

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

February 22, 2018

3:15 p.m.

MEMBERS PRESENT

Representative Ivy Spohnholz, Chair
Representative Geran Tarr
Representative Jennifer Johnston
Representative Colleen Sullivan-Leonard
Representative Sam Kito

MEMBERS ABSENT

Representative Bryce Edgmon, Vice Chair
Representative David Eastman
Representative Matt Claman (alternate)
Representative Dan Saddler (alternate)

COMMITTEE CALENDAR

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 268

SHORT TITLE: OPIOID PRESCRIPTION INFORMATION

SPONSOR(S): REPRESENTATIVE(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
01/30/18	(H)	Heard & Held
01/30/18	(H)	MINUTE(HSS)

02/15/18 (H) HSS AT 3:00 PM CAPITOL 106
02/15/18 (H) -- MEETING CANCELED --
02/22/18 (H) HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE LES GARA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the changes for the committee substitute, as the sponsor of HB 268.

ANNE ZINK, M.D.
Alaska American College of Emergency Physicians
Palmer, Alaska

POSITION STATEMENT: Testified during discussion of HB 268.

SHELIS JORGENSEN, Medical Director
Alaska Sunshine Community Health Center
Talkeetna, Alaska

POSITION STATEMENT: Testified during discussion of HB 268.

ALISON KULAS, Executive Director
Advisory Board on Alcoholism & Drug Abuse
Alaska Mental Health Board
Division of Behavioral Health
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of HB 268.

SARA CHAMBERS, Deputy Director
Juneau Office
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community & Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of HB 268.

ACTION NARRATIVE

[3:15:35 PM](#)

CHAIR IVY SPOHNHOLZ called the House Health and Social Services Standing Committee meeting to order at 3:15 p.m. Representatives Spohnholz, Sullivan-Leonard, Tarr, and Johnston

were present at the call to order. Representative Kito arrived as the meeting was in progress.

HB 268-OPIOID PRESCRIPTION INFORMATION

3:15:56 PM

CHAIR SPOHNHOLZ announced that the only 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."

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REPRESENTATIVE TARR moved to adopt the proposed committee substitute (CS) for SSHB 268, labeled 30-LS1081\R, Radford, 2/9/18, as the working draft.

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CHAIR SPOHNHOLZ objected for discussion purposes.

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REPRESENTATIVE LES GARA, Alaska State Legislature, as sponsor of the proposed bill, paraphrased from the Explanation of Changes [Included in members' packets], which read:

Section 3. (15) Line 5: Clarified the bill applies to outpatient prescriptions only. Added the term "outpatient supply" before "of an opioid to a patient." in order to further define situations in which a prescriber must provide patient information about opioid medication. The term "outpatient supply" is used in law currently.

- Concurring changes for all prescribing professions follow in:
 - o Section 4 (a) Line 8
 - o Section 5 (15) Line 1
 - o Section 6 (a) Line 4
 - o Section 7 (13) Line 30
 - o Section 8 (a) Line 2

- o Section 9 (12) Line 2
- o Section 10 (a) Line 5

Section 4 (C) (iii). Lines 20-21: Language removed requiring prescriber give information to a patient on heroin addiction and the connection between opioid prescription drug addiction and heroin use. Changed "health danger" to "health risks". Now reads that a prescriber must provide information on how "opioid addiction may pose potentially life threatening health risks".

- Concurring changes for all prescribing professions follow in:
 - o Section 6, C, iii, Line 17-18
 - o Section 8, C, iii, Line 17-18
 - o Section 10, C, iii, Lines 18-19

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REPRESENTATIVE GARA presented a PowerPoint, titled "HB 268 Opioid Prescription Warnings." He directed attention to slide 1, "The Nationwide Opioid Epidemic," and reported that about 14,000 people die each year from prescription opioid misuse. He added that, since 1999, the per capita usage of opioid prescriptions had tripled, with as many as 1 in 4 people receiving a long-term prescription for opioids in a primary care setting while struggling with addiction. He moved on to slide 2, "The Alaskan Opioid Epidemic," and declared that the opioid death rate in Alaska was, on a per capita basis, twice the national average and that the heroin associated overdose death rate was 50 percent higher than the national average. He declared that opioid use and heroin use was a crisis worldwide.

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REPRESENTATIVE GARA addressed slide 3, "Extended Opioid Use Raises Risk of Addiction," stating that the longer the use of an opioid, the higher the chance of long term dependence, and then, possible addiction. He shared slide 4, "Link Between Opioid Abuse and Heroin Addiction," and relayed that 80 percent of heroin users started out using opioid and other pain killing prescriptions.

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REPRESENTATIVE GARA directed attention to slide 5, "HB 268," and stated that this was a requirement of the licensee, which read in part: "shall provide to the patient or the person authorized to make health care decisions for the patient..." He moved on to slide 6, "Oral Statement," and paraphrased the slide, which read [original punctuation provided]:

An oral statement which in the licensee's or agent's own words, includes: The licensee's reasons for prescribing the opioid; any reasonable non-opioid alternatives to the prescription: Information that: the prescription could potentially lead to opioid addiction, the danger of opioid addiction can begin to increase if a prescription is extended over longer periods of time, [and] opioid addiction may pose potentially life-threatening health risks.

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REPRESENTATIVE GARA shared slide 7, "Making HB 268 Effective Without Hurting Doctor-Patient Relationship," and stated that, as the proposed bill did not intend to interfere with the patient-provider relationship, there was no civil liability for any violation of the proposed bill and that prescribers were allowed the right to make honest mistakes if not following the dictates of the proposed bill. He added that there was an enforcement mechanism through the boards of each profession, if a prescriber habitually violated the law.

REPRESENTATIVE GARA turned to slide 8, "Written Statement," noting that the Department of Health and Social Services would put this on-line for the provider. He said that the department could decide what information was necessary to provide.

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REPRESENTATIVE GARA concluded with slide 9, "CDC Checklist for Prescribing Opioids," and explained that, although the dangers from opioids were known, not all providers tell patients about these dangers. He emphasized that the proposed bill was "an information bill, this is a full disclosure bill to patients." He shared his personal experiences with prescriptions for opioids, stating that he had never been warned of the dangers from opioid use. He reported on his discussions with many people and shared that these warnings were not commonly discussed. He added that the Centers for Disease Control and Prevention (CDC) was aware that the warnings were not being

offered in all prescriber offices. He pointed out that the CDC guidelines were voluntary and was even more comprehensive than the proposed bill.

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REPRESENTATIVE JOHNSTON asked how this would be made effective.

REPRESENTATIVE GARA explained that, as the proposed bill had to be written allowing for the board mechanisms of each profession, each board should tell its members.

REPRESENTATIVE JOHNSTON shared an anecdote about a visit to a clinic which had not posted the price estimates.

REPRESENTATIVE GARA said that, although he did not have a concern, the proposed bill could be amended to ask the boards to notify their membership.

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CHAIR SPOHNHOLZ shared that, as there were professional organizations for each of these health care providers, the proposed legislation would be well tracked.

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REPRESENTATIVE GARA returned attention to slide 9 and pointed out that the mandatory requirements of the bill were lesser than those requirements from the CDC guidelines. He pointed out that the CDC had become involved because this was an epidemic. He allowed that this bill would not end the opioid epidemic, although it was necessary to have informed patients and informed parents to watch the use of prescriptions.

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REPRESENTATIVE SULLIVAN-LEONARD asked if there was currently a mandate to post the message for opioid use in a conspicuous place.

REPRESENTATIVE GARA explained that he did not want to overregulate and that a short verbal statement was the most important as often people did not read what they were given.

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REPRESENTATIVE SULLIVAN-LEONARD asked how to follow up.

REPRESENTATIVE GARA explained that this was not mandated on providers and there was not any liability. He offered his belief that the provider would give a short verbal statement to the patient.

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REPRESENTATIVE SULLIVAN-LEONARD asked if habitual offenders were those patients who continually obtained prescriptions from a specific medical professional.

REPRESENTATIVE GARA explained that the habitual language was directed to each board and would be left to each board for enforcement authority.

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CHAIR SPOHNHOLZ asked if enforcement would take place through the boards and that, if patients make numerous complaints, the boards would step in.

REPRESENTATIVE GARA replied "that's correct."

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REPRESENTATIVE SULLIVAN-LEONARD asked if the state medical board was receiving a lot of complaints of physicians overprescribing opioids.

REPRESENTATIVE GARA explained that the CDC action reflected that this information was not always given. He questioned whether the failure to provide this information had statistically lead to a higher incidence of opioid addiction. He pointed out that sharing information allowed patients to protect themselves.

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

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CHAIR SPOHNHOLZ opened public testimony on HB 268.

[3:36:30 PM](#)

ANNE ZINK, Alaska American College of Emergency Physicians, paraphrased from her letter, dated February 21, 2018, [Included in members' packets] [original punctuation provided] which read:

I appreciate your time and considering this testimony for HB 268, Opioid Prescription Writing on behalf of Alaska ACEP (American College of Emergency Physicians) a local group representing more than 80% of the emergency medicine physicians in Alaska.

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I am a full time practicing Emergency Physicians at Mat-Su Regional Hospital in Palmer Alaska and have spoken before on the need to better address the opioid epidemic facing our great state.

In the Emergency Department we see both the best and worst of opioids. When a tragic accident leaves a patient mutilated and in agony, or an elder suffering from the intense pain of metastatic cancer and its resultant fractures, opioids play a critical role. Opioids ability to provide relief from pain and suffering remain important. We also see the destruction that opioids wreak on patients lives, the overdoses, and the violent threats for opioids if they are not delivered on demand. We see a generation that expects (and demands) a pain free life. As physicians, we have been inappropriately incentivized to both make our patients "satisfied" and "do everything possible to alleviate pain". The combination of these factors, along with aggressive marketing by the pharmaceutical industry, have contributed to the nightmare of the opioid epidemic we see today.

As Emergency Physicians, we recognize the critical role that physicians and the broader medical system play in both addressing the opioid epidemic that exists today, as well as preventing Alaskans from becoming embroiled in the opioid epidemic in the future. We have worked with DHSS to create guidelines for how opioids should be prescribed in the Emergency Department. We are implementing IT fixes across the state, so we can more easily identify patients at risk for opioid addiction and overdose sooner. In conjunction with DHSS, we are finalizing an opioid

education handout that discusses many of the aspects of pain and opioid use and abuse called for in HB 268. Statewide, we now have a CME requirement related to opioids. Our state chapter of ACEP, National ACEP, and the broader house of medicine have all recognized the tragedy of medical opioid use and the link to opioid addiction.

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In general, as physicians, we are concerned when legislation inserts itself into the conversations and relationships we have with our patients. We are concerned by moves in other states where key issues regarding health of patients were legislatively prohibited from being discussed. We see the patient / physician relationship as a special and very personal space that we fight hard to protect.

HB 268 appears to be legislating something that we believe physicians should be doing for their patients. As emergency physicians we fully embrace the importance of the risk-benefit- alternative discussion between provider and patient any time a potentially hazardous test or treatment is being considered. The decision to use opioids or not certainly falls into this category. Our hope is that with all the attention being paid to opioids by both the house of medicine and society in general, these conversations are already happening.

We all play a role in creating a happy and healthy society. We need our medical system to be better stewards of the opioids they prescribe and administer, we need physicians to not be graded on "ending pain", we need better patient education about the risk and alternatives for these medication, we need better information systems that let providers know what treatment a patient has received elsewhere, and we need treatment options available for patients seeking recovery. HB 268 may help encourage a conversation we believe in and is in line with many other steps this body and others have taken end this epidemic. If this bill does pass, we would suggest the addition of a sunset clause to ensure limited health care resources are being devoted to the most appropriate location.

Thank you for your time and consideration and accepting this written testimony. Please feel free to reach out with any questions or concerns.

3:38:38 PM

REPRESENTATIVE TARR asked about the opioid prescribing guidelines for emergency room departments.

DR. ZINK explained that the Medicaid redesign two years prior, Senate Bill 74, included the creation of opiate guidelines for the emergency departments. She reported that during the numerous town hall meetings with emergency room physicians, the CDC guidelines were reviewed for what made sense, and an opiates guideline for the emergency departments, which followed the CDC recommendations, was created. She stated that these guidelines had transformed much of the conversation in the emergency department, resulting in dramatically fewer opiates prescribed from the emergency departments. She declared that the guidelines were helpful and allowed for more consistent care that did not have to involve opiates. She noted that there was currently work on the development of a handout educating patients about opiate and non-opiate alternatives.

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SHELIS JORGENSEN, Medical Director, Alaska Sunshine Community Health Center, shared some background about the clinic, reporting that the center served about 6,500 community members for their primary medical, behavioral, and dental health care. She reported that they had an out-patient opiate addiction program. She explained that patients with pain issues were screened for depression and anxiety, for alcohol or substance use, and were required to meet with a behavioral health provider. The clinic used a standardized opiate risk assessment tool, did random urine drug screening, and used the Alaska prescription drug monitoring program for every controlled substance prescription. She shared that the clinic had written procedures, as all the providers could dispense nasal Narcan. She reported that the clinic counselled its patients on the risks and benefits of any medication, especially any opiate medications, as well as any alternative treatments and therapies. She noted that the clinic included pain management in its peer review process. She declared that this was not a simple issue, as a patient in pain wanted information and a thoughtful evaluation for the best course of treatment that would relieve their suffering with the lowest risk. She stated

her support of the proposed bill and offered that the proposed bill would hold providers to a minimum level of accountability for conversations with their patients.

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REPRESENTATIVE TARR opined that the proposed bill was not onerous, noting that her clinic was already taking advantage of those opportunities.

MS. JORGENSEN replied that it would complement their practice and that solid research had shown the success for conversation and written information.

[3:49:01 PM](#)

ALISON KULAS, Executive Director, Advisory Board on Alcoholism & Drug Abuse, Alaska Mental Health Board, Division of Behavioral Health, Department of Health and Social Services, referenced two letters of support [Included in members' packets] and paraphrased from her letter dated February 7, 2018, which read in part:

We believe opioid prescribers should talk to their patients about the potential addictive qualities of opioids and discuss other treatment options while following the state prescribing guidelines. We are aware that the Department of Health and Social Services is developing patient information brochures and we fully support the distribution of these materials when prescribing opioids. Taken together, patients will be able to make informed choices about their healthcare.

We appreciate your hope to keep the requirements flexible and as non-burdensome as possible. Working with the licensing boards to offer providers training and support on the interagency prescribing guidelines and encouraging providers to educate their patients will help turn the tide on opioid addiction.

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SARA CHAMBERS, Deputy Director, Juneau Office, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community & Economic Development, explained that the investigative process for the licensing programs would

include an in-take process for a complaint, talk with the provider, and review of the patient record for any notes. She added that the board action threshold defined by the proposed bill was that an infraction had to be habitual and without good cause. As habitual was defined as "customary or usual," it would require review of the records of multiple patients, who may not be aware of this, to determine whether the "provider was habitually and without good cause breaking the law." She added that good cause was defined as "a legally sufficient reason," so there would need to be a threshold. She pointed out that the legally sufficient reason would be paired with the habituality. She explained that "the nuts and bolts of the investigation would be predicated on one complaint from one person."

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CHAIR SPOHNHOLZ mused that a single complaint could predicate an investigation, but action would not necessarily be taken unless it met the fairly high threshold for this being habitual.

MS. CHAMBERS mentioned that currently the Alaska State Medical Board and the Alaska Board of Nursing did have requirements in regulation which required patient education and informed consent. She added that the Board of Dental Examiners did not currently have these regulations while the Board of Optometry was working on them. She noted that the division was looking at this change of culture from the providers.

CHAIR SPOHNHOLZ clarified that optometrists have had the authority to prescribe opiates for some time.

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CHAIR SPOHNHOLZ closed public testimony. She said that HB 268 would be held over.

[3:58:16 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 3:58 p.m.