

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 8, 2018

3:19 p.m.

MEMBERS PRESENT

Representative Bryce Edgmon, Vice Chair
Representative Sam Kito
Representative Geran Tarr
Representative David Eastman (via teleconference)
Representative Jennifer Johnston
Representative Colleen Sullivan-Leonard
Representative Matt Claman (alternate)

MEMBERS ABSENT

Representative Ivy Spohnholz, Chair
Representative Dan Saddler (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 358

"An Act relating to insurance coverage for benefits provided through telehealth; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 351

"An Act relating to care of juveniles and to juvenile justice; relating to employment of juvenile probation officers by the Department of Health and Social Services; relating to terms used in juvenile justice; relating to mandatory reporters of child abuse or neglect; relating to adjudication of minor delinquency and the deoxyribonucleic acid identification registration system; relating to sexual assault in the third degree; relating to sexual assault in the fourth degree; repealing a requirement for administrative revocation of a minor's driver's license, permit, privilege to drive, or privilege to obtain a license for consumption or possession of alcohol or drugs; and providing for an effective date."

- MOVED CSHB 351(HSS) OUT OF COMMITTEE

HOUSE BILL NO. 193

"An Act relating to insurance trade practices and frauds; and relating to emergency services and balance billing."

- HEARD & HELD

HOUSE BILL NO. 336

"An Act relating to supported decision-making agreements to provide for decision-making assistance; and amending Rule 402, Alaska Rules of Evidence."

- MOVED CSHB 336 (HSS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 358

SHORT TITLE: INSURANCE COVERAGE FOR TELEHEALTH

SPONSOR(S): REPRESENTATIVE(S) SPOHNHOLZ

02/19/18	(H)	READ THE FIRST TIME - REFERRALS
02/19/18	(H)	HSS, L&C
03/08/18	(H)	HSS AT 3:00 PM CAPITOL 106

BILL: HB 351

SHORT TITLE: JUVENILES: JUSTICE, FACILITES, TREATMENT

SPONSOR(S): REPRESENTATIVE(S) SPOHNHOLZ

02/16/18	(H)	READ THE FIRST TIME - REFERRALS
02/16/18	(H)	HSS, JUD
03/06/18	(H)	HSS AT 3:00 PM CAPITOL 106
03/06/18	(H)	Heard & Held
03/06/18	(H)	MINUTE (HSS)
03/08/18	(H)	HSS AT 3:00 PM CAPITOL 106

BILL: HB 193

SHORT TITLE: HEALTH CARE; BALANCE BILLING

SPONSOR(S): REPRESENTATIVE(S) GRENN

03/24/17	(H)	READ THE FIRST TIME - REFERRALS
03/24/17	(H)	HSS, L&C
03/08/18	(H)	HSS AT 3:00 PM CAPITOL 106

BILL: HB 336

SHORT TITLE: SUPPORTIVE DECISION-MAKING AGREEMENTS

SPONSOR(S): REPRESENTATIVE(S) MILLETT

02/07/18	(H)	READ THE FIRST TIME - REFERRALS
02/07/18	(H)	HSS, JUD
03/01/18	(H)	HSS AT 3:00 PM CAPITOL 106

03/01/18 (H) Heard & Held
03/01/18 (H) MINUTE (HSS)
03/08/18 (H) HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

BERNICE NISBETT, Staff
Representative Ivy Spohnholz
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 358 on behalf of the bill sponsor, Representative Spohnholz.

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

POSITION STATEMENT: Answered questions during discussions of HB 358 and HB 193.

MATT DAVIDSON, Social Services Program Officer
Division of Juvenile Justice
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of HB 351.

REPRESENTATIVE JASON GRENN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 193 as the sponsor of the bill.

RYAN JOHNSTON, Staff
Representative Jason Grenn
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the Sectional Analysis on behalf of the bill sponsor, Representative Grenn.

MEGAN WALLACE, Attorney
Legislative Legal Counsel
Legislative Legal Services
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of HB 193.

NATHAN PAIMANN, MD
Bartlett Regional Hospital
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of HB 193.

HANS RODVIK, Staff
Representative Charisse Millett
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 336 on behalf of the bill sponsor, Representative Millett.

ACTION NARRATIVE

[3:19:41 PM](#)

REPRESENTATIVE TARR called the House Health and Social Services Standing Committee meeting to order at 3:19 p.m. Representatives Tarr, Kito, Johnston, and Sullivan-Leonard were present at the call to order. Representatives Edgmon and Eastman (via teleconference) arrived as the meeting was in progress.

HB 358-INSURANCE COVERAGE FOR TELEHEALTH

[3:21:17 PM](#)

REPRESENTATIVE TARR announced that the first order of business would be HOUSE BILL NO. 358, "An Act relating to insurance coverage for benefits provided through telehealth; and providing for an effective date."

[3:21:34 PM](#)

BERNICE NISBETT, Staff, Representative Ivy Spohnholz, Alaska State Legislature, paraphrased from the Sponsor Statement [Included in members' packets] [original punctuation provided], which read:

HB 358 will enhance access to health care services, primarily mental health and primary care, for Alaskans who have insurance plans with Moda, Premera Blue Cross, United Healthcare, and Aetna Life Insurance, to name a few. HB 358 does this by requiring the insurers previously listed to provide insurance coverage for

health care services provided through telehealth. Increasing access to health care services throughout Alaska is crucial. Because of our unique geographical landscape and our rural and aging communities spread out across the state, telehealth can enhance access to health care and improve clinical outcomes.

Here are some of the advantages of telehealth:

- Better access and privacy in rural, remote, and urban areas of Alaska
- Early intervention which can lead to savings
- Greater access for referrals to providers who specialize in treating specific health issues
- Better, and potentially quicker, access means a potential reduction in suicides, domestic violence and other serious events
- Zero impact on state budget

Under HB 358, telehealth benefits for all covered health care services, including mental health benefits, will be reimbursable for health care providers licensed in the state without an initial in person appointment. Depending on the patient's needs, a telehealth appointment can provide education, reviewing of prescriptions and checking symptoms, all at a distance on a secure system.

Health care services delivered via telehealth is happening all over the country, and Alaska is at the forefront of providing telehealth services for urban, rural, aging, and the underserved communities across the state.

MS. NISBETT presented the definition of tele-health as it was written in AS 47.05.27(e), and read:

the practice of health care delivery, evaluation, diagnosis, consultation, or treatment using the transfer of health care data through audio, visual, or data communications performed over two or more locations between providers who are physically separated from the recipient or from each other or between a provider and a recipient who are physically separated from each other.

MS. NISBETT reported that prominent health care organizations in Alaska had stated that tele-health can increase access, an issue

recommended by the Alaska Health Care Commission for the Alaska State Legislature to address. She noted that the legislature had passed Senate Bill 74 in 2016, which was primarily a Medicaid reform bill with significant tele-health components. She pointed out that the proposed bill would only impact insurance plans regulated by the Division of Insurance.

[3:24:49 PM](#)

MS. NISBETT paraphrased from the Sectional Analysis [included in members' packets], which read:

Section 1.

AS 21.42.422 has been amended to require insurance coverage for benefits provided via telehealth.

Section 2.

AS 21.42.422 is a new subsection that defines health care insurer as a person transacting the business of health care insurance except for a nonfederal governmental plan. It also adds the definition of telehealth under 47.05.270(e) as the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of health care data through audio, visual, or data communications, performed over two or more locations between providers who are physically separated from the recipient or from each other or between a provider and a recipient who are physically separated from each other.

Section 3

The changes to Section 1 of this bill applies to health care insurance plans that are offered, issued, delivered, or renewed on or after the effective date.

Section 4

The effective date is July 1, 2019.

[3:26:12 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked if a patient in a rural area would need to see a primary physician prior to the use of tele-health.

[3:27:20 PM](#)

ANNA LATHAM, Deputy Director, Juneau Division, Division of Insurance, Department of Commerce, Community & Economic Development, offered her belief that, although this had not been addressed in the proposed bill, as the bill read, it was not necessary for an in-person appointment prior to the use of telehealth.

REPRESENTATIVE SULLIVAN-LEONARD opined that it was "really important that we do have coverage for our tele-health process and network for patients that don't have access to physicians." She wanted to ensure there was not a gap in the process allowing that someone did not receive the proper oversight from a physician while in a rural area.

REPRESENTATIVE TARR noted that this had previously been limited to mental health services, but, was now expanded for all telehealth.

MS. LATHAM said that was correct.

[3:29:07 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked to hear from a physician or nurse practitioner for the effect of the proposed bill on their practice.

MS. NISBETT, in response to Representative Sullivan-Leonard, explained that providers primarily used telehealth for follow up appointments, consultation, education, and review of prescriptions. However, if a patient in rural Alaska had a serious condition, it was suggested they travel to an urban area to see a doctor. She declared that telehealth was not the initial or primary service of care.

REPRESENTATIVE SULLIVAN-LEONARD asked to ensure that everything was covered by the providers.

[3:31:39 PM](#)

REPRESENTATIVE CLAMAN asked, as the proposed bill restricted telehealth to providers licensed in Alaska, if it would be more difficult to receive telehealth services from mental health providers from out of state.

MS. NISBETT asked for clarification.

REPRESENTATIVE CLAMAN explained that there were instances in which mental health providers worked with social workers in Alaska to provide person to person counseling services, even though the medication was managed by an out of state provider who only communicated with the patient from afar. He asked if the out of state provider would not receive an insurance payment because they were not licensed in Alaska.

MS. NISBETT said that she would research this.

[3:33:41 PM](#)

REPRESENTATIVE JOHNSTON asked for clarification that there was telemedicine through the Indian Health Service (IHS), and whether this proposed bill would expand service to community members in rural villages not covered by the Indian Health Service.

MS. NISBETT replied that this was correct.

[3:34:13 PM](#)

MS. LATHAM stated that the proposed bill expanded telehealth and removed it from solely mental health benefits, for the individual and small group market, as those markets were regulated by the Division of Insurance.

REPRESENTATIVE JOHNSTON asked if this was covered as a Medicaid reimbursement, rather than the IHS.

MS. LATHAM offered her belief that, as the IHS was the payer of last resort, a plan in the individual market would cover telehealth benefits. She stated that she was not familiar with the benefits covered under IHS, although her understanding was that it would be covered under both scenarios.

[3:35:28 PM](#)

REPRESENTATIVE TARR asked if the proposed changes would impact the benefits covered by Medicaid, noting that this proposed bill was for private and group plans.

MS. LATHAM explained that the proposed bill only covered plans regulated by the Division of Insurance, which included large groups, small groups, and the individual market.

REPRESENTATIVE TARR referenced House Bill 234 in 2016 which did not include a section regarding licensure by the state.

[3:36:34 PM](#)

REPRESENTATIVE TARR said that HB 358 would be held over.

HB 351-JUVENILES: JUSTICE, FACILITES, TREATMENT

[3:36:52 PM](#)

REPRESENTATIVE TARR announced that the next order of business would be HOUSE BILL NO. 351, "An Act relating to care of juveniles and to juvenile justice; relating to employment of juvenile probation officers by the Department of Health and Social Services; relating to terms used in juvenile justice; relating to mandatory reporters of child abuse or neglect; relating to adjudication of minor delinquency and the deoxyribonucleic acid identification registration system; relating to sexual assault in the third degree; relating to sexual assault in the fourth degree; repealing a requirement for administrative revocation of a minor's driver's license, permit, privilege to drive, or privilege to obtain a license for consumption or possession of alcohol or drugs; and providing for an effective date."

[3:37:39 PM](#)

MATT DAVIDSON, Social Services Program Officer, Division of Juvenile Justice, Department of Health and Social Services, stated that the proposed bill was an update for the terms used in the juvenile justice statute to describe the facilities and staff. Most of the bill applied to conforming changes throughout the statutes, and not for actual changes to meaning, or changes to the powers or duties of the Division of Justice. He listed some of the outdated terms used in statute, which included juvenile work camps and detention homes, noting that these were being updated with modern terms to describe the facilities. He stated that the definition for juvenile probation officer was being updated, as well as providing a delineation between adult and juvenile probation officers in statute. He pointed out that the proposed bill added juvenile justice staff and probation officers as mandatory reporters of child abuse and neglect in AS 47.17. He stated that this reflected a role of the staff in working with kids, as they were often disclosing this type of activity, which would be reported to the Office of Children's Services.

REPRESENTATIVE TARR clarified that this was current policy and was now being written into statute.

[3:39:38 PM](#)

REPRESENTATIVE TARR opened public testimony and after ascertaining no one wished to testify, closed public testimony on HB 351.

[3:40:19 PM](#)

REPRESENTATIVE TARR moved to adopt proposed Amendment 1, labeled 30-LS0416\R.1, Glover, 2/28/18, which read:

Page 13, lines 6 - 7:

Delete "the minor is not in sight or sound of adult prisoners, and"

REPRESENTATIVE CLAMAN objected for discussion.

REPRESENTATIVE TARR explained that proposed Amendment 1 addressed page 13, lines 6 - 7, of the proposed bill in which youth could be detained in a temporary secure holding area. She stated that removal of this language could be problematic for these temporary secure holding areas.

[3:41:40 PM](#)

MR. DAVIDSON clarified that this section of the bill was in the delinquency statute and, while drafting it, the separation of sight and sound had been added to the wrong place. He explained that currently this applied to youth in the custody of the Department of Corrections, as explained in lines 18 and 21. He stated that the intent of the bill was not for the Department of Corrections to have sight and sound separation for those individuals and that it was not required by law.

[3:42:35 PM](#)

REPRESENTATIVE CLAMAN removed his objection. There being no further objection, Amendment 1 was adopted.

[3:42:59 PM](#)

REPRESENTATIVE EASTMAN moved to adopt proposed Amendment 2, labeled 30-LS-0416\R.2, Laffen, 3/8/18, which read:

Page 18, line 21, through page 19, line 13:

Delete all material and insert:

"* **Sec. 38.** AS 47.17.020(a) is amended to read:

(a) The following persons who, in the performance of their occupational duties or [,] their appointed duties under (8) of this subsection, [OR THEIR VOLUNTEER DUTIES UNDER (9) OF THIS SUBSECTION,] have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the department:

- (1) practitioners of the healing arts;
- (2) school teachers and school administrative staff members, including athletic coaches, of public and private schools;
- (3) peace officers and officers of the Department of Corrections;
- (4) administrative officers of institutions;
- (5) child care providers;
- (6) paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs as defined in AS 18.66.990;
- (7) paid employees of an organization that provides counseling or treatment to individuals seeking to control their use of drugs or alcohol;
- (8) members of a child fatality review team established under AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created under AS 47.14.300;

(9) juvenile probation officers, juvenile probation office staff, and staff of juvenile detention facilities and juvenile treatment facilities, as those terms are defined in AS 47.12.990 [VOLUNTEERS WHO INTERACT WITH CHILDREN IN A PUBLIC OR PRIVATE SCHOOL FOR MORE THAN FOUR HOURS A WEEK]."

Page 19, following line 13:

Insert a new bill section to read:

"* **Sec. 39.** AS 47.17.022(e) is amended to read:

(e) Each school district that provides training under this section shall provide notice to public and private schools located in the school district of the availability of the training [AND INVITE VOLUNTEERS WHO ARE REQUIRED TO REPORT ABUSE OR NEGLECT OF

CHILDREN UNDER AS 47.17.020 TO PARTICIPATE IN THE TRAINING AT NO COST TO THE VOLUNTEER]."

Renumber the following bill sections accordingly.

Page 19, line 15:

Delete "and 47.14.990(9)"

Insert ", 47.14.990(9); and AS 47.17.020(j)"

Page 19, line 31:

Delete "Section 41"

Insert "Section 42"

REPRESENTATIVE TARR objected.

REPRESENTATIVE EASTMAN explained that proposed Amendment 2 would protect the treatment of volunteers and recognize them as not paid and not receiving direct benefits for their service. He stated that the current proposal would allow that volunteers were criminally liable for not reporting under the mandatory reporter requirement. He said that the proposed amendment would not limit a volunteer's ability to make a report. He stated that making a volunteer criminally liable just for their volunteer work would result in fewer volunteers.

[3:44:59 PM](#)

REPRESENTATIVE TARR shared a provision from House Bill 44 that had been added to statute in 2015. She noted that there had been a lot of discussion for this provision, and that the provision had been added because of some very high-profile incidences for individuals abusing children. She stated that this was an attempt to create a better system, and it only applied to those who volunteered for more than four hours each week. She pointed out that it was important for these longer-term volunteers to have the training as their behavior and their recognition of other behavior would be enhanced. She shared that, although she frequently received communication regarding this bill, she had not heard of any issues with this provision. She declared that she was not supportive of the proposed amendment. She pointed out that the proposed bill was focused on updates to the Division of Juvenile Justice statutes, and that the mandatory reporter provisions were specific to juvenile probation.

[3:47:34 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked whether volunteers were already covered for liability.

MR. DAVIDSON explained that the volunteers referenced in the proposed amendment were not specific to Juvenile Justice volunteers. He noted that the proposed bill added juvenile justice officers and juvenile probation staff to the mandatory reporting requirement. He deferred to Representative Tarr for a better understanding of the mandatory reporter statute. He pointed out that the Office of Children's Services administered the mandatory reporter training.

REPRESENTATIVE SULLIVAN-LEONARD stated her understanding that there was liability coverage for volunteers and asked for a comparison of the description beginning on page 18, line 22 of the proposed bill with the proposed Amendment 2.

MR. DAVIDSON said that he was not familiar with liability coverage for volunteers.

[3:49:55 PM](#)

REPRESENTATIVE TARR opined that volunteers were covered through the school district and elsewhere.

[3:50:17 PM](#)

REPRESENTATIVE EASTMAN reported that, as a mandatory reporter in his role as a firefighter for the Matanuska-Susitna Borough, they regularly received this training. He stated that proposed Amendment 2 recognized that volunteers should be treated separately than those who were paid. He offered his belief that "telling someone who's abusing a child that they need to report the abuse of that child is not going to have much of an effect on stopping that abuse. I think if someone already violating the law ... probably isn't going to change much." He said that it would impact those who were recruiting volunteers to work with children, as many volunteers would not sign up under a condition of liability. He pointed out that liability insurance would protect against a civil suit, but proposed Amendment 2 would protect against criminal sanctions. He stated that this amendment was not limiting the ability to report anything that was of concern or limiting the training offered.

[3:52:24 PM](#)

REPRESENTATIVE TARR maintained her objection.

[3:52:29 PM](#)

A roll call vote was taken. Representative Eastman (via teleconference) voted in favor of proposed Amendment 2. Representatives Sullivan-Leonard, Claman (alternate), Kito, Edgmon, Johnston, and Tarr voted against it. Therefore, Amendment 2 failed by a vote of 1 yea - 6 nays.

[3:53:29 PM](#)

REPRESENTATIVE EDGMON moved to report HB 351, Version 30-LS0416\R, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 351(HSS) was moved from the House Health and Social Services Standing Committee.

[3:54:09 PM](#)

The committee took an at-ease from 3:54 p.m. to 3:56 p.m.

HB 193-HEALTH CARE; BALANCE BILLING

[3:56:15 PM](#)

REPRESENTATIVE TARR announced that the next order of business would be HOUSE BILL NO. 193, "An Act relating to insurance trade practices and frauds; and relating to emergency services and balance billing."

[3:56:39 PM](#)

REPRESENTATIVE JASON GRENN, Alaska State Legislature, paraphrased from the Sponsor Statement [included in members' packets], which read:

House Bill 193 is focused on protecting Alaskans in emergency situations from being surprised with unexpected medical bills. The most common occurrence for balance billing is during emergency situations where patients are left without the option or wherewithal to ensure they are treated by an in-network provider. As a result, they find themselves on the hook for hefty medical bills, despite having proper health insurance. HB 193 would help Alaskans already dealing with the turmoil of a medical emergency by removing them from the billing side of

the equation. When a patient is already in a dire situation, they should not be punished for the inability of an in-network provider to respond to their crisis.

HB 193 bans the practice of medical providers from balance billing in emergency situations and requires insurance providers to hold harmless their clients. This covers emergency situations inside and outside of hospitals. If a patient was transported to a hospital, or an emergency arose during a medical procedure requiring an out-of-network provider, this legislation mandates the insurance and medical providers to develop a fair and equitable payment agreement. Instead of being left to handle the labyrinth of medical billing on their own, the patient will be held harmless in these situations.

Medical costs are a major concern in Alaska. HB 193 is a part of a national movement to protect consumers from unexpected costs in an already difficult situation. Twenty-one states have a ban of some kind on balance billing and more states are looking into the issue. Unexpected and excessive medical bills from out-of-network providers contribute to the growing problem of consumer medical debt, which continues to be a significant cause of personal bankruptcy. The goal of this legislation is to hold a patient harmless while the medical and insurance providers come to an agreement for the services rendered.

[3:58:50 PM](#)

REPRESENTATIVE EDGMON moved to adopt the proposed committee substitute (CS) for HB 193, labeled 30-LS0466\T, Wallace, 3/6/18, as the working draft.

[3:59:01 PM](#)

REPRESENTATIVE TARR objected for discussion.

[3:59:08 PM](#)

RYAN JOHNSTON, Staff, Representative Jason Grenn, Alaska State Legislature, paraphrased from the Sectional Analysis, which read:

Section 1: Establishes a "Hold Harmless" standard for insurance providers in the situation where a covered person receives medical care from an out-of-network medical provider in an emergency. An insurance provider will hold a covered person harmless to ensure that the covered person only pay what would have been paid if the medical provider was an in-network provider.

Outlines the standards to establish the situations where a medical provider cannot balance bill a covered person. An insurance provider shall pay a non-network health care provider if the health care provider renders to a covered person;

emergency services or treats an emergency medical condition
services at an in-network facility
services for which a referral was made by an in-network health care provider to an out of-network health care provider without the explicit written consent of the covered person.

The covered person is still required to pay the in-network rates for the deductible, coinsurance and copayment. The amount paid by the covered person is required to be counted towards the covered persons deductible.

The final payment determined for the medical provider will subtract any amount paid by the covered person.

The insurance provider is to pay the greater of three possible amounts;

the median negotiated contract rate generated using the in-network health care providers for the service provided;

That is equal to the 80th percentile of charges for the services calculated using a method that establishes a statistically credible profile that reflects the general cost differences between the geographical area where the service was performed and the other geographical areas when performed by a

health care provider in the same or similar specialty;
or

That would be paid under Medicare for the service provided.

Medical providers are required to send all bills to the insurance provider, except for the deductible, coinsurance and copayment.

Contains a clause that if a covered person knowingly elects to use an out-of-network medical provider then they can be balanced billed for the services.

[4:01:41 PM](#)

REPRESENTATIVE KITO asked for clarification regarding the determination of the calculations.

MR. JOHNSTON explained that the greater of three possible amounts model was taken from an [PP]ACA [Patient Protection and Affordable Care Act] regulation that was adopted at the time of its federal adoption. He stated that the 80th percentile, the usual and customary rate, had been used as the standard by the State of Alaska, a precedent had already been set for its use.

[4:02:41 PM](#)

MR. JOHNSTON continued to paraphrase from the Sectional Analysis, which read:

Section 2: Health care insurance plans obtained under AS 39.30.090 or provided under AS 39.30.091 will be subject to the requirements of secs. 21.36.512 and 21.36.513.

Section 3: Bans the practice of "Balance Billing" by a medical provider under the criteria of section 1 of the bill. Stipulates that the medical provider can still bill for the deductible, coinsurance and copayment.

States that a medical provider will be paid according to section 1 of the bill.

Section 4: Establishes the punishment for medical providers under the Unfair Trade Practices and Consumer Protection.

4:03:36 PM

REPRESENTATIVE TARR mused that Version T of the proposed bill did not have an effective date.

REPRESENTATIVE KITO asked whether the consumer was responsible for the balance billing.

MR. JOHNSTON replied that the patient would not be responsible for balance billing, and that the patient would only be required to pay the co-insurance co-payment and deductible at the in-network rates. The insurance provider, after providing the three possible amounts, would choose the greater, which would be the reimbursement amount for the medical provider.

REPRESENTATIVE SULLIVAN-LEONARD offered her belief that the insurance through the State of Alaska already covered patients for emergency room treatment. She asked if the care for many patients was not being covered in the emergency room.

4:05:10 PM

REPRESENTATIVE GRENN explained that initially the proposed legislation had been suggested by a constituent who had this experience with another insurance provider in Alaska. He said that insurance for State of Alaska employees was still under investigation, although statements from the Department of Administration indicated that the state did not balance bill in emergency situations as those focused on by the proposed bill.

4:06:01 PM

REPRESENTATIVE SULLIVAN-LEONARD asked for additional information to those statistics for non-coverage of emergency situations by insurance companies in Alaska as well as other states.

4:06:27 PM

MR. JOHNSTON said that he would provide that information.

4:06:36 PM

REPRESENTATIVE JOHNSTON asked, as there were insurance companies which did cover balance billing, whether this would "level the field for everybody."

[4:07:10 PM](#)

MR. JOHNSTON replied that the proposed bill only covered private insurers and would "not catch all the plans like self-funded plans." He stated that this would be the standard for out of network plans with billings for emergency situations.

REPRESENTATIVE JOHNSTON suggested to expand the breadth of the proposed bill. She mused that, as 21 states were currently offering this, it would be good to have those benchmarks, how long they had been offering this program, and if there had been any cause and effect. She asked about the proposed 80th percentile, which she deemed was "very different than the current 80th percentile, cause you're using a geographic region." She offered her belief that this was a business geographic region, and asked how this would change if there were certain fees. She shared that past problems with this 80th percentile had arisen as, although the policy and the purpose was very good, it had caused a "hockey stick" in a representative chart of medical costs. She suggested to take some emergency fees and see what would happen.

[4:09:49 PM](#)

MR. JOHNSTON replied that he had been reviewing various databases and that his experimentation for the geographical area, using FAIR Health, had revealed a similar rate. He acknowledged that "the geographical area has been an interesting part of this conversation."

[4:10:44 PM](#)

REPRESENTATIVE JOHNSTON acknowledged that the database he had used, FAIR Health, was an excellent source, except that it was voluntary. She stated that an advantage for only using the Municipality of Anchorage was that a local ordinance allowed someone to ask a medical facility about a procedure and then "get the rack rate."

[4:11:12 PM](#)

REPRESENTATIVE CLAMAN asked about the lack of a definition for balance billing in the proposed bill, as it was not necessarily a term that was easily understood.

MR. JOHNSTON offered his belief that, as the proposed bill focused on the emergency situations, balance billing was what

was stipulated in the bill, and the bill itself was "kind of the definition." He acknowledged that balance billing was a much broader term.

[4:12:16 PM](#)

MEGAN WALLACE, Attorney, Legislative Legal Counsel, Legislative Legal Services, reiterated that the bill described the instance of balance billing, and she opined:

because the explanation in Section 3 of the bill that talks, that uses the term balance bill, specifically states that the balance bill cannot result in charges that are more than those out of pocket expenses that the covered person would incur in an in-network facility or being treated by an in-network health care provider. That the bill is sufficiently clear to articulate what the balance bill would be for.

[4:13:15 PM](#)

REPRESENTATIVE TARR mused that, as some insurers covered Providence [Alaska Medical Center] and some covered Alaska Regional [Hospital], a person would be taken to the closest hospital in an emergency. The proposed bill would eliminate the possibility that a person would pay extra charges even though they had not been taken to the hospital covered by their insurance.

[4:14:17 PM](#)

REPRESENTATIVE GRENN expressed his agreement with her explanation for the intent of the proposed bill, pointing out that this was only for emergency situations as it was not always possible to indicate which hospital.

[4:14:55 PM](#)

REPRESENTATIVE TARR removed her objection. There being no further objection, Version T was adopted.

[4:16:34 PM](#)

NATHAN PAIMANN, MD, Bartlett Regional Hospital, in response to Representative Tarr, explained that some physicians staffing at hospitals were independent, and had to independently contract with the network to be in-network providers. Although the

hospital could be in-network, the providers may not be an in-network provider. He stated that the proposed bill "would change this so you had no surprise insurance gap billing, outside of what your usual and customary charges would be."

[4:18:17 PM](#)

REPRESENTATIVE KITO shared some anecdotes of hospital situations for physicians not in-network which resulted in surprise billings for the patients.

[4:19:04 PM](#)

MS. LATHAM, in response to Representative Sullivan-Leonard, stated that there was an 80th percentile regulation already in effect, which had been adopted to include the treatment of emergency services and services at an in-network hospital or ambulatory surgical center, as explained on page 2, lines 4 - 6 of the proposed bill. She added that the proposed bill "does broaden the scope of coverage services to services for which a referral was made by an in-network health care provider to the non-network health care providers without written consent of the covered person." She declared that this did strengthen provisions for consumers. She directed attention to page 4, line 27, which created a violation of the [Alaska] Unfair Trade Practices and Consumer Protection Act. She expressed concern that, as the Division of Insurance had never regulated state health plans, Section 2 of the proposed bill [page 4, line 5] moved AS 39 under AS 21, which she deemed to be "unusual."

[4:21:23 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD expressed that she had concerns with the application and possible outcome because of Section 4 [page 4, lines 27 - 29].

MS. LATHAM replied that, as this was enforced by the Department of Law, it offered "very, very strong consumer protections."

[4:22:01 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked if the bill sponsor could review that section.

REPRESENTATIVE JOHNSTON asked if the concern for Section 2 [page 4, lines 6 - 11] was because it was an additional

responsibility, and whether it was for the possibility of "opening up a door that might go beyond this."

MS. LATHAM said that this was similar to House Bill 25, a contraceptive coverage bill, as this proposed bill also just included the state self-insured, non-federal health plans, which had never been under the jurisdiction of AS 21 and was unprecedented.

[4:23:05 PM](#)

REPRESENTATIVE KITO asked if she was referencing the state employee plans.

MS. LATHAM said, "that's exactly what I'm referencing."

[4:23:36 PM](#)

REPRESENTATIVE TARR said that HB 193 would be held over.

HB 336-SUPPORTIVE DECISION-MAKING AGREEMENTS

[4:23:47 PM](#)

REPRESENTATIVE TARR announced that the final order of business would be HOUSE BILL NO. 336, "An Act relating to supported decision-making agreements to provide for decision-making assistance; and amending Rule 402, Alaska Rules of Evidence."

[4:24:21 PM](#)

HANS RODVIK, Staff, Representative Charisse Millett, Alaska State Legislature, paraphrased from the Sponsor Statement [Included in members' packets], which read:

With over 100 wards per public guardian Alaska has one of the highest rates of full guardianship in the nation. Studies concerning individuals under full guardianship have found that such individuals were significantly less likely to have any kind of paid employment and are less likely to be integrated into their community, than people provided less restrictive options to full guardianship.

Policy makers should engage in efforts to provide adults with intellectual and developmental

disabilities (IDD) the needed tools to experience lives with the most autonomy, freedom and independence as possible. The Supported Decision-Making Agreements Act does just that.

Designed as a mechanism to enable adults with IDD to enter into newly created legal structures called supported decision-making agreements (SDMA), House Bill 336 will provide a less restrictive alternative to full guardianship for adults with IDD. Guided by the experience of other states, HB 336 will enable adults with disabilities to maintain their rights to make decisions currently being taken away from them by guardianship orders.

The philosophy underpinning HB 336 contends that adults with IDD do have and should retain their constitutional and civil rights to live as freely and autonomously as possible. HB 336 will help change the current system in which one person tends to make every decision for adults with IDD, even though those adults have capacity to make many decisions on their own; to a system where adults who can make life decisions with support from others no longer have the right to make those decisions taken away from them by the government.

HB 336 will enable OPA to focus its efforts on adults who truly need full guardianship, while providing Alaskans experiencing varying levels of IDD an avenue to live happier and healthier lives.

MR. RODVIK pointed out that the proposed bill had been written in conjunction with the Governor's Council on Disabilities and Special Education to address these issues and allow people to live more self-guided lives.

[4:25:21 PM](#)

REPRESENTATIVE TARR reminded that public testimony had remained open.

[4:26:11 PM](#)

REPRESENTATIVE TARR closed public testimony on HB 336.

[4:26:29 PM](#)

REPRESENTATIVE JOHNSTON stated her support of the proposed bill and pointed to a cost savings.

[4:26:42 PM](#)

REPRESENTATIVE CLAMAN stated his support of the proposed bill.

[4:27:05 PM](#)

REPRESENTATIVE KITO stated that the proposed bill was a key tool to enable support of family members.

[4:27:38 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD expressed her support and offered a personal anecdote.

[4:28:18 PM](#)

REPRESENTATIVE TARR stated her support of the proposed bill.

[4:28:50 PM](#)

REPRESENTATIVE EDGMON moved to report CSHB 336, Version 30-LS1239\J, Bannister, 2/26/18, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 336(HSS) was moved from the House Health and Social Services Standing Committee.

[4:30:56 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 4:30 p.m.