

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

April 3, 2018

3:05 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

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

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 169(RLS)

"An Act relating to the definition of 'direct supervision' for purposes of medical assistance coverage of behavioral health clinic services."

- MOVED CSSB 169(RLS) OUT OF COMMITTEE

CONFIRMATION HEARING(S)

State Medical Board

Dr. Catherine Hyndman - Dillingham

- CONFIRMATION(S) ADVANCED

PREVIOUS COMMITTEE ACTION

BILL: SB 169

SHORT TITLE: MEDICAID: BEHAVIORAL HEALTH COVERAGE

SPONSOR(S): SENATOR(S) GIESSEL

01/31/18	(S)	READ THE FIRST TIME - REFERRALS
01/31/18	(S)	HSS
03/05/18	(S)	HSS AT 1:30 PM BUTROVICH 205

03/05/18 (S) Heard & Held
 03/05/18 (S) MINUTE(HSS)
 03/07/18 (S) HSS AT 1:30 PM BUTROVICH 205
 03/07/18 (S) Moved CSSB 169(HSS) Out of Committee
 03/07/18 (S) MINUTE(HSS)
 03/12/18 (S) HSS RPT CS 5DP NEW TITLE
 03/12/18 (S) DP: WILSON, BEGICH, VON IMHOF,
 MICCICHE, GIESSEL
 03/21/18 (S) RULES WAIVED PUBLIC HEARING NOTICE, RULE
 23
 03/22/18 (S) RLS AT 8:15 AM FAHRENKAMP 203
 03/22/18 (S) Moved CSSB 169(RLS) Out of Committee
 03/22/18 (S) MINUTE(RLS)
 03/26/18 (S) RLS RPT CS 5DP NEW TITLE
 03/26/18 (S) DP: MEYER, MICCICHE, GARDNER,
 MACKINNON, KELLY
 03/26/18 (S) TRANSMITTED TO (H)
 03/26/18 (S) VERSION: CSSB 169(RLS)
 03/29/18 (H) READ THE FIRST TIME - REFERRALS
 03/29/18 (H) HSS
 04/03/18 (H) HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

SENATOR CATHY GIESSEL
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented SB 169 as the sponsor of the bill.

TOM CHARD, Executive Director
 Alaska Behavioral Health Association
 Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 169.

KEN HELANDER, Advocacy Director
 AARP Alaska
 Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 169.

ROBIN MINARD, Director
 Public Affairs
 Matanuska-Susitna Health Foundation
 Wasilla, Alaska

POSITION STATEMENT: Testified in support of SB 169.

PAUL TOPOL, MD

Legislative Representative
Alaska Psychiatric Association
Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of SB 169.

RICK CALCOTE, Chief of Risk and Research Management
Policy and Planning Section
Division of Behavioral Health
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: Answered questions during discussion of SB 169.

RANDALL BURNS, Director
Central Office
Division of Behavioral Health
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 169.

DENISE DANIELLO, Executive Director
Alaska Commission on Aging
Division of Senior and Disabilities Services
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 169.

KEELEY OLSON, Executive Director
Standing Together Against Rape (STAR)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 169.

CATHERINE HYNDMAN, MD
Appointee
State Medical Board
Dillingham, Alaska

POSITION STATEMENT: Answered questions during the confirmation hearing for the State Medical Board.

ACTION NARRATIVE

[3:05:44 PM](#)

CHAIR IVY SPOHNHOLZ called the House Health and Social Services Standing Committee meeting to order at 3:05 p.m. Representatives Spohnholz, Johnston, Eastman, and Kito were

present at the call to order. Representatives Zulkosky, Tarr, and Sullivan-Leonard arrived as the meeting was in progress.

CHAIR SPOHNHOLZ announced that the confirmation hearing would be heard later in the meeting.

SB 169-MEDICAID: BEHAVIORAL HEALTH COVERAGE

[3:07:24 PM](#)

CHAIR SPOHNHOLZ announced that the first order of business would be CS FOR SENATE BILL NO. 169(RLS), "An Act relating to the definition of 'direct supervision' for purposes of medical assistance coverage of behavioral health clinic services."

[3:08:08 PM](#)

SENATOR CATHY GIESSEL, Alaska State Legislature, stated that the proposed bill improved access to behavioral health. She presented a PowerPoint, "Access to Behavioral Health," and shared slide 2, "Defining Behavioral Health." She read the federal definition for behavioral health: "Mental and emotional well-being, and actions that affect wellness." She added that this encompassed mental health promotion, prevention, and recovery. She declared that there was an urgent need in Alaska, and pointed to slide 3, "The URGENT Problem." She reported that this data had been gathered by the U.S. Arctic Research Commission. She emphasized that Alaska lacked sufficient behavioral health care providers, slide 4, "The URGENT Problem," and referenced the Medicaid Reform bill, passed in 2015, Senate Bill 74. She relayed that there had been a request of the Division of Behavioral Health to address AAC 135.030, which limited the providers of behavioral health services to Medicaid beneficiaries. In 2017, after review, the Division reported that a statute change was necessary, as the Medicaid rules stated that behavioral health services could only be provided in a mental health physician clinic and must be provided by a psychiatrist, or under their direct supervision. This meant that the psychiatrist had to be on the premises at least 30 percent of the time the clinic was open. She declared that "this is an exceedingly narrow door... for services to be provided." She pointed out that, consequently, very few clinics were able to accept Medicaid billed behavioral health services, and the waiting lists for services were up to 2.5 years, slide 6, "Resulting BH Access Crisis." She pointed out that it then became necessary to use the hospital emergency rooms, often

holding patients for days, which was the most expensive service. She declared that this was an inappropriate and ineffective approach to the necessary care. She shared that, since the passage of Senate Bill 74, there had not been any improvement for access, slides 7 - 8, "Efforts by Division of BH." She acknowledged that the Division of Behavioral Health had applied for an 1115 behavioral health waiver, although it could be another two years prior to its completion even as the numbers of people needing these services was increasing. She reported that, in FY17, Medicaid Expansion had added 5,000 more adults, pointing out that Senate Bill 91 [Passed in the Twenty-Ninth Alaska State Legislature] had a provision to provide behavioral health services to help rehabilitate parolees, slides 9 - 10, "Alaska NEEDS." She spoke about the four detention facilities for the most serious and chronic offenders, "kids that need behavioral health services," slide 11, "Juvenile Justice." She reported that, as more and more children were being reported as abused, with Adverse Childhood Experiences (ACEs) adding up to impact them for their lifetime, behavioral health services were needed but limited, slide 12, "Office of Children's Services."

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SENATOR GIESSEL declared that currently the clinics had to limit their clientele to the most serious cases, or those leaving the correctional system, slide 13, "What's happening?" She reported that there were only 85 licensed psychiatrists in the state, although it was unclear how many were still practicing, slide 14, "Alaska psychiatrists." She listed the other behavioral health practitioners, comprising almost 2,000 clinicians, that could provide services if they had the required supervision, slide 15, "Alaska has variety of Clinicians." She stated that SB 169 would change this rule for necessary supervision to any physician either in person or by communication device, with direct supervision still required for MFT, LCSW, counselors, and psychologists, slide 16, "SB 169 (version U) does..." She explained that the definition for direct supervision was updated to include either in person or by communication device, slide 17, "SB 169 does..." She directed attention to page 1 of the proposed bill, which listed the criteria for supervision, and added that the effective date would be 90 days after signature by the governor.

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SENATOR GIESSEL declared that the behavioral health access issue could be addressed now, and telehealth could be expanded to

effectively serve rural areas, slide 18, "SB 169 Opens Doors." She shared the list of organizations supporting the proposed bill, slide 19, "Support."

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REPRESENTATIVE SULLIVAN-LEONARD shared a concern by psychiatrists for the oversight of patients and directed attention to slide 15. She asked if other medical professionals would be considered as "re-upping prescriptions for behavioral medications as opposed to long term oversight and care for the behavioral health itself."

SENATOR GIESSEL, in response, said that she understood the concern. She reported that although physicians were educated in behavioral health treatment, this was not as expansive as a psychiatrist. She said that those other providers would not necessarily advocate for prescriptions, as they could provide counseling, particularly for children. She reported that, as children were probably being over medicated these days, the behavioral health practitioners listed on slide 15 would focus on the counseling aspect. She acknowledged that psychiatrists would still have a role and would still be involved with services.

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REPRESENTATIVE ZULKOSKY pointed out that there had also been a letter of support from the Alaska Native Health board, adding that tribal health was often the most comprehensive care accessed in the rural communities.

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REPRESENTATIVE EASTMAN asked how this proposed bill would impact the relationship between psychiatrists and psychologists.

SENATOR GIESSEL said that she would not make a prediction for the collaboration between clinicians, although she expressed her hope that appropriate collaboration would continue to provide the best health care for Alaskans.

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CHAIR SPOHNHOLZ opened invited testimony on SB 169.

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TOM CHARD, Executive Director, Alaska Behavioral Health Association, explained that the Alaska Behavioral Health Association was a trade group of about 65-member organizations, representing mental health and drug and alcohol treatment providers in Alaska. He referenced the written testimony submitted earlier, which detailed many of these same points. He shared the way the association evaluated proposals and legislation, noting that they reviewed cost, quality, and access. He said that the proposed bill would increase and improve access to behavioral health treatment services, emphasizing that more behavioral health treatment was necessary. He declared support for the proposed bill, adding that it was "a step in the right direction." He pointed to the written comments which detailed some cost avoidance opportunities. He offered belief that the actual quality of care for both direct service and supervision would depend on the license, so that strict enforcement of licensing requirements from the medical board would provide adequate supervision and assurance of quality care.

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KEN HELANDER, Advocacy Director, AARP Alaska, stated that AARP supported this forward thinking approach to provide relief for the serious shortage of behavioral health services. They supported the broadening of supervision of behavioral health providers to include physicians generally, which would allow more clinicians to offer their services, to be reimbursed and to intervene earlier in order to prevent more costly emergency room treatment. They also supported the ability to provide this supervision via electronic or communication devices, as it was critical to the unique geography and resource limitations of Alaska.

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ROBIN MINARD, Director, Public Affairs, Matanuska-Susitna Health Foundation, paraphrased from a letter dated March 4, 2018 [Included in members' packets] which read:

The Mat-Su Health Foundation strongly supports Senate Bill 169, "Medicaid, Behavioral Health Coverage," and we appreciate that it is being heard in the Senate Health and Social Services Committee.

The prevalence of mental health and substance abuse issues is increasing in the Mat-Su and statewide. There are severe gaps in the continuum of care for behavioral health, and these gaps cause minor problems to go untreated, often resulting in escalation that erupts in devastating and costly full-blown crisis. Sadly, Alaska's main paths to behavioral health care are emergency rooms and jail. We all know this isn't where we should be investing our state's dollars, but that is exactly what we are doing today.

In 2016 alone, 3,443 patients with behavioral health diagnoses went to the Mat-Su Regional Medical Center Emergency Department. Their charges totaled \$43.8 million, and that's not counting additional costs for law enforcement, 911 dispatch, and transportation, which were estimated at \$1.6 million for 2013 and are significantly higher today. The average annual growth rate for visits for patients with a behavioral health diagnosis to the Mat-Su Regional Emergency Department grew 20 percent from 2015 to 2017. Additionally, from 2014 to 2017, the number of behavioral health assessments required for patients in crisis in the emergency department grew from 349 to more than 1,000 - all in a hospital that does not currently provide behavioral health care.

In the Mat-Su Health Foundation's 2013 Mat-Su Community Health Needs Assessment, the people of Mat-Su told us that the top five health issues they were concerned about were all related to mental health and substance abuse. Mat-Su citizens want an improved and coordinated system of care that makes treatment for behavioral health more readily accessible. Thousands of Alaskans of all ages - children, families, and older Alaskans - are struggling with mental health concerns. They came from all walks of life, and they live all across our great state. One thing they have in common is that they have problems that they simply cannot tackle on their own. Another thing they have in common is that there is not enough access to behavioral health care. This legislation helps address these issues. It will improve access, reduce cost, and - most importantly - help people to get the care they need.

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CHAIR SPOHNHOLZ opened public testimony on SB 169.

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PAUL TOPOL, MD, Legislative Representative, Alaska Psychiatric Association, expressed understanding for the serious problems with access to mental health care in Alaska, although there were concerns for the impact on quality, as a physician providing supervision without specified qualifications did not seem to have adequate protections for assuring competency.

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REPRESENTATIVE EASTMAN asked if there was concern that the proposed bill would increase the pressure on psychiatrists to accept "sub-standard people into those new roles."

DR. TOPOL explained that, without very clear expectations about the necessary qualifications, there would be people providing supervision without anything other than a medical license. Although there was great faith for the professional integrity of physicians to only be involved with things they know how to do, there was a large gap in training between a psychiatrist and a family practitioner without specific experience in oversight. He expressed concern for the people designated to provide the "stopgap supervision."

REPRESENTATIVE EASTMAN asked if there was any liability for a licensed provider should a patient be abused by a psychiatrist.

DR. TOPOL declared that the liability would be on the psychiatrist or the person in the role of supervisor.

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CHAIR SPOHNHOLZ asked for a remedy or proposal to the shortage of behavioral health care providers for the Medicaid population.

DR. TOPOL said that this was "an extremely complex issue, so the short answer is no." He stated that the association was not entirely sure that the proposed bill would do as it proposed, and that it would not open the flood gates for providers as there were other complexities, including the reimbursement rates, problems, and regulations of Medicaid. He opined that although the proposed bill was an attempt to expand scope of

practice for other providers, he was not sure it would improve access.

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REPRESENTATIVE ZULKOSKY asked if proposed SB 169 allowed for supervision by a physician even though the physician was not providing the behavioral health services; instead it could be clinical psychologists, social workers, or other licensed counselors.

DR. TOPOL, in response to Representative Zulkosky, expressed his agreement, although it begs the question for the purpose of the supervision by people with no specific training for what they were supervising. He asked why this was proposed.

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RICK CALCOTE, Chief of Risk and Research Management, Policy and Planning Section, Division of Behavioral Health, Department of Health and Social Services, explained that only a mental health physician clinic required supervision by a psychiatrist, as all the employees were licensed providers. He stated that these clinics had been around "for a very long time in regulation, and mental health physician clinics have not been well defined at all in statute." He reported that the earliest he could find mention in regulation was in the 1970s. He offered his belief that the intent was to have a specialist who understood the need for mental health treatment, especially for children or adults who required medication with the additional therapy needs being addressed by the other licensed providers. He stated that it was desired to have supervision by someone who was a specialist in mental health and not a general physician.

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RANDALL BURNS, Director, Central Office, Division of Behavioral Health, Department of Health and Social Services, added that the Medicaid rule, under federal law, was that a physician must be supervising clinic services. He referenced the definition of supervision in the proposed bill and offered his belief that this narrowed the number of non-psychiatrist physicians willing to provide this level of supervision in a behavioral health services clinic because of the requirements.

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SENATOR GIESSEL reported that health care had changed significantly since this rule was implemented in approximately 1970. She pointed out how broad the federal law was for Medicaid services reimbursement and she proposed that supervision could be provided by a psychiatric mental health specialist nurse practitioner, as they were specially trained in behavioral health. She pointed out that this was not possible under federal law. She noted that she had written to federal officials regarding the challenges and significant shortage of providers that Alaska faced with behavioral health services. She emphasized that this was a federal rule and not a law passed by Congress. She stated that, as many clinics were integrating behavioral health with other services, there were professionals to help with the necessary supervision. She pointed out that the clinicians listed in the proposed bill were not incompetent. She emphasized that this federal rule was very outdated and that "there are enough patients for everyone to make a living serving."

CHAIR SPOHNHOLZ expressed her agreement that the rule requiring this supervision was well outdated and a lot had changed including the required level of education for the behavioral health therapists outlined in the proposed bill. She stated that it was necessary to create an efficient way to ensure meeting federal rules while not creating unnecessary burdens for health care practitioners.

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SENATOR GIESSEL pointed out that this proposed bill opened the door for telehealth.

[3:43:57 PM](#)

DENISE DANIELLO, Executive Director, Alaska Commission on Aging, Division of Senior and Disabilities Services, Department of Health and Social Services (DHSS), paraphrased from a letter dated March 27, 2018, which read [Included in members' packets]:

The Alaska Commission on Aging (ACoA) is pleased to offer support for SB 169 (RLS) "Medicaid, Behavioral Health Coverage, "Version U" that is authored by you. The prevalence of behavioral health conditions is increasing in Alaska due to critical gaps in the continuum of care. Many rural and remote areas of the state experience an acute lack of mental health services which further exacerbates the problem of

access to care. In those areas with limited capacity, providers are unable to serve those without insurance coverage or ability to private pay which include many vulnerable, low-income people. While Alaska has mental health care professionals, including marital and family therapists, licensed clinical social workers, and clinic psychologists, there are constraints that limit how these providers can offer services.

The Commission agrees that SB 169 addresses this issue by (1) expanding options to meet the required mandate for clinical supervision to be conducted either onsite or remotely, utilizing telehealth and other communication devices to provide consultation, which will help to increase access for Alaskans living in rural and remote areas of the state at a reduced cost; and (2) allowing physicians, which includes both psychiatrists and physicians licensed under AS 08.54, to perform the required clinical supervision of behavioral health therapists.

Mental health and substance misuse issues are a growing concern for many Alaska seniors that have not received appropriate attention. Moreover, the aging of baby boomers is expected to increase the number and percentage of older adults having substance misuse disorders. According to the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Centers for Disease Control and Prevention, nearly one in five adults age 65+ has one or more behavioral health conditions defined as a mental health or substance use disorder. Based on 2017 Alaska population estimates for persons age 65 and older, 20% would amount to 16,600 older Alaskans. Many of these seniors have complex medical conditions including chronic pain, diabetes, cancer, and heart disease as well as mental health conditions, substance use disorders, and cognitive impairment such as dementia.

In comparison to their national counterparts, Alaska seniors have consistently higher rates for binge drinking, heavy drinking, smoking, obesity as well as a greater percentage reporting frequent mental distress, according to the Alaska Behavioral Risk Factor Surveillance Survey, 2016 findings. Age-adjusted mortality rates for persons age 65+ attributed to behavioral health causes are both higher

among Alaska seniors than national averages for this age cohort and on the rise in Alaska for older adults. Alcohol use disorders, in particular, have been identified as a major risk factor for the onset of all types of dementia, based on a recent study published by the Lancet Public Health Journal (2018), including Wernicke-Korsakoff Syndrome, vascular dementia, and young onset Alzheimer's. Further, substance misuse often increases a senior's risk for falls, particularly for those who take prescription medications.

SB 169 addresses the need to improve access to behavioral health care services by expanding options to meet the supervision oversight requirement for mental health therapists. Further, this legislation will help to offset emergency room charges through improved access to care as well as being of benefit to patients released from the Alaska Psychiatric Institute so that they are able to acquire their prescribed medications in a timely manner as these patients are only provided with a two-day prescription upon their release. ACoA supports SB 169 to advance access to care for more Alaskans, reduce costs, and improve utilization of our existing behavioral health workforce to provide more timely and appropriate behavioral health treatment for Alaskans of all ages.

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KEELEY OLSON, Executive Director, Standing Together Against Rape (STAR), stated support for the proposed bill. She reported that many of their clients only had Medicaid as a resource, and although STAR offered free trauma therapy, she acknowledged that the current rules were "a bureaucratic barrier to providing all of the resources that we could for a very epidemic problem of behavioral health needs." She pointed to the rates of sexual trauma in Alaska and, with the difficulty for accessing care, it was often necessary to resort to emergency psychiatric care. She noted that many people would defer care until it came to a critical stage instead of dealing with it initially. She reported that people could not access crime victim compensation if they had not filed a police report.

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CHAIR SPOHNHOLZ closed public testimony on SB 169.

[3:53:25 PM](#)

The committee took a brief at-ease.

[3:54:17 PM](#)

REPRESENTATIVE ZULKOSKY moved to report CSSB 169(RLS), Version 30-LS1283\U, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 169(RLS) was moved from the House Health and Social Services Standing Committee.

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The committee took a brief at-ease.

CONFIRMATION HEARING(S)
State Medical Board

[3:56:59 PM](#)

CHAIR SPOHNHOLZ announced that the final order of business would be a confirmation hearing for the Alaska State Medical Board.

[3:57:08 PM](#)

CATHERINE HYNDMAN, MD, Appointee, State Medical Board, stated that she was a family physician who had been practicing in the Bristol Bay Region since 2000. She said that she was interested in an appointment to the board because she would like to offer service to more of the state and [indisc]. She shared that she really enjoyed her experience working in remote Alaska and she offered her belief that she could bring a vision to the board for the more remote areas of the state.

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CHAIR SPOHNHOLZ asked what brought her to Dillingham.

DR. HYNDMAN explained that she had originally come for vacation, loved the area, and decided to leave her practice in West Virginia. She shared that the move had enabled her to practice more of the medicine for which she had been trained. She stated that she loved working with the local population.

[3:59:54 PM](#)

REPRESENTATIVE ZULKOSKY moved to advance the confirmation of Dr. Catherine Hyndman, appointee to the Alaska State Medical Board, to a joint session of the House and Senate for consideration. She reminded the committee that signing the report regarding appointment in no way reflects individual members' approval or disapproval of the appointee, and the nominations are merely forwarded to the full legislature for confirmation or rejection. There being no objection, the confirmation was advanced.

[4:00:32 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 4:00 p.m.