

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

January 30, 2018

3:04 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

Representative Dan Saddler (alternate)

MEMBERS ABSENT

Representative Matt Claman (alternate)

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 54

"An Act providing an end-of-life option for terminally ill individuals; and providing for an effective date."

- MOVED CSSSHB 54 (HSS) OUT OF COMMITTEE

HOUSE BILL NO. 162

"An Act relating to criminal and civil history requirements and a registry regarding certain licenses, certifications, appeals, and authorizations by the Department of Health and Social Services; and providing for an effective date."

- HEARD & HELD

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 268

"An Act relating to the prescription of opioids; relating to the Department of Health and Social Services; 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; and relating to the practice of optometry."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 54

SHORT TITLE: TERMINALLY ILL: ENDING LIFE OPTION

SPONSOR(s): REPRESENTATIVE(s) DRUMMOND

01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	HSS, JUD
03/14/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/14/17	(H)	<Bill Hearing Canceled>
03/27/17	(H)	SPONSOR SUBSTITUTE INTRODUCED
03/27/17	(H)	READ THE FIRST TIME - REFERRALS
03/27/17	(H)	HSS, JUD
03/28/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/28/17	(H)	Heard & Held
03/28/17	(H)	MINUTE(HSS)
04/06/17	(H)	HSS AT 3:00 PM CAPITOL 106
04/06/17	(H)	Heard & Held
04/06/17	(H)	MINUTE(HSS)
01/30/18	(H)	HSS AT 3:00 PM CAPITOL 106

BILL: HB 162

SHORT TITLE: DHSS CENT. REGISTRY;LICENSE;BCKGROUND CHK

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/08/17	(H)	READ THE FIRST TIME - REFERRALS
03/08/17	(H)	HSS, JUD
01/23/18	(H)	HSS AT 3:00 PM CAPITOL 106
01/23/18	(H)	Heard & Held
01/23/18	(H)	MINUTE(HSS)
01/30/18	(H)	HSS AT 3:00 PM CAPITOL 106

BILL: HB 268

SHORT TITLE: OPIOID PRESCRIPTION WARNINGS

SPONSOR(s): GARA

01/12/18	(H)	PREFILE RELEASED 1/12/18
01/16/18	(H)	READ THE FIRST TIME - REFERRALS
01/16/18	(H)	HSS, L&C
01/22/18	(H)	SPONSOR SUBSTITUTE INTRODUCED
01/22/18	(H)	READ THE FIRST TIME - REFERRALS
01/22/18	(H)	HSS, FIN
01/30/18	(H)	HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE HARRIET DRUMMOND
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 54 as the sponsor of the bill.

STACIE KRALY, Chief Assistant Attorney General
Statewide Section Supervisor
Human Services Section
Civil Division (Juneau)
Department of Law
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during discussion of HB 162.

KATE BURKHART, Ombudsman
Juneau Office
Office of the Ombudsman
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of HB 162.

CHARLES MCKEE
Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of HB 162.

REPRESENTATIVE LES GARA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 268 as the sponsor of the bill.

ACTION NARRATIVE

[3:04:59 PM](#)

CHAIR IVY SPOHNHOLZ called the House Health and Social Services Standing Committee meeting to order at 3:04 p.m. Representatives Spohnholz, Sullivan-Leonard, Johnston, Saddler (alternate), Eastman, Kito, and Tarr were present at the call to order. Representative Edgmon arrived as the meeting was in progress.

HB 54-TERMINALLY ILL: ENDING LIFE OPTION

[3:06:37 PM](#)

CHAIR SPOHNHOLZ announced that the first order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 54, "An Act providing

an end-of-life option for terminally ill individuals; and providing for an effective date."

3:07:00 PM

REPRESENTATIVE HARRIET DRUMMOND, Alaska State Legislature, paraphrased from the Sponsor Statement [Included in members' packets, which read in part:

This bill allows patients to have important end-of-life discussions with the doctors they already know and trust. Without this discussion, well-meaning doctors are faced with prescribing painful procedures even when the patient does not want them and there is little or no hope for success. People in these conditions have already lost their health and often much, much more. This bill at least lets them control the last and most important decision they have left.

House Bill 54 allows terminally ill patients to ease their suffering and hasten an inevitable and certain death. This bill preserves dignity and a person's right to live, and die, on their own terms according to they own desires and beliefs.

REPRESENTATIVE DRUMMOND offered an update of the bill since the last hearing during the spring of 2017. She relayed that a survey had been conducted of more than 600 Alaskans which showed that more than 70 percent of voting Alaskans supported an end of life option, "such that this bill allows." She declared that community support was also rising, directing attention to a Kodiak Island Borough assembly resolution in support of the proposed bill. She encouraged support of the proposed bill.

3:08:52 PM

REPRESENTATIVE SULLIVAN-LEONARD asked for more information about the survey.

REPRESENTATIVE DRUMMOND explained that this survey by a private group was offered regularly on a quarterly basis and questions could be added. In response, she said that the cost, paid by her office account, was between \$1600 - \$1800.

CHAIR SPOHNHOLZ pointed out that Representative Saddler, although present, was a committee alternate, and would not be needed to participate as a committee member.

3:10:02 PM

CHAIR SPOHNHOLZ moved to adopt Amendment 1, labeled 30-LS0254\0.1, Laffen/Bannister, 1/29/18, which read:

Page 2, line 21, following "request":
Insert "and a written request"

Page 2, following line 28:
Insert a new subsection to read:
"(c) Notwithstanding (a) of this section, if a qualified individual is not physically able to sign a written request, the qualified individual may direct another individual to sign for the qualified individual."

Page 2, line 31, following "request":
Insert "and the written request"

Page 3, following line 4:
Insert new sections to read:
"Sec. 13.55.050. Written request requirements.
(a) A written request for medication under this chapter must be in substantially the form described in AS 13.55.060, signed and dated by the qualified individual, and witnessed by at least two other individuals. The attending physician may not witness the request. The witnesses shall, in the presence of the qualified individual, attest that, to the best of their knowledge and belief, the qualified individual is capable, acting voluntarily, and not under undue influence to sign the request.
(b) Only one witness may be
(1) a relative of the qualified individual by blood, marriage, or adoption;
(2) an individual who, at the time the qualified individual signs the request, would be entitled to a portion of the estate of the qualified individual at death under a will or by operation of law; or
(3) an owner, operator, or employee of a health care facility where the qualified individual is receiving medical treatment or is a resident.
(c) If the qualified individual is an inpatient in a long-term care facility when the qualified individual signs the request, one of the witnesses

shall be an individual designated by the facility who has the qualifications established by the department by regulation. In this subsection, "long-term care facility" includes an assisted living home as defined in AS 47.32.900 and a nursing facility as defined in AS 47.32.900.

Sec. 13.55.060. Form for written request. A request for a medication under this chapter must be in substantially the following form:

REQUEST FOR MEDICATION TO END MY LIFE

I, _____, am an adult of sound mind.

I am suffering from _____, which my attending physician has determined is a terminal disease and which has been medically confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of the medication to be prescribed and potential associated risks, the expected result, and the feasible alternatives, including comfort care, hospice care, and pain control.

I request that my attending physician prescribe medication that will end my life in a humane and dignified manner.

INITIAL ONE OF THE FOLLOWING:

_____ I have informed my family of my decision and taken their opinions into consideration.

_____ I have decided not to inform my family of my decision.

_____ I have no family to inform of my decision.

I understand that I have the right to rescind this request at any time.

I understand the full import of this request, and I expect to die when I take the medication to be prescribed. I further understand that, although most deaths occur within three hours, my death may take longer, and my attending physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

Signed: _____

Dated: _____

DECLARATION OF WITNESSES

We declare that the person signing this request

(1) is personally known to us or has provided proof of identity;

(2) in our presence signed or directed another person to sign this request;

(3) is not an individual for whom either of us is the attending physician; and

(4) to the best of our knowledge and belief,

(A) has the ability to make and communicate health care decisions to health care providers; and

(B) is acting voluntarily and not under undue influence.

_____ Witness 1 Date: _____

_____ Witness 2 Date: _____

NOTE: One witness may not be a relative (by blood, marriage, or adoption) of the individual signing this request, may not be entitled to a portion of the individual's estate on death, and may not own, operate, or be employed at a health care facility where the person is an individual or resident. If the individual is an inpatient at a health care facility, one of the witnesses shall be an individual designated by the facility."

Page 3, line 5:

Delete "**Sec. 13.55.050**"

Insert "**Sec. 13.55.070**"

Page 3, line 22:

Delete "AS 13.55.070"

Insert "AS 13.55.090"

Page 4, line 2:

Delete "AS 13.55.110"

Insert "AS 13.55.130"

Page 4, line 20:

Delete "**Sec. 13.55.060**"

Insert "**Sec. 13.55.080**"

Page 4, line 26:

Delete "**Sec. 13.55.070**"

Insert "**Sec. 13.55.090**"

Page 5, line 2:

Delete "**Sec. 13.55.080**"

Insert "**Sec. 13.55.100**"

Page 5, line 7:

Delete "**Sec. 13.55.090**"

Insert "**Sec. 13.55.110**"

Page 5, line 10:

Delete "**Sec. 13.55.100**"

Insert "**Sec. 13.55.120**"

Page 5, line 13, following "prescription":

Insert "and more than 48 hours have elapsed between the qualified individual's written request and the writing of the prescription"

Page 5, line 14:

Delete "**Sec. 13.55.110**"

Insert "**Sec. 13.55.130**"

Page 5, following line 18:

Insert a new paragraph to read:

"(2) all written requests by a qualified individual for medication under this chapter;"

Renumber the following paragraphs accordingly.

Page 6, line 2:

Delete "**Sec. 13.55.120**"

Insert "**Sec. 13.55.140**"

Page 6, line 6:

Delete "**Sec. 13.55.130**"

Insert "**Sec. 13.55.150**"

Page 6, line 19:

Delete "**Sec. 13.55.140**"

Insert "**Sec. 13.55.160**"

Page 6, line 28:

Delete "**Sec. 13.55.150**"

Insert "**Sec. 13.55.170**"

Page 7, line 5:

Delete "**Sec. 13.55.160**"

Insert "**Sec. 13.55.180**"

Page 7, line 9:

Delete "**Sec. 13.55.170**"

Insert "**Sec. 13.55.190**"

Delete "AS 13.55.130"

Insert "AS 13.55.150"

Delete "13.55.140"
Insert "13.55.160"

Page 7, line 10:
Delete "AS 13.55.150"
Insert "AS 13.55.170"

Page 7, line 11:
Delete "AS 13.55.160"
Insert "AS 13.55.180"

Page 7, line 27:
Delete "**Sec. 13.55.180**"
Insert "**Sec. 13.55.200**"

Page 8, line 12:
Delete "**Sec. 13.55.190**"
Insert "**Sec. 13.55.210**"

Page 8, line 14:
Delete "**Sec. 13.55.200**"
Insert "**Sec. 13.55.220**"

Page 8, line 18:
Delete "**Sec. 13.55.210**"
Insert "**Sec. 13.55.230**"

Page 9, line 2:
Delete "**Sec. 13.55.220**"
Insert "**Sec. 13.55.240**"

Page 9, line 12:
Delete "**Sec. 13.55.230**"
Insert "**Sec. 13.55.250**"

Page 9, line 20:
Delete "**Sec. 13.55.240**"
Insert "**Sec. 13.55.260**"

Page 9, line 26:
Delete "**Sec. 13.55.250**"
Insert "**Sec. 13.55.270**"

Page 10, line 1:
Delete "AS 13.55.220"
Insert "AS 13.55.240"

Page 11, line 11:
Delete "AS 13.55.150"
Insert "AS 13.55.170"

Page 11, line 13:
Delete "AS 13.55.150"
Insert "AS 13.55.170"

[3:10:28 PM](#)

REPRESENTATIVE TARR objected for discussion.

CHAIR SPOHNHOLZ explained that proposed Amendment 1 would include in statute a requirement that a terminally ill individual's desire for life ending medication be written down and witnessed by two individuals. Of those two, only one could be related to an individual entitled to a portion of the estate of the individual whose life would be ending or be employed by the health care facility where the individual was living or receiving treatment. She clarified that two interested parties could not sign off on this. She shared that there was an exemption to the written requirement if the individual did not possess the capacity to physically sign the document. In that case, the individual could direct another person to sign on their behalf. She reported that pages 2 and 3 of proposed Amendment 1 spelled out the form of the written request and the witnessing aspect. She directed attention to page 5, lines 1 - 2, of proposed Amendment 1, where the written request waiting period was outlined. On page 5, lines 10 - 11, the documentation requirement was outlined.

[3:11:38 PM](#)

REPRESENTATIVE TARR removed her objection.

[3:11:47 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD objected.

REPRESENTATIVE EASTMAN asked about a request for medication by an individual as an option, as they may be unsure of their decision. He asked if these witnesses would have to be present during the administration of the medicine.

CHAIR SPOHNHOLZ said no.

[3:12:35 PM](#)

REPRESENTATIVE JOHNSTON directed attention to Page 2, line 7 and asked if the "by regulation" referenced the facility and not the person.

CHAIR SPOHNHOLZ replied, "correct."

REPRESENTATIVE EASTMAN acknowledged that the concerns for coercion had been raised in the last year. He asked if there were concerns for coercion regarding an individual, and whether that would prohibit the written request from going through or would it not have an effect.

CHAIR SPOHNHOLZ offered her belief that the written request was to document and insure that coercion was not in place.

REPRESENTATIVE EASTMAN asked if a situation of coercion would prohibit this as a second attempt.

CHAIR SPOHNHOLZ questioned whether the reference of second attempt was toward an individual choosing to end their life. She opined that the individual would still have the autonomy for choice.

[3:14:24 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD maintained her objection.

[3:14:33 PM](#)

A roll call vote was taken. Representatives Spohnholz, Johnston, Edgmon, Kito, and Tarr voted in favor of proposed Amendment 1. Representatives Sullivan-Leonard and Eastman voted against it. Therefore, Amendment 1 was adopted by a vote of 5 yeas - 2 nays.

[3:15:27 PM](#)

REPRESENTATIVE EASTMAN asked what would appear on the death certificate if someone went through this process.

REPRESENTATIVE DRUMMOND offered her understanding that the diagnosis on the death certificate would be the terminal illness which would have killed the person.

REPRESENTATIVE EASTMAN mused that, from a legal perspective, it would appear that the person had not engaged entirely in this process, and they had died of natural causes.

REPRESENTATIVE DRUMMOND replied, "I think so."

REPRESENTATIVE SADDLER (alternate) asked to clarify that, although he was not allowed to vote on the proposed bill, he was not allowed to debate the issue, as well.

CHAIR SPOHNHOLZ offered her belief that "an alternate is to make sure that you caucus is properly represented and that you're here for informational purposes."

[3:17:59 PM](#)

REPRESENTATIVE TARR moved to report SSHB 54, Version 30-LS0254\0, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

[3:18:13 PM](#)

REPRESENTATIVE EASTMAN objected. He shared that his concerns were "squarely on the side of what happens when what is supposed to happen doesn't happen." He declared that a chief role of government was to protect an individual's right to life and he expressed his concern that within this intention of creating a path for things to happen, there would be abuse. He stated his concern that, if there was no requirement for any witnesses to be present when the drugs were administered, it would be very difficult for law enforcement to investigate if something criminal and illegal did take place which resulted in the death. He declared that this was not a fulfillment of the role to protect an individual's right to life, or to prosecute someone who took a life criminally. He expressed his concern that the age requirement for this process was very young.

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REPRESENTATIVE SULLIVAN-LEONARD echoed the comments of Representative Eastman and stated that she did not support the proposed bill. She stated that she believed in the sanctity of life, from beginning to end. She shared a personal anecdote of death within her family. She declared that this was a very controversial bill.

[3:21:44 PM](#)

REPRESENTATIVE TARR referenced the sad stories shared earlier. She declared that each individual had the right to make this decision. She expressed her concern for the more vulnerable populations, including seniors and those individuals with disabilities. She directed attention to page 2, line 7, that an individual did not qualify solely because of age or disabilities. She noted that many elders did feel themselves a burden on family, especially as their health deteriorated, they had more significant needs, and they did not have the resources or access to good health care. She offered her belief that, as the language of the proposed bill was restrictive, the issues had been addressed sufficiently. She stated her support of the proposed bill. She acknowledged that the witness aspect was "an interesting component" and she expressed her desire that the bill sponsor further address this as the bill moved forward.

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CHAIR SPOHNHOLZ offered her belief that it was a fundamental right for an individual to make the decisions for their own body. She allowed that the proposed bill included numerous safeguards, including the written requirement. She said that it was important to document the process. She directed attention to page 7, line 27, which established AS 13.55.180, a new section establishing criminal penalties for anyone committing the crime of abuse of life ending process of a person. She pointed out that this was equivalent to murder and may be punished similarly. She declared that this proposed bill was not legalizing anything other than giving an individual the right to make their own choices with their bodies. This did not give anyone else the right to choose to end another's life.

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REPRESENTATIVE EASTMAN maintained his objection.

[3:26:37 PM](#)

A roll call vote was taken. Representatives Spohnholz, Johnston, Edgmon, Kito, and Tarr voted in favor of SSHB 54. Representatives Sullivan-Leonard and Eastman voted against it. Therefore, CSSHB 54, Version 30-LS0254\O, was reported out of the House Health and Social Services Standing Committee by a vote of 5 yeas - 2 nays.

[3:27:19 PM](#)

The committee took an at-ease from 3:27 p.m. to 3:30 p.m.

HB 162-DHSS CENT. REGISTRY;LICENSE;BCKGROUND CHK

[3:30:03 PM](#)

CHAIR SPOHNHOLZ announced that the next order of business would be HOUSE BILL NO. 162, "An Act relating to criminal and civil history requirements and a registry regarding certain licenses, certifications, appeals, and authorizations by the Department of Health and Social Services; and providing for an effective date."

[3:30:15 PM](#)

STACIE KRALY, Chief Assistant Attorney General, Statewide Section Supervisor, Human Services Section, Civil Division (Juneau), Department of Law, characterized the proposed bill as a legislative fix to existing statutes found in AS 47, specifically the background check found in AS 47.05.300 and the licensing statutes found in AS 47.32. She declared that HB 162 was a technical fix which arose out of a number of issues over the past 15 years to identify a number of gaps, overlaps, redundancies, and "squishy language."

[3:31:27 PM](#)

CHAIR SPOHNHOLZ opened public testimony.

[3:31:52 PM](#)

KATE BURKHART, Ombudsman, Juneau Office, Office of the Ombudsman, reported that her office was an independent, non-partisan, and objective organization which investigated complaints about state government. When those complaints were found to be justified, the office would make recommendations for the improvement of government policies and programs. She emphasized that this was not an advocacy role and would only include comment on issues that directly affected work or where work might provide information that would inform deliberations with some context. She reported that the Office of the Ombudsman had developed an understanding of the background check program based on an extensive investigation which had been concluded and then reported in 2016. She declared that this information was relevant to some of the provisions in proposed HB 162. She offered her comments for use as the bill moved

forward, pointing out that she was not advocating that the previous recommendations should be taken in lieu of those in the proposed bill. She pointed out that, as there was not a unique registry associated with the background check program, the proposed bill offered an opportunity for clarification in statute. The bill, as written, referred to a civil registry which was in fact a program that checked pre-existing registries held in other places. Prior to 2012, the background check program used the standard for civil barriers, which included substantiated reports of child maltreatment and harm to the Office of Children's Services (OCS). In 2012, the Office of Children's Services began use of a "more robust standard" which looked to findings from the court in a "child in need of aid" proceeding. The recommendations from the Ombudsman's office had been to use the more robust standard of adjudicated findings which also provided an opportunity for due process in the court; whereas the substantiated report of harm did not always offer this opportunity. She stated that the background check program was an essential component to the systems which served vulnerable Alaskans and that proposed HB 162 offered an opportunity to strengthen the program. She relayed that if there was a decision to use a substantiated report of harm as a basis for a civil barrier under the background check program, which was a policy decision, then the notice to the people about whom a report had been substantiated needed to be very clear because this could affect them for up to 10 years. She pointed out that, currently, this notice was not clear. She stated that an express provision in the proposed bill, which required that a person be put on notice for inclusion in the child protection registry, could have effects on their ability to take a care giving job, or to become a relative placement for a child in OCS custody. She opined that this was an important program and that the proposed bill provided the opportunity to strengthen the program. She reiterated that these comments were offered to inform the process moving forward.

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CHAIR SPOHNHOLZ stated that the bill would be held.

[3:37:46 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD directed attention to the 12 recommendations addressing allegations with the Department of Health and Social Services listed on page 2 of the letter from the Office of the Ombudsman, and that there had been agreement for implementation to 3 of those recommendations. She asked for

a general outline of the 12 recommendations, with more specific details to those 3 agreed upon recommendations.

MS. BURKHART directed attention to page 35 of the report, which presented the response by the Department of Health and Social Services. She explained the Ombudsman process, which began with a confidential preliminary report to a state agency. The agency then had a chance to respond before a final report was issued and an executive summary was published if the issue was of public interest. She pointed to the Department of Health and Social Services (DHSS) response on page 35. She explained that DHSS was in the midst of a regulatory process as well as the proposal of a bill similar to HB 162. She opined that part of the intention was to implement recommendations 9 & 10 through the regulatory process, as noted on page 42.

CHAIR SPOHNHOLZ pointed out that the committee members did not have this report.

MS. BURKHART explained recommendations 4 & 5 although, she reported, these were not relevant to HB 162.

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REPRESENTATIVE TARR asked about recommendations 9 & 10.

MS. BURKHART explained that recommendation 9 reviewed the need for another look at whether really old findings in child in need of aid cases should be a permanent bar to an appointment. She reported that proposed HB 162 maintained for the current method, that the only permanent bar related to child protection was termination of parental rights. She reiterated that this recommendation was "not necessarily super relevant to [HB] 162." She directed attention to recommendation 10 which suggested implementation of a tiered response system, and that regulations adopted last year included a tiered response system, particularly with criminal barriers.

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MS. KRALY stated that there had been significant and substantial communication with the Office of the Ombudsman about moving forward with the proposed bill and improving the process.

CHAIR SPOHNHOLZ pointed out that there would be additional meetings between Ms. Kraly and Ms. Burkhart to offer recommendations for possible inclusion in the proposed bill.

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CHARLES MCKEE shared some personal experiences.

[3:47:26 PM](#)

CHAIR SPOHNHOLZ left public testimony open.

[HB 162 was held over.]

HB 268-OPIOID PRESCRIPTION WARNINGS

[3:47:40 PM](#)

CHAIR SPOHNHOLZ announced that the final order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 268, "An Act relating to the prescription of opioids; relating to the Department of Health and Social Services; 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; and relating to the practice of optometry."

[3:48:32 PM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, paraphrased from the Sponsor Statement [Include in members' packets], which read:

House Bill 268 seeks to help address the opioid addiction crisis in Alaska, by making sure patients are advised of the potential addictive dangers of these prescription drugs. Opioid drugs include oxycodone, hydrocodone, and other pain reducing drugs. In many cases these drugs are needed to address acute physical pain, but the facts show that these drugs can also have powerful addictive effects. Furthermore, studies show many heroin users started as opioid drug users. The relatively low cost of heroin as a substitute drug can lead to the transition by many Americans and Alaskans to heroin. Obviously, this can occur when a medical provider will no longer provide additional prescription medication. A small but troubling percentage of people who become addicted to opioid drugs later become heroin addicts.

These addictions can destroy families, destroy a person's ability to hold employment, and destroy lives. Addiction treatment is costly for consumers, who pay indirect insurance costs, as well as for the state, which often covers and pays for addiction treatment. In the worst case, overdose deaths also result from opioid use. According to the Department of Health and Social Services, 14,000 Americans died from opioid use in 2014 and 91 Americans die every day. Alaska's per capita death rate is twice the national average. According to the Department, between 2009-2015, 774 Alaskans died from opioid overdose.

This bill recognizes a reality. Since 1999, the number of opioid prescriptions has tripled. More Americans and Alaskans have been prescribed these often useful, but potentially dangerous drugs.

House Bill 268 is a patient information bill. It requires prescribers to let patients know about the potentially addictive qualities of these drugs when they are prescribed, and that they can potentially lead to opioid abuse and addiction. Providers must also offer information about opioid use being a potential risk factor for future heroin addiction. Patients can then use this knowledge to help themselves and their family members guard against overuse and abuse when prescribed these medications.

To keep the requirements flexible, and as non-burdensome as feasible, while still protecting patients, medical providers who prescribe these drugs will be required to provide this information to their patients in their "own words".

The bill also requires the Department of Health and Social Services to prepare a very short handout with some facts on the dangers of opioid addiction, and the potential association between opioid addiction and heroin use. To increase the chances that this information will be presented in a form that is useful, it is required to be concise, and may include graphics. The handout is important because it recognizes that the patient-provider discussion may not be long and detailed, and a patient may not remember what is told to them by a medical provider in

this regard. It also serves to reinforce the information.

This bill does not create opportunities for new civil lawsuits against providers, thus protecting the patient-provider relationship. Instead of imposing civil liability, and raising the specter of lawsuits, the enforcement mechanism in the bill allows the providers' Board to consider sanctions for "habitual" violations of this statute that occur without "good cause".

Exceptions to the legislation's requirements, borrowed from a similar statute passed in New Jersey, include medical services where opioids may be necessary such as for opioid addiction treatment and hospice care.

REPRESENTATIVE GARA declared that this was a world-wide problem, and opined that, as heroin was cheap, it could be substituted if the prescription opiates were no longer available from a doctor. He relayed his request that the Department of Health and Social Services put a link on its website for physicians to use to download a concise handout. He offered his own experience with opioid prescriptions, that he had never been told that they were potentially addictive or any link between opioid use and eventual heroin use.

[3:54:34 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked about offering the choice of another pain relieving, non-narcotic based product. She shared that pharmaceutical representatives had tried to offer this to doctors, but the response had been that the patients wanted quick relief.

REPRESENTATIVE GARA expressed his agreement, and he pointed out that the proposed bill required that a reasonable alternative to the opioid must be mentioned to the patient.

[3:55:49 PM](#)

REPRESENTATIVE JOHNSTON asked if the proposed bill was just for written prescriptions as a patient may not be able to read.

REPRESENTATIVE GARA explained that the bill was intended for written prescriptions. He reported that there was some opioid use that was not prescription use, and he cited examples of a

hospice care center or a heroin addiction treatment center. He stated that the proposed bill did not affect these centers. He explained that the proposed bill was a requirement for any prescription from an authorized provider.

[3:57:36 PM](#)

REPRESENTATIVE JOHNSTON said that she was thinking of trauma cases in emergency rooms.

REPRESENTATIVE GARA expressed his agreement that it should not affect emergency rooms and immediate care facilities.

CHAIR SPOHNHOLZ pointed out that there were times when you could and could not give consent.

[3:58:12 PM](#)

REPRESENTATIVE TARR directed attention to page 11, line 6, and suggested that the mechanism of action with opioid use needed to be described to a patient to better understand the health effects, even after the end of the prescription use. She asked if the Department of Health and Social Services would consider this, absent legislation, as there would be immediate positive effect.

REPRESENTATIVE GARA offered his belief that the Department of Health and Social Services would not require medical practitioners to read a statement or provide a handout, hence the need for legislation to make this a mandatory requirement. He pointed out that should a warning become too long, there would be resistance from physicians. He acknowledged that any appropriate additional information could be included in the written handout.

[4:01:18 PM](#)

REPRESENTATIVE TARR asked if the department would put something on its website more immediately.

REPRESENTATIVE GARA replied that it was already on the DHSS website.

[4:01:53 PM](#)

CHAIR SPOHNHOLZ added that the Office of Substance Misuse and Addiction Prevention had a lot of information and resources available to the public and health care practitioners.

[4:02:09 PM](#)

REPRESENTATIVE SADDLER (alternate) asked about the extent of impingement on a professional's judgement and who made the determination for "without good cause" for failing to provide information.

REPRESENTATIVE GARA replied that the goal of the proposed bill was to be non-burdensome on medical practitioners and not to create a hostile litigation relationship between patient and provider. He pointed out that the discipline for providers was very relaxed, noting that there was no lawsuit liability created by the bill. He explained that the enforcement mechanism was for habitual violators of the provisions of the bill who did not have good cause.

REPRESENTATIVE SADDLER asked who defined good cause and what constituted habitual.

[4:03:56 PM](#)

REPRESENTATIVE GARA replied that it was only habitual if the person was not following the law on a consistent basis.

REPRESENTATIVE KITO asked how a violation was determined and who would determine these violations.

REPRESENTATIVE GARA explained that the regulatory board for each profession would determine the violations and the need for punishment. He stated that the legal standard for habitual was determined by the dictionary definition.

[4:04:54 PM](#)

REPRESENTATIVE KITO asked how the board members were made aware of the violation.

REPRESENTATIVE GARA replied that "somebody would have to complain to them" and he opined that it would be rare as medical practitioners would not want to violate the law.

[4:05:37 PM](#)

CHAIR SPOHNHOLZ said the bill would be held over.

[4:05:58 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 4:05 p.m.