

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

April 14, 2016

1:35 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Cathy Giessel, Vice Chair
Senator Kevin Meyer
Senator Gary Stevens

MEMBERS ABSENT

Senator Johnny Ellis

COMMITTEE CALENDAR

HOUSE BILL NO. 290

"An Act extending the termination date of the Real Estate Commission; and providing for an effective date."

- MOVED HB 290 OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 234(L&C)

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

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 372(L&C) AM

"An Act relating to insurance; relating to the annual report by the director of policies and variable annuities; establishing limitations on issuance of long-term care insurance; relating to expenses for insurance examinations; relating to regulations for insurance; relating to requirements for group health insurance policies; amending the insurance utilization review, benefits determination, health care insurance grievance definition of 'group health insurance'; relating to motor vehicle service contracts; resolution procedures, independent review of adverse determinations or final adverse relating to notice requirements for meetings of stockholders or members of a domestic determinations, independent review organizations, and continuing education providers; insurer; establishing a definition of 'bona fide association'; relating to requirements and relating to required provisions for health care insurance contracts and

policies, penalties for committing a fraudulent or criminal insurance act; updating criteria for including health care provider choice; establishing civil penalties for insurers for failure examinations; relating to rate filing deviations; establishing civil penalties for certain to provide requested records; amending the definition of 'wet marine and wilful violations; and providing for an effective date." 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

- HEARD & HELD

HOUSE BILL NO. 125

"An Act relating to the sale of products containing dextromethorphan; relating to the regulation of dextromethorphan by municipalities; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 305(EDC)

"An Act relating to the sale of products containing dextromethorphan; relating to the regulation of dextromethorphan by municipalities; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 290

SHORT TITLE: EXTENDING THE REAL ESTATE COMMISSION

SPONSOR(S): LABOR & COMMERCE

02/01/16	(H)	READ THE FIRST TIME - REFERRALS
02/01/16	(H)	L&C, FIN
03/30/16	(H)	L&C AT 3:15 PM BARNES 124
03/30/16	(H)	Moved HB 290 Out of Committee
03/30/16	(H)	MINUTE(L&C)
03/31/16	(H)	L&C RPT 2DP 5NR
03/31/16	(H)	DP: HUGHES, OLSON
03/31/16	(H)	NR: LEDOUX, TILTON, KITO, JOSEPHSON, COLVER
04/11/16	(H)	FIN AT 8:30 AM HOUSE FINANCE 519
04/11/16	(H)	-- MEETING CANCELED --

04/11/16 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/11/16 (H) Moved HB 290 Out of Committee
 04/11/16 (H) MINUTE(FIN)
 04/12/16 (H) FIN RPT 3DP 5NR 1AM
 04/12/16 (H) DP: SADDLER, MUNOZ, THOMPSON
 04/12/16 (H) NR: PRUITT, WILSON, GUTTENBERG, GATTIS,
 EDGMON
 04/12/16 (H) AM: KAWASAKI
 04/12/16 (H) TRANSMITTED TO (S)
 04/12/16 (H) VERSION: HB 290
 04/13/16 (S) READ THE FIRST TIME - REFERRALS
 04/13/16 (S) L&C, FIN
 04/14/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

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
 04/06/16 (H) Heard & Held
 04/06/16 (H) MINUTE(L&C)
 04/11/16 (H) L&C AT 3:15 PM BARNES 124
 04/11/16 (H) Moved CSHB 234(L&C) Out of Committee
 04/11/16 (H) MINUTE(L&C)
 04/12/16 (H) L&C RPT CS(L&C) 3DP 3NR
 04/12/16 (H) DP: TILTON, HUGHES, OLSON
 04/12/16 (H) NR: LEDOUX, KITO, JOSEPHSON
 04/13/16 (H) TRANSMITTED TO (S)
 04/13/16 (H) VERSION: CSHB 234(L&C)
 04/14/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

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
 04/06/16 (H) Moved CSHB 372(L&C) Out of Committee
 04/06/16 (H) MINUTE(L&C)
 04/07/16 (H) L&C RPT CS(L&C) 1DP 6NR
 04/07/16 (H) DP: OLSON
 04/07/16 (H) NR: LEDOUX, TILTON, HUGHES, KITO,
 JOSEPHSON, COLVER
 04/13/16 (H) TRANSMITTED TO (S)
 04/13/16 (H) VERSION: CSHB 372(L&C) AM
 04/14/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

LAURA STIDOLPH, Staff
 Representative Kurt Olson and
 House Labor and Commerce Committee
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Introduced the legislation on behalf of the sponsor speaking to the following sponsor statement:

KRIS CURTIS, Legislative Auditor
 Division of Legislative Audit
 Legislative Affairs Agency
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: During the hearing on HB 290, reviewed the sunset audit findings for the Real Estate Commission.

SARAH CHAMBERS, Operations Manager
 Division of Corporations, Business and Professional Licensing
 Department of Commerce, Community and Economic Development
 Juneau, Alaska

POSITION STATEMENT: Provided information related to HB 290.

ED MARTIN, representing himself
Cooper Landing, Alaska

POSITION STATEMENT: Testified on HB 290.

TRACI BARICKMAN
Alaska Real Estate Commission
Mat-Su, Alaska

POSITION STATEMENT: Testified in support of HB 290.

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

POSITION STATEMENT: Introduced HB 234 on behalf of the sponsor.

REPRESENTATIVE LIZ VAZQUEZ
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 234.

LORI WING-HEIER
Director
Division of Insurance
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Provided information related to HB 234.

STACY TONER, Deputy Director
Division of Behavioral health
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 234.

LYN FREEMAN
MIND MATTERS RESEARCH
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 234.

KELLY PUFF, representing herself
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 234.

DR. AROM EVANS, Medical Director
Orion Behavioral
Eagle River, Alaska

POSITION STATEMENT: Testified in support of HB 234.

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

POSITION STATEMENT: Introduced HB 372 on behalf of the sponsor.

LORI WING-HEIER, Director
Division of Insurance
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Provided information on HB 372.

DAVE DONLEY, representing himself
Anchorage, Alaska

POSITION STATEMENT: Requested the committee amend HB 372.

ACTION NARRATIVE

[1:35:01 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:35 p.m. Present at the call to order were Senators Giessel, Stevens, and Chair Costello. Senator Meyer arrived soon thereafter. She reviewed the agenda.

HB 290-EXTENDING THE REAL ESTATE COMMISSION

[1:35:49 PM](#)

CHAIR COSTELLO announced the consideration of HB 290.

[1:36:42 PM](#)

LAURA STIDOLPH, Staff, Representative Kurt Olson, House Labor and Commerce Committee, sponsor of HB 290, introduced the legislation on behalf of the sponsor speaking to the following sponsor statement:

HB 290 extends the sunset date for the Real Estate Commission to June 30, 2018.

I encourage all the members to review the Legislative Audit summary and the full audit report. You will see that in the opinion of our auditors, the Real Estate Commission is serving the public's interest by effectively licensing real estate brokers, associate brokers, and salespersons. Additionally, it was found that the board worked to improve operations and

industry practices by modifying and adopting regulations.

MS. STIDOLPH said the audit made two recommendations: 1) the chair of the Real Estate Commission and the director of Administrative Services for the Department of Commerce, Community and Economic Development (DCCED) should work together to procure a master errors and omissions insurance policy and 2) the Division of Corporations, Business and Professional Licensing should take action to ensure that cases are actively investigated. She concluded that the Real Estate Commission serves an important role by improving operations and industry practices by modifying and adopting regulations.

[1:38:25 PM](#)

CHAIR COSTELLO asked how many members serve on the commission.

MS. STIDOLPH replied there are five members: two sales persons, two brokers and one public member.

[1:39:12 PM](#)

KRIS CURTIS, Legislative Auditor, Division of Legislative Audit, reviewed the audit findings for the Real Estate Commission. She emphasized that the audit recommended a six-year extension on the condition that the board demonstrate by January 2016 that it was able to secure a master errors and omissions insurance policy. Otherwise, the recommendation was for a four-year extension. She noted the bill calls for a two-year extension.

The audit made two recommendations. First was that the commission work with DCCED to secure a master errors and omissions policy for real estate licensees. The law requiring this insurance became effective in 2010. The department established the terms and conditions of the insurance in December 2011 but the board delayed establishing regulations for the insurance until October 2014. The Division of Corporations, Business and Professional Licensing and the Division of Administrative Services cited the reason for the delay was the overall complexity of the project, the lack of insurance expertise, and the length of time the commission involved the Department of Law in drafting the regulations. She advised that not securing the policy essentially removes the requirement from all licensees thereby exposing the public to error and omission risks in real estate transactions.

The second recommendation was for the chief investigator to take action to ensure that all cases are actively investigated and

completed timely. Of the 235 investigations that were open during the time period that was audited, significant inactivity was found in 29 of the 36 cases that were tested. During the audit, 11 of those inactive cases were closed because of the age of the matter. The reasons for the excessive time lags were inadequate monitoring and insufficient oversight to ensure that investigations were completed timely. The consequence is that consumers may not have been adequately protected from incompetent or unlawful licensees.

MS. CURTIS said the department and the commission generally concurred with the audit recommendations.

[1:42:21 PM](#)

CHAIR COSTELLO asked how the audit findings were communicated to the commission, and the commission's response.

MS. CURTIS explained that there is communication with management and the board chair during the audit and a formal exit meeting that describes the findings. A draft of the report is subsequently sent to both the board chair and the department, which provides an opportunity for each to provide additional information. The preliminary report then is provided to the Legislative Budget and Audit (LB&A) Committee and the board and department are allowed to formally comment on the report. Those comments are found at the back of the report.

[1:43:13 PM](#)

SENATOR MEYER joined the committee.

SENATOR STEVENS asked what the current recommendation is for an extension.

MS. CURTIS said she favors four years. The two years proposed in the bill is acceptable but it means they would begin that audit work next year.

SENATOR STEVENS asked what it would mean to the audit division if the bill was amended to four years.

MS. CURTIS said it depends on the year, but next year they will be very busy with 10 sunset audits.

CHAIR COSTELLO asked if the bill passed several years ago requiring audits for the departments weighs into the workload.

MS. CURTIS replied it affects her workload but not the audit staff, and that has been deleted for FY2017 going forward.

1:45:45 PM

SARAH CHAMBERS, Operations Manager, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska, introduced herself.

CHAIR COSTELLO asked her to discuss the financial status of the Real Estate Commission and comment on the findings in the audit.

MS. CHAMBERS said the Real Estate Commission is in a strong fiscal condition and has a healthy surplus. With regard to the recommendations, timely investigations has been a recurring theme for all boards and commissions, not just the Real Estate Commission. To address this problem, a new chief investigator has made structural changes to improve caseload management. There is also improved engagement and professionalism between the investigative unit and the Real Estate Commission in an effort to reduce the number of investigations and the time lag identified in the audit. In 2015 there were 116 total cases and only 36 were investigations.

She described the errors and omissions insurance as a sticky wicket. The initial delay was a result of spending about a year to get guidance from the Department of Law, followed by a delay to try to understand how the pieces work together. Once the commission and the division adopted regulations, a public invitation for insurers to bid went out in November 2015 and there was no response. Two comments were that the structure of providing E&O insurance was not attractive because the insurers couldn't assess their risk. Insurers had no information on the risk pool being presented and the \$300 cap the division set in regulation for an annual premium (the cap that sales people and brokers would pay) was not attractive in the current market. The division is actively working with the commission to discern the next step, including an analysis of whether or not new regulations need to be adopted to raise the premium.

1:51:47 PM

SENATOR STEVENS asked how long it will be before the commission has E&O insurance.

MS. CHAMBERS replied the hope is to have a plan within the next year. She pointed out that the E&O policy isn't required in statute, but a clause within the statute says that if the

commission doesn't have an E&O policy, none of the brokers and licensees would be required to carry E&O insurance.

SENATOR STEVENS asked what length extension she supports.

MS. CHAMBERS replied the division would work with the timeframe stated in the bill but having longer might be more efficient and effective.

[1:54:49 PM](#)

SENATOR STEVENS expressed hesitation to extend the sunset to four years.

MS. CHAMBERS clarified that the commission has seven members, the majority of which are licensees.

[1:55:37 PM](#)

ED MARTIN, representing himself, Cooper Landing, Alaska, stated the commission ought to be extended a minimum. He expressed appreciation that the legislature is trying to keep costs down.

[1:57:24 PM](#)

TRACI BARICKMAN, Member, Alaska Real Estate Commission, testified in support of HB 290. She related her personal experience as a professional realtor. She said the board operates within its budget and does not burden the state. She related that most complaints that are filed have a legitimate foundation and often licensees are disciplined through education, fines and sometimes suspension or revocation of their license. She said the commission works to keep regulations up to date with the constantly changing real estate industry. The sunset audit last year concluded the commission is serving the public interest and recommended an extension with the condition of obtaining a master insurance policy. They are working through that process and a shorter extension will make it more difficult. She stressed that to terminate or not extend the commission would take away an important guardian for consumer protection.

CHAIR COSTELLO asked if she is saying it would be challenging to meet the condition of obtaining an E&O policy if the commission is extended just two years.

MS. BARICKMAN replied she believes it will take at least two years. She noted that most realtors already carry E&O insurance and during a recent commission meeting she recommended removing subsection (e) of the E&O insurance statute. That voids the

requirement for brokers and licensees to carry E&O insurance if the commission is unable to obtain a master policy. It's not possible to get a master policy until there is some historical data and apparently that is lacking.

[2:02:34 PM](#)

SENATOR STEVENS asked if she is saying that most licensees carry E&O insurance regardless of whether the commission does.

MS. BARICKMAN answered yes.

SENATOR STEVENS asked what the exposure is to the public if a licensee doesn't have this insurance.

MS. BARICKMAN replied the brokers are most at risk.

[2:04:23 PM](#)

CHAIR COSTELLO closed public testimony on HB 290. She asked if there were any questions.

SENATOR STEVENS asked to hear from the department about whether the public and brokers would be protected if there wasn't a requirement for the commission to carry a master E&O policy.

[2:05:23 PM](#)

MS. CHAMBERS related that the statute says brokers and salespersons must carry errors and omissions insurance, but they are exempt from that requirement as long as the Real Estate Commission doesn't have a master E&O policy. Once the commission has a policy, everyone under their governance must also carry a policy either privately or through the master policy. She noted that a bill that removes the exemption is moving through the process, but it hasn't passed.

[2:06:59 PM](#)

CHAIR COSTELLO found no further questions and solicited a motion.

[2:07:05 PM](#)

SENATOR GIESSEL moved to report HB 290, labeled 29-LS1345\W, from committee with individual recommendations and attached fiscal note(s).

[2:07:17 PM](#)

At ease

[2:07:26 PM](#)

CHAIR COSTELLO announced that without objection, HB 290 passed from the Senate Labor and Commerce Standing Committee.

[2:07:40 PM](#)

At ease

HB 234-INSURANCE COVERAGE FOR TELEMEDICINE

[2:09:03 PM](#)

CHAIR COSTELLO announced the consideration of HB 234. She stated that the intent is to hear from the sponsor and the administration, take questions from members, hear public testimony and hold the bill for further review.

[2:09:34 PM](#)

ANITA HALTERMAN, Staff, Representative Liz Vazquez, Alaska State Legislature, stated that HB 234 seeks to require health care insurers that offer, issue, or renew health insurance plans in Alaska to reimburse mental health professionals for medically necessary services delivered using telemedicine via secure phone or internet video applications. This legislation would not require an initial face-to-face visit but requires providers be licensed in Alaska.

HB 234 is a parity bill. Currently, 32 states and the District of Columbia have telehealth parity laws that require the option of telemedicine. Only Arizona requires a face-to-face visit before mental health services can be delivered via telehealth.

[2:11:20 PM](#)

CHAIR COSTELLO asked if the lack of face-to-face interactions has been an issue in other states.

MS. HALTERMAN replied it is appropriate for a mental health professional to require a face-to-face encounter if they deem it appropriate. This legislation seeks to prohibit the insurance industry from imposing that requirement.

CHAIR COSTELLO summarized that the insurance would not check to see if there was a face to face interaction. The claim would be handled absent that information.

MS. HALTERMAN agreed.

[2:13:21 PM](#)

REPRESENTATIVE LIZ VAZQUEZ, Alaska State Legislature, sponsor of HB 234, stated that this legislation provides access to medical

care that is often difficult for people living in rural areas to access. Even in a city as large as Fairbanks there can be access issues. Some people are also limited by age, mobility, stamina, and transportation from making a trip to a health care provider.

CHAIR COSTELLO asked if this would cover Medicaid recipients. She shared that a constituent's son came home from the Alaska Psychiatric Institute (API) and wasn't willing to visit the doctor to renew a prescription. The doctor wasn't willing to make a home visit because transportation wasn't reimbursed.

MS. VAZQUEZ answered yes; Medicaid has the gold standard regulations for telehealth delivery.

CHAIR COSTELLO asked if she was saying that a phone call to the doctor would have sufficed.

REPRESENTATIVE VAZQUEZ replied "it could be in that situation."

SENATOR STEVENS asked if the Alaska Native Tribal Health Consortium delivers mental health services via telemedicine.

MS. HALTEMAN offered her understanding that tribal entities have federal exemptions that allow flexibility in the use of telemedicine. She said many of those beneficiaries have dual eligibility through Medicaid so there is a parity issue and the private sector is falling behind. She directed attention to the 50-state analysis that gives Alaska an A+ for telehealth for Medicaid policies and an F for the private sector. She said this bill is the first of many to come to help improve for people who currently don't have access.

SENATOR STEVENS commented that parity is crucial and it shouldn't matter what race you are.

[2:18:40 PM](#)

SENATOR GIESSEL added that the Alaska Native Tribal Health Consortium has been very successful in providing mental health services through telemedicine for many years. It leads the nation in this area.

[2:19:05 PM](#)

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), stated that, as the sponsor said, HB 234 provides for telemedicine. Currently, MODA provides for telemedicine in its policies but

Premera does not in the majority of its plans. The division worked with the sponsor in the drafting and has no comments.

[2:20:12 PM](#)

STACY TONER, Deputy Director, Division of Behavioral health, Department of Health and Social Services (DHSS), stated support for HB 234. She stressed the importance of having mental health services delivered via telehealth. She said tribal organizations that use the division's services use telehealth to give village residents access to psychiatrists and mental health professionals. She noted that telemedicine has been available in the Medicaid service array for years. The only recommendation is to use the term "telehealth" rather than telemedicine.

[2:21:32 PM](#)

CHAIR COSTELLO opened public testimony.

[2:21:44 PM](#)

LYN FREEMAN, Mind Matters Research, testified in support of HB 234. She described her professional experience and education. She described the mental health intervention she designed and tested specifically for Alaskans. When she published the outcomes, the National Institute of Health (NIH) directed her to make the intervention available to people across Alaska. She was specifically directed to utilize telemedicine as much as possible to overcome the barriers to access to care. The NIH wrote letters of support and asked insurance providers for assurance that the intervention would be available for patients in the office setting and through telemedicine. She said she approached the insurance providers in the state asking for their support and was stonewalled at every point. She was told that her patients would not be covered unless she became part of one of their programs or joined their Teladoc program. She decided not to treat patients via telemedicine until legislation passed that would protect both her patients and herself. She urged the committee to pass the bill.

[2:26:33 PM](#)

KELLY PUFF, representing herself, testified in support of HB 234. She related her experience as a parent of a son with autism and said the family wouldn't be intact if it weren't for home telehealth. It's made all the difference to their family.

[2:28:24 PM](#)

DR. AROM EVANS, Medical Director, Orion Behavioral Health Network, testified in support of HB 234. He described the services the company provides throughout the state for children

and adolescents with mental health conditions. This is a vulnerable population, many of which would not have access to these services if it weren't for telehealth. Medicaid beneficiaries are able to receive telehealth services in their home, but individuals with private insurance don't have access to these service because their insurance company won't pay. Oftentimes the option is to pay for an expensive flight to Anchorage or forego the care. He urged the committee to pass the bill.

[2:32:45 PM](#)

CHAIR COSTELLO closed public testimony on HB 234 and held the bill in committee for further review.

[2:33:08 PM](#)

At ease

HB 372-OMNIBUS INSURANCE

[2:36:40 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of HB 372. [CSHB 372(L&C) am is before the committee.]

[2:37:31 PM](#)

KONRAD JACKSON, Staff, Senator Kurt Olson, Alaska State Legislature, introduced HB 372 the legislation on behalf of the House Labor and Commerce Committee, speaking to the following sponsor statement:

House Bill 372 is an insurance statute clean-up bill, similar to ones introduced every few years.

The bill makes conforming changes to Alaska Statutes which bring us into compliance with the ever changing Federal insurance laws. The modernization of several provisions to Title 21 also include consumer protection and insurer licensing restrictions.

Your support for this important Title 21 update is appreciated.

[2:38:39 PM](#)

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska provided the following sectional analysis for HB 372:

Sec. 1 AS 21.06.110 Director's annual report

AS 21.06.110 is amended by inserting a requirement that the director include in the annual report the total number of public comments received and the director's efforts, to the extent allowable by law, to improve or maintain public access to information on the individual health care insurance rate filings before they become effective. This has been added to provide the consumer with as notice of the impending rate filing and the impact it will have on their healthcare insurance plan.

Sec. 2 AS 21.06.120(a) Examination of insurers

Subsection (a) is amended to reflect the correct references to the handbooks used throughout the country for financial and market conduct examinations. Both publications are published by the National Association of Insurance Commissioners. Formerly, the term "Examiners' Handbook" was a sufficient description as both the financial examination and market conduct examination handbooks used the term in their title. Now, however, the "Market Conduct Examiners Handbook" is no longer published and is part of the "Market Regulation Handbook".

Sec. 3 AS 21.06.140(f) Conduct of examination

Subsection (f) is amended to reflect the correct references to the handbooks used throughout the country for financial and market conduct examinations. Both publications are published by the National Association of Insurance Commissioners. Formerly, the term "Examiners' Handbook" was a sufficient description as both the financial examination and market conduct examination handbooks used the term in their title. Now, however, the "Market Conduct Examiners Handbook" is no longer published and is part of the "Market Regulation Handbook".

Sec. 4 AS 21.06.160(a) Examination expense

Subsection (a) is amended to exclude managing general agents, third-party administrators, reinsurance intermediary managers, motor vehicle service contract providers, and surplus lines brokers from the requirements of paying for division personnel and overhead costs relating to an examination; such entities would still be required to pay for the division's "out-of-pocket" expenses including travel

expenses and for compensation of a contract examiner, however, the entities could apply for a waiver from the director based on financial hardship.

Sec. 5 AS 21.07.005 Regulations relating to health care insurance policies

A new section, AS 21.07.005 provides authority for the director to adopt regulations relating to utilization review and benefit determinations; grievance procedures; external review requirements for health care insurance; and registration and regulation of independent review organizations including the establishment of fees. These regulations are necessary to make Alaska's laws consistent with national standards and federal law. The regulations will be based on model laws developed by the National Association of Insurance Commissioners. The title of the section makes clear that the regulations apply to health care insurance policies.

Sec. 6 AS 21.07.020 Required contract provisions for health care insurance policy

AS 21.07.020 is amended to revise and update the provisions that must be included in a health insurance policy and to comply with federal law. Deleted material will be covered by national standards based on model laws developed by the National Association of Insurance Commissioners under section 4.

Sec. 7 AS 21.07.030(d) Choice of health care provider

Subsection (d) is amended to require a health care insurer to permit a covered person to designate a pediatrician where the insurer offers a health care policy that requires or provides for a designation by the covered person of a participating primary care provider.

Sec. 8 AS 21.07.030(e) Choice of health care provider

Subsection (e) is amended to recognize an exception to the subsection's requirements due to a new subsection (h).

Sec. 9 AS 21.07.030(h) Choice of health care provider

New subsection (h) prohibits a health care insurer that offers a health care insurance policy that provides coverage for obstetric and gynecologic care and that requires designation by a covered person of a

participating primary care provider from requiring authorization or referral by any person, including a primary care provider, for a female patient to receive obstetric gynecological care from a participating health care professional who specializes in obstetrics or gynecology. A participating health care professional who specializes in obstetrics and gynecology shall agree to adhere to the health care insurer's policies and procedures, including procedures regarding referrals, obtaining prior authorization, and providing services under a treatment plan, if any, approved by the health care insurer. A health care insurer shall treat authorizations by an obstetrics and gynecology specialist as the authorization of the primary care provider.

Sec. 10 AS 21.07.250(3) Definitions

Paragraph (3) is repealed and reenacted to define "emergency services" to mean medical care services or items furnished or required to evaluate and treat an emergency medical condition.

Sec. 11 AS 21.07.250(14) Definitions

Paragraph (14) is repealed and reenacted to define "utilization review" to mean a set of techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings; techniques may include ambulatory review, prospective review, second opinion certification, concurrent review, case management, discharge planning, or retrospective review.

Sec. 12 AS 21.07.250(15) Definitions

New paragraph (15) defines "emergency medical condition" to mean 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.

Sec. 13 AS 21.09.320(b) Maintenance Records

Subsection (b) is amended to require that an insurer, to meet the requirements of AS 21.09.320(a), shall keep records as required by the maintenance records requirements of the insurer's domicile jurisdiction.

Sec. 14 AS 21.09.320(c) and (d) Maintenance of records

New subsection (c) requires the insurer not later than 10 business days after the date of the request to provide the records to the director or make the records available for inspection and copying. The records inspected or examined under this subsection are confidential but may be used by the director in a proceeding against the insurer.

New subsection (d) provides that failure of the insurer to provide the information required by this section may result in a civil penalty of up to \$1,000 for each violation and, an additional civil penalty of up to \$50 for each day the information requested is not provided.

Sec. 15 AS 21.12.090(b) Marine, wet marine, and transportation insurance defined

Subsection (b) is amended to define "wet marine and transportation" insurance as that part of marine insurance that includes only (1) insurance on vessels, crafts, and hulls, and insurance of interests in or with relation to vessels, crafts, and hulls; (2) insurance of marine builder's risks, marine war risks, and contracts of marine protection and indemnity insurance; (3) insurance of freights and disbursements pertaining to a subject of insurance coming within this section; or (4) insurance of personal property and interests in personal property, in the course of exportation from or importation into any country, and in the course of transportation coastwise or on inland waters, including transportation by land, water, or air from point of origin to final destination, in respect to , appertaining to, or in connection with, any and all risks or perils of navigation, transit, or transportation, and while being prepared for and while awaiting shipment, and during delays, storage, transshipment, or reshipment incident thereto. The amendment corrects a drafting error that required all four of the paragraphs to be met to meet the definition.

Sec. 16 AS 21.27.020(c) General qualifications for license

Paragraph (c)(3) is amended to provide that a firm insurance producer, firm managing general agent, firm intermediary broker, firm reinsurance intermediary manager, firm surplus lines broker or firm independent adjuster applicant or license in designating one or more compliance officers for the firm may only designate one compliance officer for each class of authority. A non-substantive drafting convention change is also made to paragraph (c)(5).

Sec. 17 AS 21.27.020(f) General qualifications for license

Subsection (f) is amended to make clear the authority of the director to adopt regulations establishing additional education or experience requirements for continuing education providers.

Sec. 18 AS 21.27.025(a) Required notice of licensee

Subsection (a) is amended to require a licensee to report to the director in writing any change in compliance officer, and any administrative action taken against the licensee by a financial industry regulatory authority sanction or arbitration proceeding. Non-substantive drafting conventions changes are also made.

Sec. 19 AS 21.27.150(a) Limited licenses

Subsection (a) is amended to give the director authority to issue a crop insurance limited producer license. Non-substantive drafting conventions changes are also made.

Sec. 20 AS 21.27.380(a) License renewal, lapse, and reinstatement

Subsection (a) is amended to make non-substantive changes to conform the language to State Based Systems (SBS), an electronic system owned by the National Association of Insurance Commissioners for use by state regulators in support of insurance regulatory functions. SBS enables the division to more efficiently and effectively process license applications, renewals, inquiries, complaints, enforcement actions and other functions while

remaining compliant with national uniformity initiatives.

Sec. 21 AS 21.27.380(b) License renewal, lapse, and reinstatement

Subsection (b) is amended to make non-substantive changes to conform the language to SBS.

Sec. 22 AS 21.27.380(d) License renewal, lapse, and reinstatement

Subsection (d) is amended to make non-substantive changes to conform the language to SBS.

Sec. 23 AS 21.27.640(b) Third-party administrator qualifications

Subsection (b) is amended to require a third-party administrator registrant to notify the director not later than 30 days after the final disposition of an administrative action taken against the registrant by a governmental agency of another state, by a governmental agency of another jurisdiction, or by a financial industry regulatory authority sanction or arbitration proceeding. The registrant must also submit to the director documents relating to the final disposition. A non-substantive drafting convention change is also made.

Sec. 24 AS 21.27.650(r) Operating requirements for third-party administrators

New subsection (r) requires insurers to review its books and records quarterly to determine whether a person or insurance producer has acted as the insurer's third-party administrator. If the insurer so finds, the insurer must notify the person or insurance producer and the director. The insurer and the person or insurance producer must then fully comply with AS 21.27 not later than 30 days after notification.

Sec. 25 AS 21.27.690(b) Operating requirements for reinsurance intermediary brokers; actions for loss

Subsection (b) is amended to add the requirement that an insurer may not use a nonresident reinsurance intermediary broker who is not licensed under this chapter unless the reinsurance intermediary broker has filed a certification with the director that the reinsurance intermediary broker is operating only for a foreign insurer. Subsection (b) is also amended to

add the requirement that a domestic insurer may not use an alien reinsurance intermediary broker unless the alien reinsurance intermediary broker has filed a certification with the director that the reinsurance intermediary broker is operating only for a domestic insurer.

Sec. 26 AS 21.34.035(b) Health care insurance

Subsection (b) is amended to change references from a repealed statute (AS 21.87.190) to the correct references of AS 21.51.405 and AS 21.54.015.

Sec. 27 AS 21.34.050(a) Listing eligible surplus lines insurers

Subsection (a) is amended to remove the authority of the director to adopt a regulation to charge fees to eligible nonadmitted insurers. This amendment is necessary to meet the requirements of the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The division has not been charging this fee since 2011 due to this federal law.

Sec. 28 AS 21.34.050(c) Listing eligible surplus lines insurers

Subsection (c) is amended to remove references to fees charged to eligible nonadmitted insurers.

Sec. 29 AS 21.34.180(a) Surplus lines tax

Subsection (a) is amended to add "home state" to the subsection to be consistent with the NRRA and previous amendments to AS 21.34.

Sec. 30 AS 21.36.025(b) and (c) Unfair marketing practices prohibited

New subsection (b) provides that a person may not sell a membership in an association or labor union for the purpose of qualifying for an individual for group insurance.

New subsection (c) provides that a person that sells a membership in an association may not offer group insurance for purposes of selling memberships in an association or labor union.

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CHAIR COSTELLO asked if this would affect healthcare sharing ministries.

MS. WING-HEIER explained that healthcare sharing ministries aren't an association. They're a carve-out under the Affordable Care Act and aren't considered insurance.

CHAIR COSTELLO asked if "association" is defined in statute.

MS. WING-HEIER replied "bonafide association we do define, bonafide employer is defined a little further back."

She continued to review the sectional analysis.

Sec. 31 AS 21.36.185 Maintenance of complaint handling records

This section is amended to account for differences in recordkeeping requirements between this section and those in the National Association of Insurance Commissioners Health Carrier Grievance Procedure Model Act which the director will be required to adopt under section 4 of the bill.

Sec. 32 AS 21.36.225(a) and (b) Notice of health insurance coverage cancellation, coverage change, or premium change

Subsections (a) and (b) are amended by changing the term "covered individual" to "policyholder" as the intent of the provisions were not to require that every covered person under, for example, a family policy receives the notice. The intent is for the primary insured to receive the notice and in the case of a group for the policyholder to receive the notice. Subsection (b) is also amended to require an insurer to include in the written notice to a policyholder notice of the specific changes in coverage or the exact change in premium.

Sec. 33 AS 21.36.360(b) Fraudulent or criminal insurance acts

Subsection (b) is amended to clarify that a fraudulent insurance act is committed by a person who, with intent to injure, defraud, or deceive knowingly omits material information 1) when presenting to an insurer a written or oral statement in support of a claim for payment or other benefit under an insurance policy or 2) when assisting or conspiring with another to prepare or make a written or oral statement that is submitted to an insurer in support of a claim or benefit under an insurance policy.

Subsection (b) is also amended by adding a new paragraph (7) that would provide that a fraudulent insurance act is committed by a person who, with intent to injure, defraud, or deceive makes a written or oral statement in response to an insurer's inquiries related to another's claim for payment or other benefit under an insurance policy, knowing the statement contains false, incomplete, or misleading information, or omits information concerning a matter material to the claim. This statutory change is intended to address the situation where a person obtains insurance immediately after an accident (to avoid arrest for driving without insurance) and then claims he/she was insured at the time of the accident when the other driver's insurer inquiries about the person's coverage.

Sec. 34 AS 21.36.360(q) Fraudulent or criminal insurance acts

Subsection (q) is amended to provide for a class C felony for a fraudulent insurance act that (1) falsely makes, completes, or alters a certificate of insurance or other document relating to insurance or (2) knowingly possesses a forged certificate of insurance or other document relating to insurance. The current statute does not specify a penalty for these offenses.

Sec. 35 AS 21.36.390(b) Notice to director

Subsection (b) is amended to require an insurer or licensee that has reason to believe that an insurance producer with which it is doing business is involved in violation of (1) AS 21.36.030 (Misrepresentation and false advertising of insurance policies), (2) AS 21.36.050 (Twisting prohibited), and (3) AS 21.36.360 (Fraudulent or criminal acts), to immediately send to the director a report disclosing the basis for that belief and any other information that the director may require.

Sec. 36 AS 21.39.040(a)(2) Rate filings

Paragraph (a)(2) is amended to clarify what is an acceptable effective date for a rate filing.

Sec. 37 AS 21.39.070(a) Deviations

Subsection (a) is repealed and reenacted to allow the division to consider a member's or subscriber's application for a deviation from a rating

organization's class rates, schedules, rating plans, or rules respecting a kind of insurance, or class of risk with a kind of insurance, or combination as part of the regular filing process without requiring a formal order from the director. The amendment would also eliminate the requirements that casualty insurance deviations may only be a uniform percentage deviation and that deviation application copies must also be sent simultaneously to the rating organization.

Sec. 38 AS 21.42.160(d) Contents of policies in general

Subsection (d) is amended to eliminate the requirement that insurers print the year of adoption on all forms submitted to the division.

Sec. 39 AS 21.42.250(c) Delivery or posting of policy; notifications

Subsection (c) is amended to expand the applicability of the subsection to all lines of insurance rather than to just property and casualty lines. The subsection provides for an insurer providing a policy or endorsement by posting the policy or endorsement on the insurer's Internet website and clearly identifying the posted the policy or endorsement purchased by the insured in the declaration page provided to the insured.

Sec. 40 AS 21.45.020(d) Standards provisions required; return and refund

Subsection (d) is amended to correct drafting errors.

Sec. 41 AS 21.48.010(a) Group requirements for group contracts

Subsection (a) is amended to clarify what constitutes a valid group for issuance of life insurance and gives the director authority to add additional requirements by regulation.

Sec. 42 AS 21.48.010(b) Group requirements for group contracts

Subsection (b) is amended to provide that this section does not apply to certain specified life insurance policies.

Sec. 43 AS 21.48.010(e) and (f) Group requirements for group contracts

New subsection (e) provides that a group life insurance policy may be issued to a group that does not meet one or more of the requirements under subsection (a) if the director finds that issuance is in the best interests of the public, results in economies of acquisition or administration, and meets other requirements established by regulation.

New subsection (f) provides that the director must approve the issuance of a group life insurance policy under subsection (a) or (e) prior to issuance of a policy by the insurer under subsection (a) or (e).

Sec. 44 AS 21.51.020 Scope, format of policy

Paragraph (3) is amended to allow a policy of health insurance to cover children of a policyholder under a specified age may not exceed 25 years. The amendment is necessary to avoid conflict with federal law.

Sec. 45 AS 21.51.070(a) Reinstatement

Subsection (a) is amended to provide for an exception to the subsection for a policy offered or renewed in this state on a health care exchange and subject to federal regulation on reinstatement. The amendment is necessary to avoid conflict with federal law.

Sec. 46 AS 21.51.500 Definitions

New paragraph (4) defines "health care exchange" to mean an American Health Benefit Exchange established under 42 U.S.C. 18031.

Sec. 47 AS 21.53.068 Limitations related to producers and third-party administrators

This section is amended to correct a drafting error by changing "compensates" to "does not compensate".

Sec. 48 AS 21.54.015(b) Rate requirements; filings; regulations; health care insurance restrictions

Subsection (b) is amended to correct the paragraph citation to AS 21.54.060 due to amendments being made to AS 21.54.060.

Sec. 49 AS 21.54.060 Group health insurance defined

Paragraph (2) is amended to clarify that associations and labor unions issued group health

insurance policies under this section must be "bona fide associations". A non-substantive drafting convention change is also made.

Paragraph (3) is amended to clarify that group health insurance may be issued under a policy issued to the trustees of a fund adopted or participated in by two or more employers or by one or more labor unions or by one or more employers and one or more labor unions or by an association as defined in paragraph (2). The requirement that the employers be in the same or related industry is deleted with respect to trusts.

Paragraph (5) is deleted and is replaced by the new subsection (b) of AS 21.54.060.

Sec. 50 AS 21.54.060(b) and (c) Group health insurance defined

New subsection (b) provides that a group health insurance policy may be issued to a group that does not meet one or more of the requirements under AS 21.54.060(1) - (4) and (6) if the director finds that issuance is in the best interests of the public, results in economies of acquisition or administration, and meets other requirements established by regulation. This replaces the existing authority and makes it consistent with the group life provision.

New subsection (c) provides that an insurer must submit a form filing that complies with AS 21.42.123 (Form filing subject to prior approval) and establish that the group meets the requirements of subsection (b) in order to issue a group health insurance policy to a group under subsection (b). The director must also affirmatively find that the group meets the requirements of subsection (b) prior to the insurer issuing a group health insurance policy under this section.

Sec. 51 AS 21.54.500(4) Definitions

Paragraph (4) repeals and reenacts the definition of "bona fide association" to the meaning given in AS 21.97.900

Sec. 52 AS 21.56.110(a) Applicability

Subsection (a) is amended to reconcile any conflicts between AS 21.56 and federal law by adding the language "except as prohibited by federal law."

Sec. 53 AS 21.56.120(e) Premium rate restrictions; disclosures; reports; confidentiality

Subsection (e) is amended to correct the paragraph citation to AS 21.54.060 due to amendments being made to AS 21.54.060.

Sec 54 AS 21.56.250(6) Definitions

Paragraph (6) is amended to reflect the definition of "bona fide association" has the meaning given in AS 21.97.900.

Sec. 55 AS 21.59.150(a) and (b) Provider license renewal, lapse, reinstatement.

Subsection (a) and (b) are amended to make non-substantive changes to conform the language to State Based Systems (SBS), an electronic system owned by the National Association of Insurance Commissioners for use by state regulators in support of insurance regulatory functions. SBS enables the division to more efficiently and effectively process license applications, renewals, inquiries, complaints, enforcement actions and other functions while remaining compliant with national uniformity initiatives.

Sec. 56 AS 21.59.170(a) Return and cancellation

Subsection (a) is amended to correct a drafting error by deleting the word "unearned". Non-substantive drafting convention changes are also made.

Sec. 57 AS 21.59.170(b) Return and cancellation

Subsection (b) is amended to correct a drafting error by adding the word "unearned". Non-substantive drafting convention changes are also made.

Sec. 58 AS 21.59.180(a) Provider's financial responsibility

Subsection (a) is amended to correct a drafting error by deleting the words "a provider".

Sec. 59 AS 21.69.310(a) Meetings of stockholders or members

Subsection (a) is amended to remove the requirement for stockholder or member meetings to be held in the city or town of a company's principal office or place of business in this state. The amended statute reflects the reality of the Alaska domiciled insurers

and of the nationwide insurance industry. Of the seven Alaska domestic insurers, one is a U.S. branch of a UK company with central administration in the UK and two other insurers are members of holding company systems that are domiciled in other states and are centrally administered there. This is common nationwide where holding company systems have insurer members domiciled in states other than where the holding company is domiciled. Significant administrative functions are often centralized at the holding company domiciled location for the whole group. The amended statute also accommodates three Alaska domestic insurers from the difficulty of always having to hold stockholder or member meetings at their principal office or place of business. These insurers have board members that are disbursed throughout the state and in other states. Annual meetings are often held in locations other than the principal office or place of business such as in Anchorage where travel to and from is easiest, or rotated to other areas of the state to make it more convenient for members to attend the meetings and to participate on the boards. These insurers are still able to request approval of the director to hold these meetings at a location that is not the principle office or place of business.

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CHAIR COSTELLO said Ms. Wing-Heier will continue the sectional analysis at the meeting tomorrow.

[2:55:08 PM](#)

CHAIR COSTELLO opened public testimony.

[2:55:16 PM](#)

DAVE DONLEY, representing himself, requested the committee add language to HB 372 to require the Division of Insurance to ensure that uninsured and under insured insurance policies clearly state the coverage they provide to insureds as pedestrians and bicyclists. He noted he submitted draft language. The goal is for an insured to be able to read their uninsured and under insured insurance policy and know what it covers. He related that he read his sister's insurance policy after she was killed by a hit and run driver. Nowhere did it say that there was any coverage provided as a pedestrian. It seemed to imply the opposite. His brother in law called the agent and was told that there was coverage.

MR. DONLEY said that when he returned home he called his State Farm agent to ask if his family was covered under their UMUI when they are pedestrians or bicyclists. He was told they were covered even though it wasn't in the policy language. He contacted the director of insurance who researched the matter and said there wasn't any national standard for that language. He suggested moving forward with language for Alaska policyholders and she agreed it was a good point but it went no further. When he saw this omnibus insurance bill yesterday, he decided this was just the vehicle to fix this glitch.

He requested the director of insurance develop guidelines.

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SENATOR MEYER summarized that there is statutory language but it isn't required to be stated in the policy.

MR. DONLEY agreed. He reiterated his intent.

SENATOR MEYER suggested the committee ask the director when the committee

[3:00:53 PM](#)

CHAIR COSTELLO held HB 372 in committee with public testimony open.

[3:01:05 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:01 p.m.