

HOUSE FINANCE COMMITTEE

April 24, 2017

1:34 p.m.

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CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 1:34 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Steve Thompson
Representative Cathy Tilton
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Teresa Holt, Long-Term Care Ombudsman, Department of Revenue; Denise Daniello, Alaska Commission on Aging, Juneau; Representative Matt Claman, Sponsor; Sara Perman, Staff, Representative Matt Claman; Sarah Chambers, Department of Commerce, Juneau.

PRESENT VIA TELECONFERENCE

Kelda Barstad, Health Program Manager - Senior Disabilities Services, Department of Health and Social Services, Anchorage; Kevin McKinley, Chair, Board of Barbers and Hairdressers, Fairbanks; Christina Carpenter, Department of Environmental Conservation DEC, Anchorage; Christina Carpenter, Direction, Division of Environmental Health, Department of Environmental Conservation, Anchorage;

Beverly Harper, Self, Anchorage; Lynn Gattis, Self, Wasilla; Rachel Lauesen, Attorney, Anchorage.

SUMMARY

HB 222 LICENSURE OF MANICURISTS/NAIL TECHS

CSHB222 (L&C) was REPORTED OUT of Committee with a "do pass" recommendation and with a previously published fiscal impact note: FN1 (CED).

SB 83 PROTECT: VULNERABLE ADULTS/LONG TERM CARE

SB 83 was HEARD and HELD in committee for further consideration.

Co-Chair Foster reviewed the agenda for the day.

#sb83

CS FOR SENATE BILL NO. 83(HSS)

"An Act relating to the protection of vulnerable adults and residents of long term care facilities."

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TERESA HOLT, LONG-TERM CARE OMBUDSMAN, DEPARTMENT OF REVENUE, explained that the word Ombudsman was a Swedish word that meant representative of the people. She explained that SB 83 amended provisions of AS 47.62, related to the Office of the Long Term Care Ombudsman and certain provisions of AS 47.24 (protection of vulnerable adults) to ensure alignment with 42 U.S.C. 3058(g) (Older Americans Act of 1965) and its implementing regulations. She furthered that the Older Americans Act Reauthorization Act of 2016 created new regulations for the Long Term Care Ombudsman program. The federal Administration for Community Living reviewed all states for compliance to the new act and discovered the two Alaskan statutes out of alignment. Regardless, the Department of Revenue (DOR) believed that the changes were beneficial to Alaska's program.

Ms. Holt related the provisions in the bill. She reported that the legislation aligned state and federal statute and regulations to ensure that the Ombudsman only shared resident information with informed consent and only obtained records, investigated, and provided referrals when

a resident was unable to provide informed consent. The bill included new definitions for "resident" and "resident representative." She indicated that due to a conflict of interest, the bill removed the option for mandatory reporters to meet their reporting requirements by submitting reports to the office of the Long Term Care Ombudsman. In addition, the bill clarified the separation of the role of Long Term Care Ombudsman from the role of the Department of Health and Social Services (DHSS) and allowed the Ombudsman's office to serve residents in long term care facilities under 60 years of age.

Representative Kawasaki asked about the language changes in sections 4 and 6 of the legislation that dealt with the Ombudsmen's ability to share reports. He asked about the effects of the change from "shall" to a "may". Ms. Holt responded that the Central Intake Office received approximately 250 reports of abuse each week. She communicated that subsequently, reports were sent to different agencies, i.e., Quality Assurance, Adult Protective Services, Licensing for Assisted Living Homes, and the Long Term Care Ombudsman's Office. The language allowed the intake office to only send the Ombudsman's Office the reports that applied to the Ombudsman.

Representative Wilson referred to page 1, lines 9 and 10 of the bill and noted the change from "Centralized Intake Office" to "Central Information." She inquired about the difference and wondered whether the change involved a "centralized data base versus and central data base." Ms. Holt deferred to the question to DHSS.

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KELDA BARSTAD, HEALTH PROGRAM MANAGER - SENIOR DISABILITIES SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, ANCHORAGE (via teleconference), replied that Centralized Intake was a new name for the intake department and did not refer to the registry or the database.

Representative Wilson noted the change to a "resident representative." She asked about the qualifications of a resident representative. Ms. Holt responded that the change only applied to the Long Term Care Ombudsman and expanded the list of who was authorized to grant permission on behalf of an elder for and investigation. The provision included a power of attorney, guardian, and a designee. She

qualified that the elder can appoint a designee only if the senior was their own guardian.

Representative Wilson pointed to page 6, lines 4 through 10. She read the following:

(b) Notwithstanding the provisions of AS 47.62.015(c)(1), the ombudsman may obtain medical or other records of a resident of [AN OLDER ALASKAN WHO RESIDES IN] a long term care facility in the state only with the consent of the resident or the person's resident representative or [OLDER ALASKAN OR THE OLDER ALASKAN'S] legal guardian or, if the resident [OLDER ALASKAN] is unable or incompetent to consent and does not have a resident representative [LEGAL GUARDIAN], only with a subpoena or court order.

Representative Wilson asked for clarity. Ms. Holt replied that the language only applied to retaining records and resident representative was "all inclusive." She asked Representative Wilson to clarify her question. Representative Wilson did not understand the paragraph. She did not understand why the reference to legal guardian was included on line 8 and removed on line 10. Ms. Holt pointed to the definitions page [page 7, line 10]. Representative Wilson emphasized that legal guardians were appointed by the court. She believed that resident representative had a much lower threshold. She was concerned with removing the language, "legal guardian" due to the fact that the elder might not be in a clear state of mind when appointing a resident representative.

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Ms. Holt replied that the language was based on the federal requirements and that it was necessary to include the language to align with the federal law. She offered that the provision allowed the Ombudsman's office to disregard the resident representative's decisions if it determined the representative was not acting in the resident's best interest. Representative Wilson did not really care about the federal regulations if they made someone unsafe or misrepresented. She referenced page 6, lines 15 through 30 and deduced that the long-term care facility "could make that determination."

Ms. Holt answered that the section was in reference to a very specific situation. She explained that the four circumstances listed in the section were the only instances when the ombudsman can share the information and only if the older Alaskan was unable to provide consent and did not have a resident representative. She provided the example of a homeless person who ended up in a facility and pointed out that the provision was important in that type of situation. She noted that the law was added to federal law because it was a problem when the ombudsman could not obtain consent. She delineated that the four reasons were based on health, safety, welfare, and the best interest of the person. The ombudsman was the only official sanctioned to make the authorization and the decision could not conflict with any evidence that the resident would disapprove of the referral. Representative Wilson maintained concern over the legislation. She asked what the current provisions were versus the changes in the bill. Ms. Holt relayed that currently the situation and therefore, the provisions applied to a very small number of residents. The ombudsman worked by talking with residents of long term care facilities to identify and assist them with any issues. The whole matter of resident representatives was exclusively to help the ombudsman obtain permission to work on behalf of a resident.

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Representative Guttenberg commented that at times the fiscal notes were revealing. He referred to the analysis on page 2 of fiscal note 2, FN2 (REV) and read the following:

Clarifies that the OLTCO may serve residents in long term care facilities who are under the age of 60;

Representative Guttenberg referred to page 4, line 13 of the bill. He noted that the language deleted individuals under 60 years of age. He inquired where the language in SB 83 was located that ensured the ombudsman's office served residents under 60 years old. He wanted to reconcile the difference between the fiscal note analysis and the bill. Ms. Holt asked the representative to further clarify. Ms. Holt explained that the legislation stated that the ombudsman can serve anyone in a long term care facility at any age in accordance with the federal law. Representative Guttenberg cited additional analysis from the fiscal note. He read the following:

Removes the option for mandatory reporters to meet reporting requirements by submitting a report to the OLTCO and clarifies the differences in the roles of the Long Term Care Ombudsman, Adult Protective Services, and (Health Care Services) licensing division.

Representative Guttenberg expressed concerns regarding the "flow of reporting." He wanted to ensure that the reports were forwarded to the right service provider and not "stuck in an intake office." He wondered how the flow of reports was facilitated. Ms. Holt explained that Central Intake disseminated all of the reports for any vulnerable adult over 18 years of age to the appropriate office. The bill prohibited mandatory reporters from providing the report to the ombudsman's office and "count that action as their mandatory reporting." The direct exchange created a conflict with the ombudsman's office who followed the direction of the resident or resident representative and can only undertake an investigation by their request. The legislation clarified that the mandatory reporters were required to send their reports directly to the Central Intake Office.

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Vice-Chair Gara asked about the number of complaints the ombudsman's office investigated in one year. She reported that her office "opened" roughly 662 cases every year for investigation. Vice-Chair Gara inquired about the number of staff employed in the office. Ms. Holt replied that the office employed 6 staff in total. Vice-Chair Gara wondered what positions were employed. Ms. Holt responded that the Office of the Long Term Care Ombudsman was comprised of an Ombudsman and Deputy Ombudsman, three assistant ombudsman and one intake specialist. Vice-Chair Gara asked whether the office was a "stand-alone" within the department. She answered that the office operated under the Alaska Mental Health Trust Authority (AMHTA) and were housed in its building. Vice-Chair Gara inquired whether every state was required by federal law to maintain an Office of the Long Term Care Ombudsman. Ms. Holt responded in the affirmative. She added that the mandate was part of the Older Americans Act. Vice-Chair Gara asked whether there were further federal requirements regarding the ombudsman's office. Ms. Holt indicated that although no further federal requirements were imposed, there were standards regarding

visiting every facility every quarter. She detailed that currently the office visited 18 nursing homes and 249 assisted living homes licensed to serve seniors. Vice-Chair Gara asked whether the numbers included visits without complaints. Ms. Holt replied in the affirmative. She added that the office recruited and trained volunteers and that 30 volunteers assisted in the quarterly visits. Vice-Chair Gara asked what portion of the paid staffs work was spent visiting rather than following up on complaints. Ms. Holt answered that facility visits comprised approximately 60 percent of the work. She elucidated that the more frequent the visits the less problems the facility had.

Co-Chair Foster noted that Representative Claman and Representative Parrish joined the audience.

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Representative Guttenberg asked whether the bill "significantly" changed how responsive the system that facilitated meeting the needs for seniors was or if the bill was simply a compliance issue. He asked if she heard concerns from seniors in regards to the legislation.

DENISE DANIELLO, ALASKA COMMISSION ON AGING, JUNEAU, responded that her office had no problems with the legislation that brought the state into compliance with federal statutes. She appreciated the changes regarding the flow of reports funneling through the Central Intake Office. She offered that the provision assisted the commission to track the number of reports more efficiently.

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Co-Chair Foster OPENED Public Testimony.

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Co-Chair Foster CLOSED Public Testimony.

SB 83 was HEARD and HELD in committee for further consideration.

hb222

HOUSE BILL NO. 222

"An Act relating to the licensure of nail technicians; and providing for an effective date."

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REPRESENTATIVE MATT CLAMAN, SPONSOR, read from a prepared statement:

In 2015, the legislature passed House Bill 131 in hopes of improving the health and safety of nail salon patrons. House Bill 131 outlined new regulations, including requiring 250 hours of education and an examination, to become a licensed "nail technician". Prior to the 2015 bill, a person could receive a manicurist's license by completing 12 hours of training, though many people received a few hundred hours of training in the States before practicing in Alaska. In 2015, the House made an amendment on the House Floor that wrought unintended consequences on existing licensees that would be seeking renewal in 2017.

The floor amendment added a grandfather clause but the grandfather clause was unclear. The Barbers and Hairdressers board consulted with the Department of Law and interpreted the new statute to have a grandfather clause that allowed manicurists to practice for 2 years before having to go back and take training all over again.

House Bill 222 seeks to remedy the onerous renewal process enacted by the 29th legislature while protecting the health and safety of Alaskans.

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SARA PERMAN, STAFF, REPRESENTATIVE MATT CLAMAN, read from a prepared statement:

House Bill 222 amends AS 08.13.030 by clarifying the grandfather clause, which allows individuals who held a manicurists' license prior to December 2015 to forego the 250 hours of instruction in manicuring required of new applicants. They will still be required to prove 250 hours of prior work experience as a manicurist.

The current rules for nail technicians are outlined in House Bill 131, which the 29th Alaska Legislature passed in 2015. The House Labor & Commerce Committee intended to include a grandfather clause in statute. The bill was amended on the House Floor to add a grandfather clause. However, the Board of Barbers and Hairdressers interpreted the passed bill to have a temporary, confusing grandfather clause. The following is now required of experienced manicurists seeking to renew their license:

- By August 31, 2017, proof of 250 hours of work as a manicurist.
- By August 31, 2017, taken and passed a written or oral examination.

After one renewal period, however, an experienced manicurist is nevertheless required to take 250 hours of educational coursework to receive a "nail technician" license after a two-year grandfathered license that does not require the coursework. HB 222 seeks to remove the education requirement for people who were already licensed and working under statutes prior to December 31st, 2015.

Requiring 250 hours of coursework, or essentially six weeks to two months of fulltime effort, could mean these experienced, working manicurists might not be able to work. Many of the individuals who would be affected are "Mom-n-Pop" business owners or single mothers. Requiring this training for persons who have been practicing successfully for years could have detrimental impacts on their finances and families.

It is the intention of HB 222 is to remove the unnecessary burden of educational training hours for experienced manicurists who practiced prior to December 31st, 2015.

Ms. Perman read the sectional analysis:

Note: As the CS HB 222 (L&) was adopted on the first hearing before opening statements, we have not included an explanation of changes from version A.

Section 1 - Amends the uncodified law of the State of Alaska by adding a new section of legislative intent that the Board of Barbers and Hairdressers allowing

license applicants the ability to use a translator during their required oral or written examination.

Section 2 - Amends AS 08.13.030 by adding a new subsection (d) that states that the Board may not require 250 hours of instruction in manicuring (under AS 08.13.080(a)(4)) for applicants who hold a valid license to practice manicuring that was issued before Dec. 31, 2015. This, in effect, defines the grandfather clause.

Section 3 - Amends Sec. 13(a), ch. 27, SLA 2015 allowing a person who holds a valid license on Jan 1, 2016 to continue practicing manicuring until their license normally expires. Subsection (1) states that a person is allowed to renew their license before August 31, 2017, if the person meets preexisting requirements under AS 08.13 as it existed prior to Jan 1, 2016. Subsection (2) states that a person may renew their license for an additional period before August 31, 2019 if the person submits (A) proof of 250 hours of satisfactory work experience and (B) has taken and passed a written or oral exam under AS 08.13.090. Section 4 - Retroactively amends Section 13(a), ch. 27, SLA 2015, by section 3 of this Act to Jan. 1, 2016.

Section 5 - Provides an immediate effective date.

Ms. Perman summarized that the intention of the legislation was to remove the unnecessary burden of additional educational training hours for experienced manicurists who practiced prior to December 31, 2015 and extended equal opportunity for individuals who may have difficulty with language barriers. She noted that the fiscal note reflected an amount of \$5 thousand for regulatory changes that were covered in licensing fees.

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Representative Grenn asked about the number of people that would be grandfathered in. Representative Claman thought the number was approximately 975. Representative Grenn asked whether the board agreed with the changes.

KEVIN MCKINLEY, CHAIR, BOARD OF BARBERS AND HAIRDRESSERS, FAIRBANKS (via teleconference), corrected that the number

of licensed manicurists was currently 944. He favored HB 222. The bill carried out the original intent of the board in respect to manicurist licenses and protected the health and safety of Alaskans.

Representative Guttenberg cited the letter by the law firm of Fortier and Mikko dated March 20, 2017 (copy on file). The letter interpreted that the previous bill's HB 131 (Licensure of Manicurists/Hair Dressing) [Chapter 27 SLA 15 05/26/2015] grandfathering clause intended to apply to licensed manicurists. He asked whether that was the intent of HB 222. Representative Claman explained that as he understood the previous bill created a two year grandfathering clause that still required the licensed manicurist to take the 250 hours of instruction after two years. Initially, a written test in lieu of the instructional hours was instituted as a way to solve the issue. However, the test was not available in multiple languages and proved problematic for some manicurists. He added that provisions in HB 222 were added to make interpreters available during the testing.

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Vice-Chair Gara asked about the importance of 250 hours of training. Mr. McKinley answered that most of the training would focus on aseptic techniques, skin conditions, sterility, and barely touched on the health and safety of the practitioner. He felt that the 250 hour requirement was at the lowest end of the typical licensing requirement and was not an exorbitant expectation. Vice-Chair Gara asked why the state was not requiring licensees to get the additional training and provide a longer deadline, if the training was important. Mr. McKinley believed that the requirement would be a hardship for licensed manicurist and felt that experience should qualify. He elaborated that many manicurist were trained via apprenticeships in a shop or school and the practice was acceptable. Vice-Chair Gara was not convinced work experience met the same standard that training provided. He was concerned about safety. Mr. McKinley answered that passing the national exam for their next renewal period and work experience were accountable standards.

Representative Kawasaki asked about the required schooling. He wondered what the required instructional costs were in

the state. Representative Claman responded that one school in Alaska offered the course for \$3.5 thousand.

Representative Kawasaki inquired whether the manicurist school was required to obtain a license by the Alaska Commission on Postsecondary Education (ACPE). Mr. McKinley affirmed that the school had to be accredited by the commission. He contended that there were currently 3 schools in the state costing approximately \$1000. Representative Kawasaki maintained that there were no accredited manicurist schools in the state. He asked whether the board heard complaints regarding violations of health and safety. Mr. McKinley responded that health and safety violations were forwarded to the Department of Environmental Conservation (DEC). He specified that the board handled licensing. Representative Kawasaki was trying to establish whether any complaints were received from "non-trained" nail technicians. He announced that he voted against the original bill. He recounted that the reason for the original bill was to prevent health and safety issues. He wanted to see numbers that proved the case. Mr. McKinley maintained that the instruction protected the health and safety of the public and also increased the skill level. Representative Kawasaki wondered why not require 500 instructional hours. Mr. McKinley thought that 250 hours was a good medium point and a jump from the 12 hour requirement to 500 was excessive.

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Representative Wilson wondered about the 250 hour requirements. She stated that pilots and school bus drivers were not required to have that many hours. She asked where the data was derived to justify the amount. Mr. McKinley was comparing the number of hours that other states required for licensure. Representative Wilson wondered about the number of complaints other states received and whether that was the basis for the 250 hour requirement. Mr. McKinley relayed that Alaskan practitioners complained that their license was not valid in other states. The increase provided the manicurist more opportunity to use their license elsewhere. The increase was centered more on the employment factor and was the basis of comparisons to other states.

Representative Wilson asked whether the increase was based on safety issues or more about reciprocity with other

states. Representative Claman explained that when the bill was first introduced the issue was focused on blood borne pathogens. He added that he did not know whether any complaints arose regarding health and safety.

Representative Wilson thought that 2 issues were being discussed. She noted the school accreditation issue which was a provision in the bill. She requested to hear from DEC regarding health and safety violations. She pondered whether the bill was solving an issue or making it harder and more costly for an individual entering the profession. She wondered about costs for professional interpreters for testing. She asked who was paying the costs for the interpreters.

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Mr. McKinley believed that the discussion was veering off track by comments that the bill was more about reciprocity over health and safety. He voiced that both issues were important. Most states required 300 hours of instruction. He understood that the commission accredited the schools. Representative Wilson asked which schools were accredited by the commission. Mr. McKinley knew of 3 accredited nail technician schools but not their names. Representative Wilson felt that it was imperative to find the correct answer.

Representative Thompson thought that schools would address health and safety issues. He was concerned about the amount of instruction required to cover the issue adequately. Representative Claman responded that the goal of HB 222 was to fix the grandfather clause and the exam issue. The issues regarding the content of the educational requirement was addressed in the previous bill.

Representative Grenn clarified that the original bill HB 131, established the increased educational requirement. Ms. Perman responded in the affirmative.

Representative Grenn ascertained that HB 222 fixed the grandfather clause for manicurist licensed prior to December 31, 2015 and allowed them to continue without the 250 hour requirement. Representative Claman replied that the bill granted previously licensed manicurist credit for their prior work experience and had to prove that they had

worked at least 250 hours and were also required to take the exam.

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Representative Wilson asked whether the state reciprocated and accepted other states licensure of 250 hours. Ms. Perman responded that manicurists were required to take the Alaskan exam. Representative Wilson thought that the confusion was in the attorney's letter. She relayed that the letter reported the existence of three manicurist schools but none were accredited by ACPE. She requested verification of their accreditation status. She worried that the schools did not offer the advanced curriculum recently required by statute. Representative Claman replied that the letter was referring to the currently licensed manicurists and the consequences if HB 222 was not adopted and the grandfathering clause was not corrected. He reiterated that the grandfathering clause allowed a currently licensed manicurist work experience count in lieu of the 250 hour training requirement and was the goal of the legislation. He thought that the schools lack of accreditation was problematic for newly licensed manicurists. Representative Wilson deduced that approximately 317 manicurists would still not be grandfathered in with passage of the bill. She wanted to gather information regarding manicurists' violations in regards to health and safety before moving the legislation forward. She also maintained her concern regarding the manicurist schools lack of accreditation and how that would affect the 317 manicurists' ability to work in the state. She thought it was vital to obtain the answers regarding accreditation.

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SARAH CHAMBERS, DEPARTMENT OF COMMERCE, JUNEAU, informed the committee that the three manicuring schools were licensed and accredited with ACPE. She related that she verified the information with the division's licensing examiner. The department was prohibited from issuing a license unless the school was accredited. She revealed that there were 99 investigations of barbers and hairdresser licensees in the previous fiscal year that ended in punitive action. She was unsure whether any were specifically against manicurists and offered to provide the information. She detailed that DEC conducted the safety and

sanitation duties via statute as the "experts" in the field. In the prior 2 years DEC, due to budget cuts stopped investigating schools and shops for safety and sanitation violations. The facilities were inspected but not specifically the manicurists. She qualified that tattoo parlors and cosmetic coloring shops inspections were continuing. The division did not have the statutory authority to inspect or investigate and tried to fashion an agreement with DEC. She noted that another bill, SB 4 (Non-Chemical Barbering; Hair Braiding), granted the division and the Board of Barbers and Hairdressers the authority to perform inspections and investigations. The two agencies were working to resolve the inspection issue until a statutory change was adopted.

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Representative Guttenberg referred to Ms. Chambers comments about inspections and that DEC was still inspecting tattoo parlors. He asked who was carrying out the inspections and paying for them. He felt that health inspections were important and wanted them to continue. Ms. Chambers responded that the DEC inspection of tattoo parlors fell under a reciprocal agreement with the Board of Barbers and Hairdressers. The division was billed by DEC and the board's fees covered the RSA (reimbursable services agreement) between DCCED and DEC. The tattoo parlor inspections were self-sustaining. Representative Guttenberg thought that the part members were concerned about was the health and safety inspection. He wondered why DEC stopped the inspections when the licensing fees covered the costs. Ms. Chambers believed that agencies "should follow statues" but understood the nature of budget cuts. She recommended that DEC speak to the issue. She reiterated that the division was attempting to address the issue through SB 4 that granted the board authority to carry out health and safety inspections. She characterized the situation as being in "limbo."

Representative Wilson asked if the license fees were paying for the tattoo parlor inspections why the hairdressers and barbers inspections weren't being carried out by DEC as well. She asked about the number of instructional hours required for tattoo artists licensing. Ms. Chambers agreed with her inquiry regarding inspections. She deferred the question to DEC.

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CHRISTINA CARPENTER, DIRECTION, DIVISION OF ENVIRONMENTAL HEALTH, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, ANCHORAGE (via teleconference), replied that since FY 16 the department had "significant" reductions in Food Safety and lost 9 or 10 employees. The remaining staff was focused on "high risk" facilities in both food and sanitation and eliminated some of the work in the "lower risk" facilities. Representative Wilson wondered why the RSA funding was not enough to cover the Food Safety program. Ms. Carpenter responded that the Hairdresser and Barbershop inspections did not require a full-time PCN (Position Control Number) and the work amounted to \$5 thousand per year on a complaint basis only. The remaining staff were shifted to high risk facilities. Representative Wilson queried what type of complaints DEC received in regards to manicurists. Ms. Carpenter was unsure and offered to provide the information at a later date.

Vice-Chair Gara queried about the severity of complaints that were filed against manicurists who did not receive the training. Ms. Chambers did not have the information available because the bill did not address the topic. Vice-Chair Gara deduced that the topic was addressed in the bill due to the fact that the underlying question was whether job experience was as good as instruction time to ensure the public's health and safety. Ms. Chambers explained that "the exam was the great equalizer." She relayed that the board's view was that the exam gauged the education and work hour experience. She delineated that all manicurists had to pass the national exam to renew their licenses. Vice-Chair Gara was unsatisfied with her answer. He asserted that if the exam was the great equalizer why require the 250 hour training. He wanted to determine whether the public was in danger or whether the training was not necessary and requested answers. Ms. Chambers restated that the purpose of the legislation was to determine whether to waive the 250 hour instructional requirement for a renewal. She elaborated that the professional board decided that an exam alone was inadequate. She listed the instructional requirements of the board's various licensees: body piercing, 1000 hours; tattoo artists, 380 hours; and hairdressers, 1650 hours. The question was whether the exam was an alternate pathway for the 250 hour educational requirements.

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Co-Chair Seaton asked for clarification regarding the 250 hours of experience. He thought that the 250 hours would be required as well as the exam and that there was no alternative path. Ms. Chambers clarified that currently the statute required that every manicurist had to obtain the 250 hour training and take the exam. The bill allowed currently licensed individuals the opportunity to use their work experience and take the exam in lieu of the additional training. Co-Chair Seaton asked whether there were two different licenses for manicurist. Ms. Chambers replied that prior to the 2015 legislation there were two separate licenses. She explained that the advanced manicurist license required 250 hours of training and a regular manicurist license required 12 hours. The previous legislation, HB 131, leveled the playing field and elevated the standards for all manicurists by eliminating the regular manicurist license. The new license is called the "nail technician license" and required the 250 hours of education for all manicurist.

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Representative Ortiz referenced the reduction in inspections by DEC and the funding for the inspection work. He inquired whether DEC was collecting the inspection fees when staffed at higher levels. Ms. Carpenter clarified that DEC did not collect fees for the inspections, the funding went through an RSA with DCCED.

Co-Chair Seaton referenced the discussion regarding the manicurists paying the same licensing fees which included fees for inspections but were not included in the inspections. He asked whether that was correct. Ms. Chambers clarified that the fees paid to DEC for inspections were minimal and a tiny fraction of the other costs for the licensing program. She specified that AS.08.01.065 required that all of the different license types were charged the same licensing fee.

Vice-Chair Gara read the original statute which indicated that manicurists were required to take 250 hours of instruction and pass a written exam. He believed that if all of the manicurists performed their job safely the 250 hour requirement was unnecessary. He wondered how he could determine whether a manicurist was functioning in a safe

manner. He asked if the exam was the great equalizer could the licensee still pass the test while answering all of the questions related to health and safety wrong. Ms. Chambers was aware there was an overall passing score but was uncertain how the amount and types of questions were distributed. She observed that the general question about trusting a professional was often asked. She exemplified the question regarding how a person knew their doctor was safe. She offered that it "boiled down to a policy call of the legislature setting guidelines in statute and DCCED carrying out its duties of following up on complaints and carrying out inspections.

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Vice-Chair Gara stated that he would not hold up the bill.

Representative Ortiz asked whether the prior work experience had to be performed in Alaska. Ms. Chambers replied that the work experience applied to the licensure from any state. She explained that the licensure allowed a manicurist to apply by waiver, which recognized another state's license.

Representative Wilson commented that in reality there was no way of knowing whether a professional was performing safely just by testing or requiring a certain number of hours for licensure.

Co-Chair Seaton was curious about the answer that experience from outside of the state counted and a waiver process was in place recognizing licenses from other states. He wondered whether the waiver could apply to the in-state manicurists licensed before 2015 through documenting their hours of work experience. Ms. Chambers responded that currently an apprenticeship program counted apprenticing hours in lieu of instructional hours towards licensure. Co-Chair Seaton restated his question regarding waiving the required educational requirements for in-state practicing manicurists. Ms. Chambers explained that the ability to use work accumulated hours from another state to qualify for a waiver was in addition to other qualifications. She clarified that the instructional hours could also be taken outside of the state.

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Representative Ortiz clarified his previous question regarding the eligibility of work hours completed from another state qualifying for the grandfathering clause in lieu of instructional hours in Alaska. Ms. Chambers relayed that in current regulation a person could participate in an apprenticeship or required education and take the licensing exam. In addition, a verified manicurist license from another state with the requisite hours of training qualified for an Alaskan license via a waiver. Currently work hours only count for licensure in an apprenticeship program.

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Co-Chair Foster OPENED Public Testimony on HB 222.

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BEVERLY HARPER, SELF, ANCHORAGE (via teleconference), testified in support of the legislation. She was the mother-in-law of an Alaskan manicurist with a 12-hour license prior to December, 2015 who spoke English as a second language. She shared that her daughter-in-law received her renewal letter stating that manicurist must have worked 250 hours, pass an exam, and take 250 hours of education in order to renew her license. She reported that she called the board who confirmed the requirements as written in the letter. She contacted the national accrediting entity that wrote the exam used in Alaska who told her the exam was available in many other languages and used in other states. A passing grade of 75 percent and above meant that the manicurist "met all level standards of competence." She then contacted Representative Claman and related that the regulations and the statutes were not congruous. She explained that HB 131 was currently the law and if HB 222 was not adopted currently licensed and practicing manicurist were required to pass the exam by August and then attend 250 hours of education. She discovered that two of the manicurist schools in the state offered 250 hours of education during daytime hours in the classroom only. The school in Anchorage charged \$3500 and one in Wasilla charged \$4000. The schools were not listed as accredited. She understood the concerns of the committee but noted that everyone licensed to do something probably had to take an examination; the exam may not be perfect, but it was the best that could be done. She stressed the importance of passing HB 222. She indicated that

manicurists working for many years and took the exam still had to obtain the classroom instruction. The individuals that had already taken the exam had proven their competence. She opined that the current law contributed to "lining the pockets" of Glenda Ledford [Glenda's Training Center] who owned the school in Wasilla and was chairman of the board in 2015.

Representative Wilson asked whether the manicurists that had taken the test in February received the results. Ms. Harper answered that the results had been received about one week earlier. She clarified that the test was given on March 17, 2017. She elaborated that the long lag time between taking the test and receiving the results caused individuals who failed to miss the sign-up for the next test date. Some chose to pay the testing fee of \$250 and sign-up again without knowing their results as a precaution. Currently, the process was quite a financial burden; some of the individuals were business owners. She emphasized that manicurists did not earn a lot of money and worked many hours each work.

Representative Ortiz asked Ms. Harper to objectively share any anecdotal information about the quality and relevancy of the test. Ms. Harper answered that her daughter-in-law had relayed that the test had been very comprehensive. She knew that the contents of the test related to pathogens, sanitation, and anatomy. She reported that her daughter-in-law took the test in Vietnamese and others who had taken the test in Vietnamese and failed felt that the Vietnamese language in the test was not clear and proved very difficult for the examinees. She spoke to an English speaking manicurist's with 20 years' experience who failed the test and felt the test was "very difficult."

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LYNN GATTIS, SELF, WASILLA (via teleconference), reported she had been the bill sponsor of HB 131 when she was a state representative. She provided a history of the issue. She explained that for 8 years the board was looking into offering a license that was reciprocal. There were 47 other states that offered licensure reciprocity. She also stated that another goal was born out of the desire for health and safety. She emphasized the importance of protecting the public's health and safety. The previous statute did not address the new techniques in nail beauty. She spoke of

some of the techniques that had been improved and changed over time. The board wanted the statutes to reflect the new techniques and technology in use today and changed the licensing name to nail technician. She had sought out feedback from nail salons regarding HB 131. She noted that those who responded felt that the regular manicurist were not adequately trained and also wanted to incorporate an apprenticeship program into licensure. She summarized that the small nail businesses wanted the health and safety aspect increased, a grandfathering clause, and a license that qualified as reciprocating. She asserted that boards were advocates for their industry and decided what was needed. The problem with HB 131 was that the House Floor adopted an amendment "on the fly." She supported HB 222. Some of the nail technicians she had polled were very upset with the provisions in HB 131 and regretted providing feedback. She warned that many small nail business "were hanging on the line" due to the error. She thought HB 222 made the appropriate correction.

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Representative Wilson asked why HB 131 required a written exam for currently licensed manicurists; some of whom practiced for over 20 years. Ms. Gattis relayed that she personally did not feel the test was necessary. The manicurists advocated for the exam requirement for those that never had taken it so that the license was reciprocal. The manicurist did not want the provision to apply to practitioners who had taken the test. She mentioned that HB 222 corrected the error. Representative Wilson understood that the grandfathering still required everyone to take the exam.

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RACHEL LAUESEN, ATTORNEY, ANCHORAGE (via teleconference), represented a current licensed manicurist who preferred to remain anonymous due to fear of retaliation for retaining a lawyer. She supported HB 222. The bill impacted over 1,200 licensed manicurists. It was unclear whether the 99 cases of violations mentioned included manicurists. She reminded the committee that the board represented a larger group of professionals. She contended that when HB 131 was adopted there was not a manicurist or representative of the occupation on the board. She also commented that the ACPE website did not include the three manicurist schools on

their list of accredited schools and pointed out that the accreditation was expressly required in statute. She thought there was confusion about the meaning of the bill. She explained that if HB 222 did not pass there would be many manicurists that would not be able to work and support their families. The current law required passing the exam by August 31, 2017. She declared that the bill corrected the issues and solved the problem. The bill was supportive of protecting the public's health and safety while not creating unreasonable barriers to enter the profession. She maintained that existing law did not mandate the additional 250 hours of instruction for individuals who passed the exam and had 250 hours of work experience. She offered that DCCED interpreted HB 131 in the manner that also required educational hours. In addition, the regulations did not require the training. She spoke with DCCED who stated that in order for them to change their interpretation the legislature needed to change the law.

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Co-Chair Foster CLOSED Public Testimony.

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Representative Wilson queried whether the bill was really an interpretation problem and if the legislative fix was necessary. Representative Claman deferred to Ms. Chambers.

Ms. Chambers responded that DCCED forwarded Ms. Lauesen's letter over to the state's attorney. She relayed that the attorneys at the Department of Law (DOL) interpreted the law as mandating the 250 hours of education and disagreed with Ms. Lauesen's interpretation. Representative Wilson wondered whether the interpretation applied to manicurists who came from out-of-state. Ms. Chambers relayed that the board adopted regulations that DOL found consistent with statute. The question had to do with the transitional provisions for existing Alaskan manicurists and how the application of the transitional language that was included in HB 131 was what was being corrected in HB 222. A licensed manicurist could use work hours as an alternative pathway.

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Representative Wilson presented a hypothetical scenario of an Alaskan nail technician with 20 years of experience. She wondered whether the manicurist had to take the exam and the 250 hours of instruction while someone from out-of-state was not required to take the training. Ms. Chambers deduced an informational sheet or chart containing the licensure pathways would offer more clarity and offered to provide it.

Representative Claman reviewed that if HB 222 passed, the 250 hours of work experience substituted for the educational requirement for currently licensed manicurists but the practitioner would still need to take an exam. Representative Wilson understood that under current law a manicurist from Hawaii with 20 years' experience could take the exam and receive an Alaskan license. Representative Claman was uncertain about current law but affirmed her understanding under provisions in HB 222. Representative Wilson maintained her concerns about the difference between Alaskan practitioners versus out-of-state manicurists' requirement. She thought "it made no sense."

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Ms. Chambers agreed with Representative Claman that the current bill addressed her concern.

Representative Thompson stated that by August, 2017 some small shops would be out of business. He thought "time was of the essence." He proposed swift passage of the bill in the House and the process expedited through the Senate.

Representative Kawasaki thought that the bill applied to only those with a license prior to December 31, 2015. Representative Claman responded in the affirmative. Representative Kawasaki relayed his objection to the 250 hour mandate in HB 131. He was supportive of the bill due to his concern that many manicurists would be forced out of their job if the bill failed. He agreed with Representative Thompson that the bill must pass swiftly before the end of session to protect jobs.

Representative Guttenberg asked whether DCCED was able to create emergency regulations to extend the timeline of the licensing changes. Ms. Chambers responded that the timeline was set out in statute in 2015. She needed to ask DOL to

determine whether the department's regulations "could override statutory transition language."

Vice-Chair Gara maintained that he had underlying concerns with the bill and did not receive any answers. Regardless, he advocated moving the bill out of committee or many qualified individuals would lose their license.

Representative Wilson asked about a "valid license" from another state. She read the following from page 1, lines 13 and 14 of the bill:

...if the applicant holds a valid license to practice manicuring that was issued on or before December 31, 2015.

Representative Wilson wondered whether a manicurist from another state with a valid license, regardless of the amount of instructional hours required qualified for an Alaskan license. Ms. Chambers indicated that the provision only applied to Alaskans. Representative Wilson read more of the provision in the bill on page 1, lines 11 through 14:

(d) The board may not require that an applicant for a license or renewal of a license to practice manicuring complete 250 hours of instruction in manicuring from a school of manicuring under AS 08.13.080(a)(4) if the applicant holds a valid license to practice manicuring that was issued on or before December 31, 2015.

Representative Wilson wanted to ensure the bill was correct. She wondered where the statute designated that the language only applied to in-state manicurists. Ms. Chambers responded that the reference to AS.08.13 was the governing statutes for Alaskan licenses. A person had to have an Alaskan license in order to renew under AS.08.13. Representative Wilson asked for more evidence that the statute only applied to Alaskans. She restated that she wanted to avoid any unintended consequences from HB 222.

Vice-Chair Gara reviewed the fiscal impact note from DCCED FN1 (CED) that appropriated \$5 thousand for regulations, printing, and postage funded through program receipts.

Vice-Chair Gara MOVED to report CSHB 222(L&C) out of Committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, it was so ordered.

CSHB222 (L&C) was REPORTED OUT of Committee with a "do pass" recommendation and with a previously published fiscal impact note: FN1 (CED).

Co-Chair Foster reviewed the agenda for the following day. He recessed to a call of the chair. He recessed the meeting to a call of the chair [Note: the meeting never reconvened].

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ADJOURNMENT

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The meeting was adjourned at 3:49 p.m.