

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

April 11, 2017

3:06 p.m.

MEMBERS PRESENT

Representative Ivy Spohnholz, Chair
Representative Bryce Edgmon, Vice Chair
Representative Sam Kito
Representative Geran Tarr
Representative David Eastman
Representative Jennifer Johnston
Representative Colleen Sullivan-Leonard

MEMBERS ABSENT

Representative Matt Claman (alternate)
Representative Dan Saddler (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 159

"An Act relating to the prescription of opioids; establishing the Voluntary Nonopioid Directive Act; relating to the controlled substance prescription database; relating to the practice of dentistry; relating to the practice of medicine; relating to the practice of podiatry; relating to the practice of osteopathy; relating to the practice of nursing; relating to the practice of optometry; relating to the practice of veterinary medicine; related to the duties of the Board of Pharmacy; and providing for an effective date."

- MOVED CSHB 159(HSS) OUT OF COMMITTEE

HOUSE BILL NO. 25

"An Act relating to insurance coverage for contraceptives and related services; relating to medical assistance coverage for contraceptives and related services; and providing for an effective date."

- MOVED CSHB 25(HSS) OUT OF COMMITTEE

HOUSE BILL NO. 118

"An Act relating to compensation for wrongful conviction and imprisonment."

- HEARD & HELD

SENATE BILL NO. 32

"An Act relating to biological products; relating to the practice of pharmacy; relating to the Board of Pharmacy; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 159

SHORT TITLE: OPIOIDS;PRESCRIPTIONS;DATABASE;LICENSES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/06/17	(H)	READ THE FIRST TIME - REFERRALS
03/06/17	(H)	HSS, FIN
03/18/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/18/17	(H)	Heard & Held
03/18/17	(H)	MINUTE(HSS)
03/25/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/25/17	(H)	-- MEETING CANCELED --
03/30/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/30/17	(H)	Heard & Held
03/30/17	(H)	MINUTE(HSS)
04/04/17	(H)	HSS AT 3:00 PM CAPITOL 106
04/04/17	(H)	Scheduled but Not Heard
04/08/17	(H)	HSS AT 3:00 PM CAPITOL 106
04/08/17	(H)	-- MEETING CANCELED --
04/11/17	(H)	HSS AT 3:00 PM CAPITOL 106

BILL: HB 25

SHORT TITLE: INSURANCE COVERAGE FOR CONTRACEPTIVES

SPONSOR(S): CLAMAN

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	HSS, FIN
02/28/17	(H)	HSS AT 3:00 PM CAPITOL 106
02/28/17	(H)	Heard & Held
02/28/17	(H)	MINUTE(HSS)
03/09/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/09/17	(H)	Heard & Held
03/09/17	(H)	MINUTE(HSS)
04/06/17	(H)	HSS AT 3:00 PM CAPITOL 106
04/06/17	(H)	Scheduled but Not Heard
04/08/17	(H)	HSS AT 3:00 PM CAPITOL 106

04/08/17 (H) -- MEETING CANCELED --
04/11/17 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HB 118

SHORT TITLE: COMPENSATION FOR WRONGFUL CONVICTION

SPONSOR(s): KAWASAKI

02/13/17 (H) READ THE FIRST TIME - REFERRALS
02/13/17 (H) HSS, JUD, FIN
04/11/17 (H) HSS AT 3:00 PM CAPITOL 106

BILL: SB 32

SHORT TITLE: PRESCRIPTIONS FOR BIOLOGICAL PRODUCTS

SPONSOR(s): HUGHES

01/23/17 (S) READ THE FIRST TIME - REFERRALS
01/23/17 (S) HSS, L&C
02/10/17 (S) HSS AT 1:30 PM BUTROVICH 205
02/10/17 (S) Heard & Held
02/10/17 (S) MINUTE(HSS)
02/15/17 (S) HSS AT 1:30 PM BUTROVICH 205
02/15/17 (S) Moved SB 32 Out of Committee
02/15/17 (S) MINUTE(HSS)
02/17/17 (S) HSS RPT 2DP 1NR 1AM
02/17/17 (S) NR: WILSON
02/17/17 (S) DP: VON IMHOF, BEGICH
02/17/17 (S) AM: GIESSEL
03/07/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/07/17 (S) Heard & Held
03/07/17 (S) MINUTE(L&C)
03/14/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/14/17 (S) Moved SB 32 Out of Committee
03/14/17 (S) MINUTE(L&C)
03/15/17 (S) L&C RPT 5DP
03/15/17 (S) DP: COSTELLO, HUGHES, MEYER, STEVENS,
GARDNER
03/15/17 (S) FIN REFERRAL ADDED AFTER L&C
03/29/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/29/17 (S) Heard & Held
03/29/17 (S) MINUTE(FIN)
03/30/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/30/17 (S) Moved SB 32 Out of Committee
03/30/17 (S) MINUTE(FIN)
03/31/17 (S) FIN AT 1:30 PM SENATE FINANCE 532
03/31/17 (S) -- MEETING CANCELED --
04/03/17 (S) FIN RPT 1DP 3NR 1AM
04/03/17 (S) NR: MACKINNON, BISHOP, DUNLEAVY

04/03/17 (S) DP: VON IMHOF
04/03/17 (S) AM: OLSON
04/04/17 (S) TRANSMITTED TO (H)
04/04/17 (S) VERSION: SB 32
04/05/17 (H) READ THE FIRST TIME - REFERRALS
04/05/17 (H) HSS, FIN
04/11/17 (H) HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

JAY BUTLER, M.D., Chief Medical Officer/Director
Central Office
Division of Public Health (DPH)
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 159.

REPRESENTATIVE MATT CLAMAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the proposed CS for HB 25, as prime sponsor of the bill.

LIZZIE KUBBITZ, Staff
Representative Matt Claman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the changes to HB 25, on behalf of the prime sponsor, Representative Claman.

ANNA LATHAM, Deputy Director
Juneau Office
Division of Insurance
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of HB 25.

MICHELE MICHAUD, Chief Health Official
Central Office
Division of Retirement and Benefits (DRB)
Department of Administration (DOA)
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of HB 25.

OLIVIA GARRETT, Staff
Representative Scott Kawasaki
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 118 on behalf of the prime sponsor, Representative Kawasaki.

KACI SCHROEDER, Assistant Attorney General
Legal Services Section
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of HB 118.

BARBARA BRINK
Alaska Innocence Project
Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of HB 118.

DON HABEGGER, Community Coordinator
Juneau Reentry Coalition
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of HB 118.

DIANE CASTO, Behavioral Health Policy Advisor
Division of Behavioral Health
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of HB 118.

SENATOR SHELLEY HUGHES
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 32 as prime sponsor.

THOMAS FELIX, M.D.
AMGEN
Washington, DC

POSITION STATEMENT: Testified during discussion of SB 32.

AIMEE BUSHNELL, Staff
Senator Shelley Hughes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 32 on behalf of the prime sponsor, Senator Hughes.

ACTION NARRATIVE

[3:06:25 PM](#)

CHAIR IVY SPOHNHOLZ called the House Health and Social Services Standing Committee meeting to order at 3:06 p.m. Representatives Spohnholz, Sullivan-Leonard, Kito, Johnston, Edgmon, and Tarr were present at the call to order. Representative Eastman arrived as the meeting was in progress.

HB 159-OPIOIDS; PRESCRIPTIONS; DATABASE; LICENSES

[3:07:44 PM](#)

CHAIR SPOHNHOLZ announced that the first order of business would be HOUSE BILL NO. 159, "An Act relating to the prescription of opioids; establishing the Voluntary Nonopioid Directive Act; relating to the controlled substance prescription database; relating to the practice of dentistry; relating to the practice of medicine; relating to the practice of podiatry; relating to the practice of osteopathy; relating to the practice of nursing; relating to the practice of optometry; relating to the practice of veterinary medicine; related to the duties of the Board of Pharmacy; and providing for an effective date."

[3:08:04 PM](#)

REPRESENTATIVE EDGMON moved to adopt the proposed committee substitute (CS) for HB 159, labeled 30-GH1021\J, Bruce, 4/6/17, as the working draft.

CHAIR SPOHNHOLZ objected for discussion.

[3:08:34 PM](#)

JAY BUTLER, M.D., Chief Medical Officer/Director, Central Office, Division of Public Health (DPH), Department of Health and Social Services (DHSS), said that Version J incorporated 4 amendments to address the core intent of HB 159 - to address the floor of legal prescription opioids in Alaska's communities and to improve patient safety. The first amendment incorporated under Version J, he noted, would align language under HB 159 with the federal Comprehensive Addiction and Recovery Act (CARA) to allow partial prescription fills without requiring voiding of the remaining portion of the prescriptions, as addressed on page 24, Section 8, of Version J. Second, Version J would clarify

the role and responsibilities of the prescribing providers and pharmacists filling the prescriptions. He stated, "The intention of the bill all along was that the responsibility to check [the] prescription drug monitoring program (PDMP) prior to writing new prescriptions for schedule II and III medications falls to the prescribers; whereas ... the responsibility for ... populating the prescription drug monitoring program with ... unfilled prescriptions falls to the pharmacist."

DR. BUTLER said the third amendment made under Version J would address the implementation of the PDMP update frequency; it would delay implementation of daily updates until July 2018 in order to address the potential administrative burden on some of the smaller pharmacies. Finally, he said there is an amendment under Version J that would clarify the liability waiver for advance directives that include not just failure to administer an opioid but also the inadvertent administration of opioids to a person who has an opioids advance directive on his/her medical record. He said the related language is in Section 31, on page 27, of Version J.

[3:11:15 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD directed attention to page 28, Sections 32 and 33, and asked for clarification regarding the justification for amended language related to correctional facilities.

[3:11:46 PM](#)

DR. BUTLER replied that the reason for specifically calling out correctional facilities is to make clear the goal of the updated PDMP was never to include patients already institutionalized. He said much of the focus has been on people who are hospitalized. He said it was pointed out to his division that it may not be clear that people who are in correctional facilities are similarly institutionalized. He said he thinks that what often has driven the over prescription of opioids has been misapplication of data on hospitalized patients, which shows people in a hospital receiving opioid medications are at remarkably low risk of having subsequent substance misuse or addiction as opposed to those who receive the drugs on an outpatient basis. He said the change in language to include the correctional facility is to clarify that someone who is begin treated in the infirmary of a correctional facility during a prolonged incarceration is being viewed similarly. He specified, however, that someone being discharged from a

correctional facility on outpatient opioids would need to be monitored under the PDMP.

[3:13:52 PM](#)

CHAIR SPOHNHOLZ removed her objection to the motion to adopt the proposed committee substitute (CS) for HB 159, labeled 30-GH1021\J, Bruce, 4/6/17, as the working draft. There being no further objection, Version J was before the committee as the working draft.

[3:14:08 PM](#)

CHAIR SPOHNHOLZ noted that an issue had been brought to her attention regarding hospitals and emergency rooms that dispense less than a 24-hour supply of opioids to patients leaving a hospital. She said this relates to [Sections 32 and 33], about which Representative Sullivan-Leonard just queried. She said these supplies are dispensed as prepackaged supplies of medicine and requiring such a small supply to be reported to the PDMP would be an "overly onerous burden on inpatient hospital pharmacies."

CHAIR SPOHNHOLZ moved to adopt Amendment 1, labeled 30-GH1021\J.1, Bruce, 4/6/17, which read as follows:

Page 28, lines 5 - 7:

Delete "those administered to a patient at a health care facility or a correctional facility, except when prescribing opioids to an inmate at the time of the inmate's release"

Insert "under the circumstances described in (u) of this section [THOSE ADMINISTERED TO A PATIENT AT A HEALTH CARE FACILITY]"

Page 28, lines 13 - 15:

Delete "administered to a patient at a health care facility or a correctional facility, except when prescribing opioids to an inmate at the time of the inmate's release"

Insert "dispensed or administered under the circumstances described in (u) of this section [ADMINISTERED TO A PATIENT AT A HEALTH CARE FACILITY]"

Page 29, lines 7 - 9:

Delete "administered to a patient at a health care facility or a correctional facility, except when

prescribing opioids to an inmate at the time of the inmate's release"

Insert "dispensed or administered under the circumstances described in (u) of this section"

Page 32, line 22:

Delete "a new subsection"

Insert "new subsections"

Page 32, following line 30:

Insert a new subsection to read:

"(u) A practitioner or a pharmacist is not required to comply with the requirements of (a) and (b) of this section if a controlled substance is

(1) administered to a patient at

(A) a health care facility; or

(B) a correctional facility;

(2) dispensed to a patient for an outpatient supply of 24 hours or less at a hospital

(A) inpatient pharmacy; or

(B) emergency department."

Page 35, following line 11:

Insert a new bill section to read:

"* **Sec. 51.** Section 41 of this Act takes effect on the effective date of secs. 21 and 23, ch. 25, SLA 2016."

Renumber the following bill sections accordingly.

Page 35, line 15:

Delete "secs. 45 - 52"

Insert "secs. 45 - 53"

CHAIR SPOHNHOLZ objected for purposes of discussion. She asked Dr. Butler if he had seen Amendment 1.

DR. BUTLER said he had not seen the text of Amendment 1 but understood the concept of it. In response to a follow-up question, he reiterated that the focus of HB 159 is to address the flood of opioids into Alaska's communities, and Amendment 1 would address small dispensing of medication. He said the current law surrounding the PDMP does not require that prescribers "check the PDMP" if dispensing less than a three-day supply. He said the intent behind this is to incentivize the subscription of smaller amounts [of opioids] and to reduce the administrative burden. He surmised that Amendment 1 could

achieve a similar aim, as concerns the administrative burden on hospital pharmacies, which dispense small amounts through the emergency departments. He indicated that the administration would not object [to Amendment 1].

[3:16:20 PM](#)

CHAIR SPOHNHOLZ removed her objection to the motion to adopt Amendment 1. There being no further objection, Amendment 1 was adopted.

[3:16:45 PM](#)

REPRESENTATIVE EDGMON moved to report CSHB 159, Version 30-GH1021\J, Bruce, 4/6/17, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 159(HSS) was moved from House Health and Social Services Standing Committee.

[3:17:08 PM](#)

The committee took an at-ease from 3:17 p.m. to 3:19 p.m.

HB 25-INSURANCE COVERAGE FOR CONTRACEPTIVES

[3:19:04 PM](#)

CHAIR SPOHNHOLZ announced that the next order of business would be HOUSE BILL NO. 25, "An Act relating to insurance coverage for contraceptives and related services; relating to medical assistance coverage for contraceptives and related services; and providing for an effective date."

[3:19:33 PM](#)

REPRESENTATIVE EDGMON moved to adopt the proposed committee substitute (CS) for HB 25, labeled 30-LS0261\J, Wallace, 3/31/17, as the working draft.

[3:19:41 PM](#)

CHAIR SPOHNHOLZ objected for discussion.

[3:19:55 PM](#)

REPRESENTATIVE MATT CLAMAN, Alaska State Legislature, stated that proposed HB 25 sought to make prescriptive contraceptives

more easily available by mandating that health care insurers provide coverage for a 12-month supply of contraceptives at one time. He reported that his office had worked with individuals from the Division of Insurance, (Department of Administration), and the Department of Law to find language which captured active state employee programs and allowed insurers and the state to apply reasonable medical management techniques and cost containment strategies when providing coverage for contraceptives.

[3:20:43 PM](#)

LIZZIE KUBBITZ, Staff, Representative Matt Claman, Alaska State Legislature, paraphrased the changes made to Version J [Included in members' packets], which read:

"An Act relating to insurance coverage for contraceptives and related services; relating to medical assistance coverage for contraceptives and related services; and providing for an effective date."

Section 1 - Amends AS 21.42.427(d) to give health care insurers the ability to enact reasonable cost containment measures and provides a definition of cost containment. Adds a new subsection (e) which states that if the covered therapeutically equivalent version of a prescription contraceptive is not available or is considered medically inadvisable, a health care provider shall provide coverage without cost sharing for an alternative version of the prescription contraceptive.

Section 2 - Amends AS 39.30.090(a) by adding a new subsection (13) to include: "a group health insurance policy covering employees of a participating governmental unit is subject to the requirements of AS 21.42.427."

Section 3 - Amends AS 39.30.091 to include: "a self-insured group medical plan covering active employees provided under this section is subject to the requirements of 21.42.427."

[3:23:34 PM](#)

REPRESENTATIVE JOHNSTON asked if all state employees, except retirees, as well as other public employees, would be covered. She asked which programs would not be covered by this proposed bill.

MS. KUBBITZ replied that the Department of Administration had advised the sponsor to only attempt to capture active state employees.

REPRESENTATIVE JOHNSTON asked if this would apply to private employer programs.

MS. KUBBITZ reiterated that AS 39 would only capture state employees; however, other portions of the proposed bill would apply to Medicaid and private employers. She said that Version J would ensure that active state employees were included.

REPRESENTATIVE JOHNSTON asked about other public employees, including the self-insured Municipality of Anchorage.

MS. KUBBITZ said that she would defer that question to the Department of Administration. She offered her belief that municipal employees had not been included in any of the bill discussions.

REPRESENTATIVE JOHNSTON expressed her concern that private individuals and companies were required to participate, although state employees had been excluded. She stated that "I am trying to look for what is fair is fair."

[3:26:57 PM](#)

REPRESENTATIVE CLAMAN pointed out that the proposed Version J specifically addressed earlier questions for coverage to state employees. He opined that it would get even more complicated for coverage of municipalities, although many of these programs participated in state programs, even though it was not intended to give them an out.

REPRESENTATIVE JOHNSTON declared that it would be necessary for this to be addressed.

[3:28:29 PM](#)

ANNA LATHAM, Deputy Director, Juneau Office, Division of Insurance, Department of Commerce, Community & Economic Development (DCCED), in response to earlier questions, stated

that the proposed bill did not cover municipal plans, although other vetted language could be added to include them. She offered her belief that the sponsor only intended to include active state employees.

[3:29:18 PM](#)

REPRESENTATIVE JOHNSTON directed attention to page 5, lines 28 - 29, which stated that a group health policy was subject to AS 21.42.427 and asked if this would cover the municipalities.

[3:30:05 PM](#)

MS. LATHAM opined that this would not cover municipalities, but she deferred to the Department of Law.

REPRESENTATIVE JOHNSTON asked if this would also apply to the government bargaining units.

[3:30:58 PM](#)

MICHELE MICHAUD, Chief Health Official, Central Office, Division of Retirement and Benefits (DRB), Department of Administration (DOA), in response, stated that the Municipality of Anchorage was not currently participating, although it could. She stated that there were union health trusts which were not covered under the Alaska Care plan, as they were exempted through regulation, and these would also not be covered under the proposed bill.

[3:32:02 PM](#)

The committee took a brief at ease.

[3:32:25 PM](#)

CHAIR SPOHNHOLZ removed her objection. There being no further objection, Version J was adopted as the working draft.

[3:32:59 PM](#)

REPRESENTATIVE JOHNSTON expressed her concern that moving forward a certain element of the population would be segregated out. She said that she would probably be a no vote and would recommend an amendment.

[3:33:28 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD said that she struggled with the mandate aspect of the proposed legislation for certain coverage of contraceptives, and she could not conceptually support the legislation.

[3:34:29 PM](#)

REPRESENTATIVE EDGMON moved to report CSHB 25, Version 30-LS0261\J, Wallace, 3/31/17, out of committee with individual recommendations and the accompanying fiscal notes.

[3:34:41 PM](#)

REPRESENTATIVE EASTMAN objected. He said that much of the early testimony dealt with obtaining prescriptions, and yet the proposed bill was much broader based, directing attention to the voluntary sterilization procedures, the consultations, examinations, procedures, and medical services. He opined that the State of Alaska should not require that insurance coverage be provided for these items.

[3:35:41 PM](#)

REPRESENTATIVE EASTMAN maintained his objection.

[3:35:46 PM](#)

A roll call vote was taken. Representatives Spohnholz, Edgmon, Kito, and Tarr voted in favor of CSHB 25. Representatives Sullivan-Leonard, Eastman, and Johnston voted against it. Therefore, CSHB 25(HSS) was reported out of the House Health and Social Services Standing Committee by a vote of 4 yeas-3 nays.

[3:36:21 PM](#)

The committee took an at-ease from 3:36 p.m. to 3:39 p.m.

HB 118-COMPENSATION FOR WRONGFUL CONVICTION

[3:39:18 PM](#)

CHAIR SPOHNHOLZ announced that the next order of business would be HOUSE BILL NO. 118, "An Act relating to compensation for wrongful conviction and imprisonment."

[3:39:46 PM](#)

OLIVIA GARRETT, Staff, Representative Scott Kawasaki, Alaska State Legislature, presented proposed HB 118 on behalf of the bill sponsor, Representative Kawasaki. She stated that HB 118 would create an administrative process so that those who were wrongfully convicted of crimes and subsequently served time in prison would be able to apply for compensation for time served. She paraphrased from the Sectional Analysis [Included in members' packets], which read:

Section 1. Amends AS 44.29.20 by adding a subsection that directs the Department of Health and Social Services to establish a re-entry program to assist wrongfully convicted persons in obtaining mental health services, including treatment for post-traumatic stress disorder.

Section 2. Provides that every claim of reimbursement for wrongful conviction and imprisonment shall be promptly presented to the appropriate administrative or executive officer of a department or branch for approval or payment.

Section 3.

(a) Establishes that a person must file a claim with the attorney general to receive compensation, and must show by preponderance of the evidence that they were convicted of one or more offenses and served any or all of the resulting sentence and:

(1) either the conviction for the resulting sentence was vacated or reversed and the charges were later dismissed or the person was retried and found not guilty, or the person was pardoned.

(2) the person did not commit any of the crimes of which they were convicted, commit perjury, get another person to commit perjury or fabricate evidence. A false confession, admission, or guilty plea does not entitle a person to compensation for wrongful conviction.

(b) States that compensation for wrongful convictions only extends to the specific case and does not include compensation for a concurrent sentence.

(c) States that individuals receiving compensation for wrongful conviction will receive \$50,000 dollars for each year of imprisonment up to a lifetime total of \$2,000,000.

(d) States that a person who has received compensation for wrongful conviction by the State of Alaska may not bring any further action to the state or municipalities regarding the same subject matter for which they have received compensation.

(e) States that an individual must file a claim for compensation within 2 years after their exoneration, however the attorney general may authorize payment for a claim filed past that time if they determine that there is good cause for delay.

(f) Lists social services and programs a person receiving compensation for wrongful conviction is entitled to.

1) Reentry services as provided by the Department of Health and Social Services under AS 44.29.020.

2) Tuition and fees at any University of Alaska campus for themselves and any children or stepchildren ages 17-26.

3) 3 years of job training services through appropriate state programs.

4) Up to 10 years of state funded healthcare coverage.

5) Economic damages including lost wages and attorney fees.

(g) States that all compensation provided under this section, except for awarded attorney fees, is exempt from taxation and that it may not be used to offset expenses incurred by the state in providing services to the person during their imprisonment.

Section 4. The claimant may appeal the decision through the Department of Administration and they may obtain a judicial review of the decision. Amends AS 44.77.040(c) so that anyone who is denied a claim for wrongful conviction compensation is prevented from

taking further action against the state for the same claim.

Section 5. Claims made for compensation for wrongful convictions fall under claims and appeals procedures under AS 44.77.010- 44.77.060 even if a department or branch already has separate claims and appeals procedures.

[3:43:44 PM](#)

REPRESENTATIVE JOHNSTON asked for the list of states that already had some form of the proposed bill.

MS. GARRETT, in response, offered her belief that 31 states, as well as the District of Columbia, provided for wrongful conviction compensation.

REPRESENTATIVE JOHNSTON asked how this would integrate into the court system. She offered her belief that once a wrongful conviction was recognized by the courts, it became a legal issue for how to compensate and what was done in each matter, as part of the settlement. She asked if the proposed bill would supersede any legal discussion.

MS. GARRETT asked for further clarification.

REPRESENTATIVE JOHNSTON opined that there had been negotiation and settlement at the court level.

[3:45:45 PM](#)

KACI SCHROEDER, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law, asked for clarification of the question.

REPRESENTATIVE JOHNSTON in response, questioned whether the legal process for wrongful conviction would be superseded by the proposed bill, and she expressed her concern that the proposed bill was overstepping.

MS. SCHROEDER stated that the department did not see this as limiting anything in the settlement context.

[3:47:36 PM](#)

REPRESENTATIVE JOHNSTON asked if, in other states with this legislation, had this decreased the state's liability for wrongful convictions.

MS. GARRETT replied that she did not have the information but that she would provide it to the members.

[3:48:31 PM](#)

BARBARA BRINK, Alaska Innocence Project, stated her support of the proposed bill. She shared her background as a state and federal public defender for more than 30 years, representing indigent people who were accused of crimes and then tried in the state and federal courts. She offered her belief, in review of compensation statutes in other states, that the proposed bill had taken "the best bits that other states have tried, and not taken the parts that haven't been successful." She opined that 32 states and the federal government "already try to make whole those who have been wrongfully convicted and then exonerated with their own compensation statutes." She pointed out that the proposed bill would fill a recognized need for Alaska. She stated that the proposal to provide a reentry service program, assist with job training and skills, tuition and fees, and 10 years of health insurance were especially needed when a person was released from custody after a long period of incarceration. She noted that these people had lost touch with societal expectations, pointing out how difficult this could be for someone. She reported that the annual \$50,000 compensation was in the "middle of the pack of what other jurisdictions provide for the wrongfully convicted." She offered some examples from California, Texas, and Colorado. She reported that the federal government paid \$50,000 for each year of incarceration, and \$100,000 for each year if someone had been on death row. She added that most states allowed for inflation adjustment. She offered her belief that it was beneficial to have public recognition by the government for the harm inflicted on people who were wrongfully convicted. She stated that the proposed bill was an assurance to the public that the state government would take ownership of the errors, and that the state was working to ensure the integrity of the criminal justice system. She opined that this was good for the state, as it was an exclusive remedy, comparing it to the workers' compensation statute. She pointed out that this could reduce the liability for a state as it would no longer be bombarded by lawsuits from those who had been exonerated. She reported that it was estimated that between 8 and 12 percent of individuals in the criminal justice system had been wrongfully convicted. She

stated that this was a uniform, fair, equitable procedure to allow for some compensation for the wrong that had been done.

[3:53:53 PM](#)

REPRESENTATIVE TARR asked for other examples of cases.

MS. BRINK replied that the Fairbanks 4 case was the only case the Innocence Project had obtained in Alaska for exoneration. She noted that the appellate process could also bring exoneration, although she had no records for the numbers of cases each year.

[3:54:56 PM](#)

CHAIR SPOHNHOLZ shared that the proposed bill simplified things from the state perspective as it allowed exact knowledge of the promises to those wrongfully convicted. She asked if there were any specific elements which were key to ensure people's success to get over the trauma for loss of freedom as they move forward.

[3:56:02 PM](#)

MS. BRINK, in response, said that the first provision to provide assistance through the Department of Health and Social Services was one that many states had neglected to include, noting that even financial compensation did not guarantee success to exonerees. She offered her belief that the proposed bill did well in setting forth the grounds that would show exoneration and what would not demonstrate exclusion. She lauded Section 3 which covered all the issues which had gone wrong in other states.

[3:57:36 PM](#)

REPRESENTATIVE JOHNSTON asked about the indeterminate fiscal note, and she asked about the payments made outside the Department of Law's operating appropriation. She asked what the source of funds would be.

[3:58:33 PM](#)

MS. SCHROEDER, in response, explained that this would clarify that the payments would not come from the Department of Law budget; although the settlement negotiations and subsequent settlements would appear as a budget request from the general fund.

3:59:34 PM

DON HABEGER, Community Coordinator, Juneau Reentry Coalition, referred to a pamphlet [Included in members' packets] and explained that the Juneau Reentry Coalition was a collaboration of individuals, community stakeholders, public and not for profit agencies, and faith-based business partners who were united in commitment to reduce recidivism among ex-offenders returning to the community of Juneau. He reported that the coalition was a small group effort that got started in 2013 and grew into a larger effort with a steering team, community membership, and eight different work groups, which he listed. When the work group reports come back to the coalition, there was work to resolve these issues. He mentioned the current partnerships with the Alaska Mental Health Trust Authority, the Department of Corrections, and the Department of Health and Social Services. He noted that these partnerships included a re-entry case manager from Department of Health and Social Services who worked with Department of Corrections, utilizing a pre-release form for work on all the issues and services needed to enter the community successfully. He reported that, upon release, a plan for securing resources and successful use of supports and treatments was put into place.

4:05:28 PM

DIANE CASTO, Behavioral Health Policy Advisor, Division of Behavioral Health, Department of Health and Social Services, expressed support for the proposed bill, and explained that the proposed bill mentioned the Department of Health and Social Services for mental health services, including post-traumatic stress disorders, and for re-entry services. She directed attention to the 10 years of state funded coverage. She reported that re-entry work was already in progress, and that Medicaid Expansion had provided coverage for almost all individuals leaving the correctional system, offering mental health services and Medicaid services. She noted that there was a re-entry center in Anchorage for partners, as well as coalitions in Fairbanks, Matanuska-Susitna, Juneau, Kenai, Nome, and Anchorage. She added that there was active solicitation for three additional communities, which included Dillingham, Bethel, and Ketchikan. She explained that these coalitions were a group of people, services, and agencies in the community committed to doing this work and ensuring that individuals had the best opportunity possible when leaving a correctional institution.

She listed jobs, housing, and treatment as the highest priorities for individuals.

MS. CASTO moved on to discuss the proposal for state funded health coverage for 10 years and offered her belief that this had to be equivalent to medical assistance services available in AS 47.07.030, the Medicaid program. She offered clarification for what was currently doable and what might be doable even though it had not yet been fully examined. She relayed that most individuals covered by the proposed bill would be Medicaid eligible, as the compensation would be tax deductible and "would not count against this individual being eligible for Medicaid." This would allow for immediate enrollment, with coverage for treatment and health care services. She explained that it became more complicated as they began to make more money, as they would move out of the eligibility range for Medicaid. She pointed out that it would become necessary to determine what kind of insurance coverage was intended in the proposed bill. She offered the possibility for the Division of Insurance, (Department of Administration), to purchase health care equivalent to Medicaid. She suggested that a state only Medicaid funded program, solely for this use which would not use federal money, could be set up. She declared a need for this to be further examined so that the Department of Health and Social Services (DHSS) was clear for its responsibilities. She pointed out that DHSS did not offer any insurance other than Medicaid.

[4:14:12 PM](#)

CHAIR SPOHNHOLZ announced that HB 118 would be held over.

SB 32-PRESCRIPTIONS FOR BIOLOGICAL PRODUCTS

[4:14:22 PM](#)

CHAIR SPOHNHOLZ announced that the final order of business would be SENATE BILL NO. 32, "An Act relating to biological products; relating to the practice of pharmacy; relating to the Board of Pharmacy; and providing for an effective date."

[4:15:12 PM](#)

SENATOR SHELLEY HUGHES, Alaska State Legislature, paraphrased from the Sponsor Statement [Included in members' packets], which read:

Senate Bill 32 allows for Alaskans to have access to safe, new, and effective treatment options called interchangeable biological products. Under current state law, pharmacists are allowed to substitute a generic product for drugs that are identical to their proprietary product but cannot do the same with interchangeable biological products. Under SB 32, pharmacists will be able to dispense an FDA approved interchangeable product as a substitute for the proprietary biological product.

Due to the complexity and nature of biological products, an exact replication of these drugs is impossible, so a new category of interchangeable products was created by the FDA. This category of drug allows for pharmaceutical companies to create safe and affordable substitutes for drugs that help treat conditions including cancer, multiple sclerosis, severe rheumatoid arthritis, heart disease, and other immune system, neurological and hematologic disorders.

In addition to the clear benefits to patients, the lower costs and competition should also bring measurable costs savings to Alaska's Medicaid program and budget. The Center for Medicare and Medicaid Services recommends that state Medicaid programs "view the launch of biosimilar biological products as a unique opportunity to achieve measurable cost savings and greater beneficiary access to expensive therapeutic treatments for chronic conditions."

SB 32 allows pharmacists to dispense interchangeable biological products if they communicate this with the prescribing doctor. This bill only allows a pharmacist to substitute an interchangeable product if it is approved by the FDA, and it allows for doctors to require the pharmacist to only dispense the proprietary product if they feel it is a more effective option. Patient consent will also be required before any substitution is made for an interchangeable over the proprietary product.

It is important for Alaska to address this issue now as more interchangeable products become available to patients. Senate Bill 32 will allow for new and effective options at a lower cost, without jeopardizing patient safety, and will allow for

measurable Medicaid and budget savings for the State. Please join in supporting access to an affordable medication option for Alaskans.

SENATOR HUGHES reported that 31 states had already adjusted statutes to allow for these bio-similars when they became available, and that competition should make these much more affordable than the original. She read: "state Medicaid programs should view the launch of bio-similar biologic products as a unique opportunity to achieve measurable cost savings and greater beneficiary access to expansive therapeutic treatments for chronic conditions." She reiterated that there were the original biologic products, the bio-similar products, and now the interchangeable product. The proposed bill would clarify this in statute to allow for a pharmacist to substitute, with patient consent and notification to the prescriber. She pointed out that this proposed bill offered equal control to both pharmacists and physicians.

[4:22:07 PM](#)

REPRESENTATIVE KITO asked about the character of the biologics. He said that the generic drug replacement for a name brand drug had the exact same chemical make-up. He offered his understanding that patents did not allow biologics to use the same process or procedure, even though they were aiming for the same result. He asked if there were recognitions for how these act or react to different people. He asked if these were the same drug or different, or similar enough to be considered similar to a generic.

SENATOR HUGHES said that the cells, as they were derived from living organisms, would never be identical. Even with the same process, these would be "incredibly similar but not identical." She noted that this was part of the thorough FDA testing for this new category. She declared that the drugs would have to reach a level of no clinical difference in results to the original or the interchangeable drugs.

[4:24:19 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked about the aspect of the bio-chemical use for pharmaceuticals, and whether this included blood born pathogens or blood products.

[4:25:03 PM](#)

THOMAS FELIX, M.D., AMGEN, explained that the definition for biologics in federal statute was very broad, and included vaccines and blood products and components. He said it was important to realize that blood components were not currently being considered for bio-similar development. He noted that the focus was for products created in a living cell that either mimicked something already existing in our body such as insulin, or something that targeted a pathway of disease that would interfere with a cell cycle for growth related to a tumor cell or a growth around a tumor.

REPRESENTATIVE SULLIVAN-LEONARD asked if stem cells would be interspersed in this biological system.

DR. FELIX, in response, said that stem cells were biologics in terms of concepts, but bio-similars would not be stem cell therapies. He explained that stem cells were what was administered to a patient as therapy, whereas biologics and bio-similars were derived from cells, which were not embryonic or human cells, to make it produce a protein which was then isolated, purified from the cell, and injected into the patient as a therapy.

[4:27:25 PM](#)

CHAIR SPOHNHOLZ asked if all insulin were derived from the same original set of cells, and therefore not a bio-similar or biologic interchangeable.

DR. FELIX pointed out that insulins were covered by a separate legal and regulatory pathway, the Federal Food, Drug, and Cosmetic Act. By 2020, these insulins would be rolled into the legal and regulatory pathway for approval of biologics, the Public Health Service Act. He shared that the history for making insulins had evolved over time, as it used to be collected from animals, whereas now a cell was programmed to produce the insulin more closely to a human insulin. He shared that there was a spectrum of complexity of other types of biologics which were more complex than insulin. He pointed out that a standard biologic technology called a monoclonal antibody was used, which could target a pathway of disease or a healthy pathway.

[4:29:56 PM](#)

CHAIR SPOHNHOLZ asked if insulin had been traditionally held under an older regulatory model and, in 2020, this would be rolled into the more modern laws which related to biologics.

DR. FELIX expressed his agreement and said that insulins and other older biologics which had been approved a long time ago and were much simpler would be transitioned, with a very strict scientific standard for inclusion based on the number of amino acids each contained.

CHAIR SPOHNHOLZ reflected on the definition of biologic interchangeables, which were designed to have the same therapeutic outcome, even though they were not exactly 100 percent replicable. She asked if this was related to proprietary law or if it was a biological limitation.

DR. FELIX explained that when a bio similar was developed, there was not a recipe book for the process to manufacture the original, hence the need to reverse engineer from an original reference products vial or injection device. He shared that keeping an understanding of the intellectual property landscape in mind would include, in the development, an approach for a slight structural variation whether or not it had clinical significance that was important. He pointed out that, once approved, these would be highly similar to an existing product. He emphasized that this was very different than the way generics were approved, as they typically did not require clinical trials. He said that it would require clinical trials for a bio similar or for an interchangeable biologic product.

CHAIR SPOHNHOLZ mused that there was both a cellular reason for difference as well as for avoidance of conflict for intellectual property.

[4:34:20 PM](#)

AIMEE BUSHNELL, Staff, Senator Shelley Hughes, Alaska State Legislature, paraphrased from the Sectional Analysis [Included in members' packets], which read:

Sec. 1 - AS 08.80.030 Adds a new subsection requiring the Board of Pharmacy to have a link on the board's website to the United States Food and Drug Administration's (FDA) list of approved interchangeable biological products.

Sec. 2 - AS 08.80.294 Amends this section by requiring a pharmacist to include on the label of a biological product container the proprietary or proper name of the biological product. This section also includes language to differentiate between drugs that are and are not biological products to ensure that statutes regarding equivalent generic drugs are not substantively changed.

Sec. 3 - AS 08.80.294 Adds a new subsection to define the term "proper name" being the name that reflects scientific characteristics of a biological product. This new subsection also defines "proprietary name" which is the trademarked and registered name of the product.

Sec. 4 - AS 08.80.295 Adds language to differentiate between equivalent drug products and interchangeable biological products.

Sec. 5 - AS 08.80.295 Adds new subsections to provide guidelines as to how pharmacists or their designee will need to communicate with a prescribing doctor when dispensing a biological or interchangeable biological product if an interchangeable product is available.

Under subsection (c), a pharmacist must communicate to the prescribing doctor the name and manufacturer of the biological product provided to the patient. This communication must happen within three days after dispensing the product by an entry through an interoperable electronic medical records system, an electronic prescribing technology, a pharmacy benefit management system, or a pharmacy record. If an entry under this subsection is not possible, the pharmacist may communicate by e-mail, telephone, fax, or by any other prevailing means.

Under subsection (d) provides an exception to the communication requirement under (c) if the dispensed biological product is a refill of the prescription and is the same biological product. Subsection (e) provides that communication provided under (c)(1) of this section is providing notice to the prescribing doctor. Under subsection (f), a pharmacist is required to maintain a record for two years after a biological

product is dispensed. Finally subsection (g) defines "designee" as an agent or employee of a pharmacist who has been authorized to communicate information under subsection (c).

Sec. 6 - AS 08.80.480(34) Changes language, and gives option to change the term "drug" and "equivalent drug" to "biological product" and "interchangeable biological product".

Sec. 7 AS 08.80.480 Adds new subsection (37) to define term "biological product". Adds new subsection (36) to define term "interchangeable biological product" as a biological product as determined by the United States Food and Drug Administration. Under subsection (A) provides that it meets the standard for interchangeability under US code (Regulation of biological products, Safety standards for determining interchangeability). Under subsection (B) provides that it is therapeutically equivalent in the most recent edition of the United States Food and Drug Administration evaluations.

Sec. 8 AS 08.80.480 Amends this section by adding transition regulations if necessary to implement changes made by this Act. Having changes take place in accordance with AS 44.62 (Administrative Procedure Act) but not before the effective date of this Act.

Sec. 9 AS 08.80.480 Adds language that section 8 of this Act takes effect July 1, 2017.

Sec. 10 AS 08.80.480 Adds language that this Act will take effect January 1, 2018, except for a provided in section 9.

MS. BUSHNELL stated that there were also several letters of support, including from the Alaska State Hospital and Nursing Home Association (ASHNHA) and from the Alaska State Medical Association (ASMA). She pointed out that ASMA had first written a letter of neutrality and, subsequently, had written a letter of support for the proposed bill.

[4:36:21 PM](#)

CHAIR SPOHNHOLZ announced that SB 32 would be held over.

4:37:05 PM

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 4:37 p.m.