the bill will benefit Alaska Medicaid because currently, Medicaid is reimbursing for mental health services through telemedicine, but

is unable to process a third party recovery for those reimbursements since the private sector may not. This bill, she said, would allow Medicaid to possibly recoup some monies from the private sector.

CHAIR OLSON opined that Medicaid pays air travel expenses.

MS. HALTERMAN agreed that transportation from a remote area in order for a patient to receive a face-to-face visit can be costly in Alaska, and noted that mental health services have been delivered and reimbursed by Medicaid in at least 36 Medicaid states, with few problems.

CHAIR OLSON opened public testimony.

[4:15:40 PM](#)

AROM EVANS M.D., Medical Director, Orion Behavioral Health Network, advised that Orion Behavioral Health delivers telemedicine throughout the state. Dr. Evans explained that in the past private insurance primarily paid for services, but the funding has been cut in the last three years, which has reduced care to many Alaskans who subsequently lost their insurance benefits when coverage changed to a third-party administrator. The population served by Orion Behavioral Health Network would not receive care without telemedicine; for example, patients who are homebound or who live in small communities that cannot provide direct psychiatric care. He said the bill allows services to reach individuals, even those who do not qualify for Medicaid, such as adolescents and developmentally delayed adults, and may prevent an emergency situation from developing. Dr. Evans clarified that the bill affects insurance and does not seek to change licensing board practices and current rules regarding face-to-face contact, which are fairly strict. At this time the [State Medical Board, Department of Commerce, Community & Economic Development] does not allow out-of-state providers to practice telemedicine, except under certain, limited circumstances.

DR. EVANS cautioned that, in some cases, if a person is unable to receive services without a face-to-face visit, the result will be that the patient doesn't receive services due to the aging of Alaska's population and the limited care in rural communities.

REPRESENTATIVE HUGHES understood that the bill would increase access to care and asked what the best practices are for the

standard of care for treatment without ever having a face-to-face visit. She referred to related proposed legislation.

DR. EVANS advised that proposed SB 74 requires the medical board to adopt standards regarding out-of-state providers. Currently, practice by out-of-state providers is allowed only in certain circumstances. As for the standard of care, he said that most states allow for care via telehealth without an in-person examination, as do the ethical guidelines for the American Telemedicine Association. In his practice, Dr. Evans said, every effort is made to do a face-to-face visit. Face-to-face visits are provided whenever possible, although there are certainly times when it is just not possible, and best care practices dictate administering service via telemedicine.

[4:22:16 PM](#)

CHAIR OLSON announced that public testimony would remain open.

[HB 234 was held over.]

[4:22:41 PM](#)

The committee took an at ease from 4:22 p.m. to 4:23 p.m.

#### **SB 148-REPORTING WORKPLACE INJURIES**

[4:23:24 PM](#)

CHAIR OLSON announced that the next order of business would be CS FOR SENATE BILL NO. 148(L&C), "An Act relating to the reporting of workplace injuries to the division of labor standards and safety; and providing for an effective date."

[4:23:54 PM](#)

JOE THOMAS, Deputy Commissioner, Office of the Commissioner, Department of Labor & Workforce Development (DLWD), advised that proposed SB 148 amends current workplace accident reporting requirements to include reporting of incidents involving the loss of an eye or an amputation. These amendments are necessary to comport with the federal workplace accident reporting standards effective January 1, 2015. Alaska operates an approved state plan under the Federal Occupational Safety and Health Act of 1970, which requires that states maintain standards that meet the federal standards at a minimum, and AS 18.60.030 established that Alaska maintain requirements that are

at least as effective as those adopted by the U. S. Department of Labor. The Occupational Safety and Health Administration (OSHA) made changes to the accident reporting requirements under federal regulation 29 CFR 1904 related to the reporting of industrial accidents resulting in an amputation or the loss of an eye, and notified the state that failure to maintain equivalency could jeopardize federal funding as well as the state's jurisdiction over occupational safety and health. Alaska seeks to maintain said jurisdiction and the associated funding. Mr. Thomas restated that SB 148 brings Alaska's workplace accident reporting standards up to the federal standard, and urged for the committee's support.

REPRESENTATIVE HUGHES asked whether the definition of amputation includes digits, an ear, or another body part.

MR. THOMAS opined that amputation is any loss of any body part.

[4:26:38 PM](#)

REPRESENTATIVE LEDOUX referred to page 2, lines 7-9, Section 1, which read as follows:

The subsection does not apply to an employer that first receives information of a fatality, [OR] in-patient hospitalization, loss of an eye, or amputation more than 30 days after the accident.

REPRESENTATIVE LEDOUX questioned how an employer would not be aware of an accident or fatality for more than 30 days afterward.

MR. THOMAS agreed and said any employee/employer could provide notice to DLWD.

REPRESENTATIVE LEDOUX asked whether it is an excuse if the president of a company denies knowledge but the job foreman knew about it.

MR. THOMAS said his assumption is that, as long as there were people on the job who knew of an accident, the employer is expected to know, depending upon the severity of the situation.

[4:28:42 PM](#)

REPRESENTATIVE LEDOUX asked for an example of circumstances under which an employer would not know about an accident for 30 days.

MR. THOMAS suggested an employer, or the owner of a company, may be on vacation in a locale where they are unable to be contacted by a superintendent. In further response to Representative LeDoux, Mr. Thomas explained that the term employer is used to indicate that anyone on the job can report an incident. Generally, the owner of a company would be made aware of an accident during some period of time, but the supervisor on the job would call an ambulance and report a workplace accident to DLWD.

REPRESENTATIVE LEDOUX asked what happens if a supervisor doesn't report it.

MR. THOMAS opined the law would hold the employer responsible for not reporting.

CHAIR OLSON advised that in the case of an amputation or loss of an eye, the hospital would call the employer and the insurance company to confirm the person is an employee, and that there is insurance coverage by workers compensation insurance.

REPRESENTATIVE LEDOUX restated her interest in knowing the purpose of the exception for an employer who does not receive notice within 30 days after an accident, which seems unreasonable.

MR. THOMAS said, although that situation may never arise, the wording is based upon federal language and was used to ensure compliance.

REPRESENTATIVE HUGHES asked whether the word employer includes the superintendent.

MR. THOMAS said yes, that is the interpretation by DLWD.

REPRESENTATIVE HUGHES surmised that it would include anyone at the company or the next person down from the top of the list of job titles.

MR. THOMAS answered yes.

[4:32:28 PM](#)

REPRESENTATIVE LEDOUX suggested an employer may not be aware of a situation at a remote site.

REPRESENTATIVE COLVER asked for statistics on this type of accident in Alaska.

MR. THOMAS said he was unsure of the variety of accidents to this degree. However, this calendar year there have been three fatalities, and he offered to provide further information to the committee.

REPRESENTATIVE COLVER recalled an incident that occurred in a trench in Anchorage last summer, and asked for clarification that there have been only three [job related] fatalities in 2016.

MR. THOMAS stated last calendar year included the aforementioned fatality and two others. In further response to Representative Colver, he said the other two fatalities were an accident at CMI's shop in Anchorage, and the death of a health care worker in a long-term care home. At the CMI shop a jack failed and a worker was crushed.

[4:34:45 PM](#)

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

[4:35:28 PM](#)

REPRESENTATIVE HUGHES moved to report CSSB 148(L&C), Version 29-GS2801\W, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 148(L&C) was reported from the House Labor and Commerce Standing Committee.

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The committee took an at ease from 4:35 p.m. to 4:36 p.m.

**SB 142-INSURANCE FOR ANTI-CANCER MEDICATION**

[4:36:36 PM](#)

CHAIR OLSON announced that the final order of business would be CS FOR SENATE BILL NO. 142(L&C) am, "An Act relating to insurance coverage for anti-cancer medications."

[4:37:09 PM](#)

REPRESENTATIVE HUGHES moved to adopt Amendment 1, labeled 29-LS1133\W.A.1, Wallace, 4/5/16, which read:

Page 1, line 1, following "**medications**":

Insert "**; and providing for an effective date**"

Page 2, following line 14:

Insert a new bill section to read:

"\* **Sec. 3.** This Act takes effect January 1, 2017."

CHAIR OLSON objected for discussion purposes.

[4:37:21 PM](#)

KARI NORE, Staff, Senator Cathy Giessel, Alaska State Legislature, advised that Amendment 1 changes the effective date of the bill, as requested by the PREMERA health insurance company, in order to ensure it can completely implement this change and not affect premiums or accrue additional costs.

[4:38:02 PM](#)

CHAIR OLSON removed his objection to Amendment 1.

[4:38:18 PM](#)

REPRESENTATIVE LEDOUX objected to Amendment 1 for discussion purposes. She said she was aware there are certain times a cancer patient is prescribed medication, which is paid for, but then receives it in another form and it is not paid for. She expressed her preference for the legislation to be effective immediately instead of January 1, 2017.

MS. NORE advised that PREMERA's fiscal year 2016 filing must be submitted by May 6, 2015. There is concern that the proposed legislation, as written, would cause PREMERA to amend its filings, causing a fiscal impact to consumers.

CHAIR OLSON commented that initially all of the contracts come up on January 1; therefore, there are already contracts in place that are good until December 31.

MS. NORE added that the bill only applies to new and renewed plans, and would not affect plans currently in place.

REPRESENTATIVE LEDOUX surmised that if the bill were passed in April [2016], PREMERA would have three weeks to respond.

MS. NORE pointed out that the sponsor wishes to avoid putting any additional burden on consumers, especially since the bill only applies to renewed plans. Ms. Nore further explained that SB 142 seeks to ensure that both intravenously and orally administered cancer treatments are treated fairly and are equally available to consumers. She said currently, there is a disparity between what patients pay for intravenous cancer treatments versus oral, because oral treatments are billed as prescriptions, and there is no deductible to meet. However, intravenous treatments are often billed as medical benefits, of which there is a deductible to reach, and after which the consumer no longer pays. Thus, although oral cancer treatment is much cheaper for administration costs, it ends up being more expensive. Also, certain cancer treatments are only available in the oral option; therefore, patients should not be forced to pay higher premiums simply because treatment is only available in the oral form. In addition, the bill also prevents the re-classification of benefits or increasing costs, with respect to both intravenous and oral cancer treatments.

[4:43:05 PM](#)

REPRESENTATIVE LEDOUX relayed her personal experience with typhoid oral and inoculation vaccines: inoculations are reimbursed by insurance and oral vaccines are not. She questioned why the bill is limited to cancer treatments as there are probably many drugs that can be taken orally or intravenously.

MS. NORE answered that the sponsor chose to focus on cancer medications, and deferred to the director of the Division of Insurance at DCCED.

CHAIR OLSON opened public testimony.

[4:44:56 PM](#)

EMILY NENON, Alaska Government Relations Director, American Cancer Society/Cancer Action Network, advised that 40 states have adopted this measure. She described it as a modernization of Alaska's insurance statutes due to the tremendous changes in cancer research making many options available in an oral form as opposed to infusion. Ms. Nenon stated that the issue is not

just about whether a physician prescribed chemo in the pill or the infusion form, but that some chemo treatments are only available in the oral form; in fact, approximately 25 percent of the new treatments in the research pipeline for cancer are oral. She pointed out that oral medications often have fewer side effects and the ease of administration is a huge issue, particularly with the geographic challenges of Alaska. Ms. Nenon expressed her organization's support for the bill.

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ERIC HANSEN, International Myeloma Foundation, advised he is an advocate for patients - and is also a patient - as four years ago he was diagnosed with Multiple Myeloma caused by exposure to Agent Orange. Multiple Myeloma is incurable, but treatable by chemo, and he noted that research breakthroughs have made some insurance procedures obsolete; for example, the pharmacy benefit for many conditions is insufficient, when applied to cancer medications. He opined that the issue for most patients is not so much the needles and the toxicity of chemo, but rather [medical] access, especially in Alaska. For example, in Juneau there is only one nurse who can administer chemo, as it is a highly specialized procedure. There are few places in the entire state where a person can be infused with chemo and some patients need to be infused twice per week. The pills that are now available target cancers, unlike chemo fluids, which "just kill everything." Mr. Hansen characterized cancer treatment pills as "a godsend," because patients do not have to adhere to the administrator's availability or spend four hours to receive an infusion. Further, a patient's veins can collapse. Mr. Hansen said he has been taking one pill per day for three years to treat his cancer, although he may have to eventually return to infusion chemo pending further research. He noted the difficulties for those who live far from infusion treatment facilities and urged for this "insurance glitch" to be resolved, and restated his support for the bill.

REPRESENTATIVE LEDOUX asked Mr. Hansen's view of changing the effective date from immediately to January 1.

MR. HANSEN, speaking as a patient, said he would like to make the effective date tomorrow because someone who cannot afford the copay will have to go somewhere for treatment. He acknowledged that the insurance companies have to establish paperwork, but sooner is better for patients.

REPRESENTATIVE COLVER described Mr. Hansen's testimony as compelling, and inquired about the cost for Mr. Hansen's copay.

MR. HANSEN replied that he qualifies for Medicare; however, if he were younger, his copay would be \$2,000 per month. He said he would have had to go back to the hospital and the chemo fluids, although now all cancer medications cost about the same because they are all unique and targeted.

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KIMBERLY THEIS, Advocacy Manager, Leukemia & Lymphoma Society, echoed the sentiments that have been shared, and said that the Leukemia & Lymphoma Society believes this is a vital solution intended to ensure that patients can reliably and consistently expect fair coverage for cancer treatments even when the treatments come in the form of a pill. She said the society is hopeful that the lawmakers in Alaska will embrace this bill because it helps to offer meaningful improvements in access to care.

CHAIR OLSON announced public testimony would remain open.

[SB 142 was held over.]

[4:55:32 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:55 p.m.