

**ALASKA STATE LEGISLATURE  
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 27, 2017

3:19 p.m.

**MEMBERS PRESENT**

Representative Sam Kito, Chair  
Representative Adam Wool, Vice Chair  
Representative Andy Josephson  
Representative Louise Stutes  
Representative Chris Birch  
Representative Gary Knopp  
Representative Colleen Sullivan-Leonard

**MEMBERS ABSENT**

Representative Mike Chenault (alternate)  
Representative Bryce Edgmon (alternate)

**OTHER MEMBERS PRESENT**

Representative Zach Fansler

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(S) :

Alaska State Board of Public Accountancy

Wayne Hogue - Kotzebue  
Donovan Rulien II - Anchorage  
Marja Beltrami - Anchorage

- CONFIRMATION(S) ADVANCED

Alcoholic Beverage Control Board

Robert Klein - Anchorage

- CONFIRMATION(S) ADVANCED

State Board of Registration for Architects, Engineers and Land Surveyors

Jeffrey Koonce - Anchorage  
Elizabeth Johnston - Fairbanks

John Kerr - Anchorage  
Richard Jones - Juneau

- CONFIRMATION(S) ADVANCED

Board of Barbers and Hairdressers

Michelle McMullin - Anchorage  
Jennifer Lombardo - Anchorage  
Terriann Shell - Big Lake

- CONFIRMATION(S) ADVANCED

Board of Chiropractic Examiners

Jonathan Vito - Anchorage  
Brian Larson - Soldotna

- CONFIRMATION(S) ADVANCED

Board of Dental Examiners

Michael Moriarty - Seward  
Steven Scheller - Fairbanks  
Gail Walden - Wasilla

- CONFIRMATION(S) ADVANCED

Alaska Labor Relations Agency

Elizabeth Pierce - Anchorage  
Lee Holen - Anchorage

- CONFIRMATION(S) ADVANCED

Marijuana Control Board

Nicholas Miller - Anchorage  
Peter Mlynarik - Soldotna  
Mark Springer - Bethel

- CONFIRMATION(S) ADVANCED

Board of Marine Pilots

Ronald Ward II - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Marital and Family Therapy

Nicole Jenkins - Palmer  
Karen Cunningham - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Massage Therapists

Traci Gilmour - Juneau  
Jill Motz - Wasilla

- CONFIRMATION(S) ADVANCED

Board of Certified Direct-Entry Midwives

Kathy Roberts - Anchorage  
Dana Brown - Fairbanks

- CONFIRMATION(S) ADVANCED

Board of Nursing

Joseph Lefleur - Ketchikan

- CONFIRMATION(S) ADVANCED

Occupational Safety and Health Review Board

Thomas Trosvig - Kodiak

- CONFIRMATION(S) ADVANCED

Alaska Oil and Gas Conservation Commission

Daniel Seamount - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Examiners in Optometry

Erik Christianson - Ketchikan

- CONFIRMATION(S) ADVANCED

Board of Pharmacy

Taryl Giessel - Eagle River  
Lana Bell - Anchorage

- CONFIRMATION(S) ADVANCED

State Physical Therapy and Occupational Therapy Board

Jennifer Carlson - Fairbanks  
Rebecca Bingham - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Professional Counselors

Eleanor Vinson - Juneau  
Anne Brainerd Marko - Fairbanks  
Debra Hamilton - Soldotna

- CONFIRMATION(S) ADVANCED

Board of Psychologists and Psychological Associate Examiners

Deborah Gideon - Anchorage  
Suzanne Dutson - Juneau

- CONFIRMATION(S) ADVANCED

Board of Certified Real Estate Appraisers

Renee Piszczek - Fairbanks

- CONFIRMATION(S) ADVANCED

Real Estate Commission

Eric Bushnell - Wasilla  
Guy Mickel - Ward Cove  
David Pruhs - Fairbanks

- CONFIRMATION(S) ADVANCED

Workers' Compensation Appeals Commission

Deirdre Ford - Anchorage  
Stephen Hagedorn - Anchorage

- CONFIRMATION(S) ADVANCED

Alaska Workers' Compensation Board

Brett Stubbs - Anchorage  
Linda Murphy - Soldotna  
Donna Phillips - Girdwood  
Aaron Plikat - Anchorage  
Lake Williams - Fairbanks  
Saleutogi Letuligasenoa - Fairbanks  
Rick Traini - Anchorage

- CONFIRMATION(S) ADVANCED

Alaska Gasline Development Corporation Board of Directors

David Wight - Anchorage  
Hugh Short - Girdwood  
Warren Christian - North Pole

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 170

"An Act relating to securities, registration, exempt securities, exempt transactions, broker-dealers, agents, investment advice, investment advisers, investment adviser representatives, federal covered securities, federal covered investment advisers, viatical settlement interests, small intrastate security offerings, Canadian broker-dealers, and Canadian agents; relating to administrative, civil, and criminal enforcement provisions, including restitution and civil penalties for violations; relating to an investor training fund; establishing increased civil penalties for harming older persons and vulnerable adults; relating to corporations organized under the Alaska Native Claims Settlement Act; amending Rules 4, 5, 54, 65, and 90, Alaska Rules of Civil Procedure, and Rule 602, Alaska Rules of Appellate Procedure; and providing for an effective date."

- MOVED HB 170 OUT OF COMMITTEE

HOUSE BILL NO. 103

"An Act relating to the practice of optometry."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 170

SHORT TITLE: AK SECURITIES ACT; PENALTIES; CRT. RULES

SPONSOR(s): LABOR & COMMERCE

03/10/17	(H)	READ THE FIRST TIME - REFERRALS
03/10/17	(H)	L&C, JUD
03/24/17	(H)	L&C AT 3:15 PM BARNES 124
03/24/17	(H)	Heard & Held
03/24/17	(H)	MINUTE(L&C)
03/27/17	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 103

SHORT TITLE: OPTOMETRY & OPTOMETRISTS

SPONSOR(s): SPOHNHOLZ

02/03/17	(H)	READ THE FIRST TIME - REFERRALS
02/03/17	(H)	HSS, L&C
03/14/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/14/17	(H)	Heard & Held
03/14/17	(H)	MINUTE(HSS)
03/16/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/16/17	(H)	Scheduled but Not Heard
03/18/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/18/17	(H)	Moved CSHB 103(HSS) Out of Committee
03/18/17	(H)	MINUTE(HSS)
03/22/17	(H)	HSS RPT CS(HSS) NT 5DP 1NR
03/22/17	(H)	DP: JOHNSTON, TARR, SULLIVAN-LEONARD, KITO, SPOHNHOLZ
03/22/17	(H)	NR: EASTMAN
03/27/17	(H)	L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

JONATHAN VITO, Appointee  
Board of Chiropractic Examiners  
Anchorage, Alaska

**POSITION STATEMENT:** Testified as appointee to the Board of Chiropractic Examiners.

ROBERT KLEIN, Appointee  
Alcoholic Beverage Control Board ("ABC Board")  
Anchorage, Alaska

**POSITION STATEMENT:** Testified as appointee to the Alcoholic Beverage Control Board.

LEE HOLEN, Appointee  
Alaska Labor Relations Agency  
Anchorage, Alaska

**POSITION STATEMENT:** Testified as appointee to the Alaska Labor Relations Agency.

SUZANNE DUTSON, Appointee  
Board of Psychologists and Psychological Associate Examiners  
Juneau, Alaska

**POSITION STATEMENT:** Testified as appointee to the Board of Psychologists and Psychological Associate Examiners.

MICHAEL MORIARTY, DDS, Appointee  
Board of Dental Examiners  
Seward, Alaska

**POSITION STATEMENT:** Testified as appointee to the Board of Dental Examiners.

REPRESENTATIVE IVY SPOHNHOLZ  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, presented HB 103.

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

**POSITION STATEMENT:** Presented a sectional analysis for CSHB 103(HSS), on behalf of Representative Spohnholz, prime sponsor.

HARRIET MILKS, Assistant Attorney General  
Commercial and Fair Business Section  
Civil Division, Juneau  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 103.

PAUL BARNEY, MD, Chair  
Board of Examiners on Optometry  
Division of Corporations, Business, and Professional Licensing  
Department of Commerce, Community & Economic Development (DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 103.

JILL GEERING MATHESON, OD  
Alaskan Vision Center Optometry

Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 103.

SCOTT LIMSTROM, MD, President

Alaska Society of Eye Physicians and Surgeons (ASEPS)

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 103.

EVAN WOLF, MD, Wolf Eye Center

Wasilla, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 103.

ERIK CHRISTIANSON, OD

Ketchikan, Alaska

**POSITION STATEMENT:** Testified in support of HB 103.

MATTHEW GUESS, MD

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 103.

KELLY LORENZ, MD

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 103.

STEVE DOBSON, OD

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 103.

**ACTION NARRATIVE**

[3:19:25 PM](#)

**CHAIR SAM KITO** called the House Labor and Commerce Standing Committee meeting to order at 3:19 p.m. Representatives Josephson, Wool, Birch, Knopp, Stutes, Sullivan-Leonard, and Kito were present at the call to order.

**CONFIRMATION HEARING(S)**

**Alaska State Board of Public Accountancy**

**Alcoholic Beverage Control Board**

**State Board of Registration for Architects, Engineers and Land**

**Surveyors**

**Board of Barbers and Hairdressers**

**Board of Chiropractic Examiners**

**Board of Dental Examiners**

**Alaska Labor Relations Agency**

**Marijuana Control Board**

Board of Marine Pilots  
Board of Marital and Family Therapy  
Board of Massage Therapists  
Board of Certified Direct-Entry Midwives  
Board of Nursing  
Occupational Safety and Health Review Board  
Board of Examiners in Optometry  
Board of Pharmacy  
State Physical Therapy and Occupational Therapy Board  
Board of Professional Counselors  
Board of Psychologists and Psychological Associate Examiners  
Board of Certified Real Estate Appraisers  
Real Estate Commission  
Workers' Compensation Appeals Commission  
Alaska Workers' Compensation Board  
Alaska Gasline Development Corporation Board of Directors  
Alaska Oil and Gas Conservation Commission

[3:20:12 PM](#)

CHAIR KITO announced that the first order of business would be confirmation hearings of the governor's appointments to various state boards and commissions.

CHAIR KITO stated that the committee received 61 names of the governor's appointments and members were asked to submit names of any appointees they wished to speak with directly or question. He stated that the committee requested to speak to nine individuals.

[3:21:58 PM](#)

REPRESENTATIVE JOSEPHSON stated that in his review of Jonathan Vito's curriculum vitae (CV), Mr. Vito indicated he or a family member might have a conflict of interest but did not give details.

[3:23:09 PM](#)

JONATHAN VITO, Appointee, Board of Chiropractic Examiners, testified as appointee to the Board of Chiropractic Examiners. He offered clarification on his intent in filling out the application. He stated that the conflicts implied were in regard to peer action, such as reprimanding or licensing. As a part owner of Better Health Chiropractic & Physical Rehab, LLC., determining licensure of someone who might potentially work for him could be a conflict of interest.

REPRESENTATIVE JOSEPHSON asked if Mr. Vito would be comfortable declaring such a conflict in a meeting of the board.

MR. VITO answered yes.

[3:23:59 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked for Mr. Vito's impressions of how the board works and what he would bring to the table to help the board.

MR. VITO offered his belief that the board helps to structure Alaska statutes regarding what the chiropractors can do in the state. He stated that he hopes to bring new, young blood to the board, new ways of thinking, and more integration into chiropractic clinics. He stated his desire to speed up the licensing process with online tests for new licensees and "when we do have the board meetings, do their meeting with the board then and not have to wait every three months to be able to get a license."

[3:26:00 PM](#)

REPRESENTATIVE JOSEPHSON asked the next appointee, Robert Klein, whether he would produce disclosures of financial data about potential conflicts of interest. He stated that when Mr. Klein was asked if there could be any potential family conflict, he said no. He asked if Mr. Klein is declining to provide financial data as required by law.

[3:26:40 PM](#)

ROBERT KLEIN, Appointee, Alcoholic Beverage Control Board ("ABC Board"), testified as appointee to the ABC Board. Responding to Representative Josephson's question, he answered no. He stated that he recently filled out his Alaska Public Offices Commission (APOC) disclosure, which gave the required financial information. He disclosed that if confirmed, he would continue to be an industry member of the board. He informed that he has served on the board for a number of years and has never hesitated to declare any conflicts.

REPRESENTATIVE JOSEPHSON asked for confirmation that Mr. Klein's financial data has been provided.

MR. KLEIN said that he has complied with APOC [requirements], which include financial reporting.

[3:27:29 PM](#)

REPRESENTATIVE STUTES asked if Mr. Klein is currently involved in the rewrite of Title IV.

MR. KLEIN stated that he has been on the board for a number of years and the [Title IV rewrite] process has been going on since May of 2012. Last year, the board brought forth Senate Bill 165 with a portion of the rewrite. He offered his hope that this year's SB 76 is the end of a long road to rewrite Title IV. He stated that he has been very involved in the rewrite process.

[3:28:26 PM](#)

REPRESENTATIVE FANSLER asked Mr. Klein to explain his views on the balance of power between the ABC Board and municipal governments.

MR. KLEIN responded that the current structure of Title IV gives municipalities the chance to comment on any license that comes before them - either new or renewal licenses. It also gives municipalities the right to object to a license. The ABC Board can't override that protest unless the board finds the protest to be arbitrary, unreasonable, or capricious. He expressed that municipalities have a tremendous say in what happens.

REPRESENTATIVE FANSLER asked for Mr. Klein's interpretation of arbitrary, capricious, and unreasonable.

MR. KLEIN stated that it usually means that there has either been a misinterpretation of Title IV or some special interest has overly exerted influence on a municipality's decision that is not fair or logical. He stated that for the most part, any objection from a municipality is carried through and is supported by the board.

[3:30:12 PM](#)

REPRESENTATIVE FANSLER asked Mr. Klein to speak to his experiences in rural Alaska and any developments he has been following in communities that are transitioning to new phases with alcohol.

MR. KLEIN responded that he has served on the board for many years and the board has been very involved in rural communities. The board is required to meet in every judicial district once a year, and the board encourages local communities' representatives to come forward. He stated that the board has used these meetings as an educational tool. He spoke about meeting in Nome where the board met with members of the assembly to educate them on the rights and responsibilities they have regarding licenses.

REPRESENTATIVE FANSLER asked if the possible Title IV changes could affect rural communities deciding if they want to be damp, dry, or wet.

MR. KLEIN stated that the Title IV changes mostly regard enforcement, troopers, and alcohol consumption in rural areas. The board discovered that the marijuana industry's regulations made necessary tweaks to the way localities select and put into effect local options. He offered that the board's next phase of Title IV changes would address some of those issues. Currently, Title IV is mainly concerned with enforcement.

[3:32:37 PM](#)

REPRESENTATIVE FANSLER asked how Title IV may anticipate problems of enforcement in dry villages when a nearby community goes wet. He asked what tools could help communities that wish to be dry.

MR. KLEIN stated that it is a real conundrum. The board has tried to "sure up" enforcement and improve data collection. He remarked, "The real issues are with the villages, how they ... teach and train people to stay out of ... the adjacent areas where alcohol is readily available." He stated that when a license like that comes up before the ABC Board, the board looks at what steps can be taken and makes sure that the licensee understands the coinciding responsibility to the surrounding communities.

[3:34:27 PM](#)

REPRESENTATIVE WOOL noted that last year a bill about the makeup of the board was passed. He asked if Mr. Klein thinks that the current makeup of the board is functioning well, and that industry representation is adequate.

MR. KLEIN responded, "I do." He stated that the model has existed since the 1980s and has been working well. He noted that last year's House Bill 165 created a permanent chair for public safety. He expressed that throughout the years, most governors have appointed someone with an affiliation to public safety, so it wasn't a radical change. He offered his opinion that the size of the board - five members - and having two industry members works extremely well.

[3:35:46 PM](#)

REPRESENTATIVE WOOL analyzed that with a five-member board, two industry representatives are "about all you could do." He commented that the industry has changed lately with a growing brewery industry. He stated that distribution, beer and wine, beverage dispensary, and other license holders are not represented by the board. He noted that Mr. Klein, who represents the distillery portion of the industry, has held a seat at the board for many years. He asked if there should be more representation from the other areas of the industry.

MR. KLEIN stated that he also serves on the board of directors for Alaska Cabaret, Hotel, Restaurant and Retailers Association's (CHARR). He noted that the CHARR Board has several members who are manufacturers and has representation from all aspects of retail. He stated that there are good lines of communication. He explained that in his past, he spent time working in retail and consulting wholesalers, and he now runs a distillery; therefore, he has experience with the whole industry. He expressed that the industry has adequate representation on the ABC Board.

[3:37:26 PM](#)

CHAIR KITO commented that the current Title IV rewrite deals with enforcement. Alaska has a geographic issue that makes enforcing some components of law in smaller communities difficult. He offered his opinion that it is important to have tools in place to ensure that communities that wish to stay dry have the ability to do so without a flood of product coming in from an adjacent wet community. He remarked,

As you're looking at enforcement or as you're looking at possible ... statutory changes, with your expertise in the industry, with the other members of the board's expertise in their areas, I think it will be important to try and figure out how we can help support some of

these communities that really do want to try and protect their citizens. ... And instead of drawing the line around the community that's going wet, can we try and figure out a way that we can enable some of these smaller communities to have tools that can help protect them from alcohol coming into their communities?

CHAIR KITO asked Mr. Klein to consider his comments during his service with the ABC Board.

MR. KLEIN responded, "It's advice well taken."

CHAIR KITO thanked Mr. Klein for his willingness to serve on the board. He noted that the committee would next speak with Lee Holen.

[3:39:31 PM](#)

REPRESENTATIVE JOSEPHSON noted that Ms. Holen's application stated that she would fully disclose personal financial data, and she declared that there could be a conflict of interest if she were appointed to the Alaska Labor Relations Agency. He asked her to explain.

[3:40:16 PM](#)

LEE HOLEN, Appointee, Alaska Labor Relations Agency, testified as appointee to the Alaska Labor Relations Agency. She stated that she was concerned about a potential conflict of interest if one of her clients were to come before the board. She expressed that she does not foresee any financial conflict because she wouldn't hear a matter involving someone from whom she had received financial benefits.

[3:40:49 PM](#)

CHAIR KITO thanked Ms. Holen for speaking to the committee. He noted that the committee would next speak with Suzanne Dutson.

[3:41:10 PM](#)

REPRESENTATIVE JOSEPHSON stated that Ms. Dutson's CV reflects that the governor wisely chose someone with a strong background. He asked if Ms. Dutson is willing to disclose her personal financial data as required.

[3:42:05 PM](#)

SUZANNE DUTSON, Appointee, Board of Psychologists and Psychological Associate Examiners, testified as appointee to the Board of Psychologists and Psychological Associate Examiners. She responded "absolutely" to Representative Josephson's question.

REPRESENTATIVE JOSEPHSON commented that he wanted to make sure appointees know it is a current responsibility.

[3:42:40 PM](#)

CHAIR KITO thanked Ms. Dutson for speaking to the committee. He noted that the committee would next speak with Dr. Michael Moriarty.

[3:43:00 PM](#)

MICHAEL MORIARTY, DDS, Appointee, Board of Dental Examiners, testified as appointee to the Board of Dental Examiners. He stated that he is a dentist in Seward, Alaska.

[The committee asked Mr. Moriarty no questions.]

CHAIR KITO thanked Mr. Moriarty.

[3:44:05 PM](#)

CHAIR KITO reminded the members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

[3:44:33 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD opined that the information attained from the appointees through committee discussion and questions should be added to their CVs.

CHAIR KITO stated his belief that applications would not be modified; however, the questions and responses would be included in the written minutes and audio recording.

[3:45:11 PM](#)

REPRESENTATIVE WOOL moved to advance the list of the [57] appointees to various boards and commissions reviewed by the House Labor and Commerce Standing Committee to the joint session of the House and Senate for consideration.

[3:45:24 PM](#)

CHAIR KITO objected for the purpose of acknowledging the names of the appointees whose confirmations had been reviewed [details provided in the committee calendar].

[3:49:07 PM](#)

CHAIR KITO removed his objection. There being no further objection, the confirmations for the 57 appointees were advanced.

[3:49:14 PM](#)

The committee took an at-ease from 3:49 p.m. to 3:52 p.m.

**HB 170-AK SECURITIES ACT; PENALTIES; CRT. RULES**

[3:52:04 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 170, "An Act relating to securities, registration, exempt securities, exempt transactions, broker-dealers, agents, investment advice, investment advisers, investment adviser representatives, federal covered securities, federal covered investment advisers, viatical settlement interests, small intrastate security offerings, Canadian broker-dealers, and Canadian agents; relating to administrative, civil, and criminal enforcement provisions, including restitution and civil penalties for violations; relating to an investor training fund; establishing increased civil penalties for harming older persons and vulnerable adults; relating to corporations organized under the Alaska Native Claims Settlement Act; amending Rules 4, 5, 54, 65, and 90, Alaska Rules of Civil Procedure, and Rule 602, Alaska Rules of Appellate Procedure; and providing for an effective date."

[3:52:56 PM](#)

CHAIR KITO, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 170.

[3:53:13 PM](#)

REPRESENTATIVE WOOL moved to report HB 170 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 170 was reported out of the House Labor and Commerce Standing Committee.

[3:53:32 PM](#)

The committee took an at-ease from 3:53 p.m. to 3:56 p.m.

**HB 103-OPTOMETRY & OPTOMETRISTS**

[Contains mention of SB 36]

[3:56:34 PM](#)

CHAIR KITO announced that the final order of business would be HOUSE BILL NO. 103, "An Act relating to the practice of optometry." [Before the committee was CSHB 103(HSS).]

[3:57:01 PM](#)

REPRESENTATIVE IVY SPOHNHOLZ, Alaska State Legislature, as prime sponsor, presented HB 103. She explained that the proposed bill would give authority to the Board of Examiners in Optometry to regulate the practice of optometry; it would ensure that the board has the opportunity to update current, continuing education which is more expansive than those in policy, the scope of best practices, and would allow the board to use the regulatory process to manage itself. Representative Spohnholz would allow a transparent regulatory process ensuring the vetting of any new board regulations with public and the Department of Law. The proposed bill would not allow optometrists to provide services outside of their scope of practice. Representative Spohnholz stated, "My hope is this will get the legislature out of the business of managing optometry."

[3:58:39 PM](#)

BERNICE NISBETT, Staff, Representative Ivy Spohnholz, Alaska State Legislature, presented a sectional analysis for CSHB 103(HSS), on behalf of Representative Spohnholz, prime sponsor. She drew attention to the beginning of the sectional analysis,

which read as follows [original punctuation provided, with some formatting changes]:

Section one AS.08.72.050 (4)(6) updates very old statutes to indicate that regulations shall be adopted to govern the current prescription and use of Pharmaceutical agents; and develop uniform standards for the practice of optometry.

MS. NISBETT added that the most significant change in Section 1 is that the language regarding ophthalmic surgery and non-invasive procedures has been removed [from the original bill version]. She continued to Section 2, described in the sectional analysis, as follows [original punctuation provided, with some formatting changes]:

Section two AS.08.72.060 (c)(4) the board shall publish advisory opinions regarding standards for the practice of optometry.

MS. NISBETT included that the sponsor of the bill would like to add an amendment to tighten up the language and would introduce the amendment at a later date. She pointed to page 1, line 13, and explained that "sec.11, ch.25, SLA" refers to the Medicaid Reform Bill that was passed in 2016. She noted that "AS 17.30.200(o)" also refers to the Medicaid Reform Bill.

MS. NISBETT highlighted the remaining portion of the sectional analysis, which read as follows [original punctuation provided, with some formatting changes]:

Section three AS 08.72.181(d) moves the continuing education (CE) requirements back into regulation, as desired by the Department of Commerce, Community & Economic Development. Continuing education is still required by current statute, but the hours and subjects will be determined by the board.

Section four AS 08.72.272(a) clarifies the current statute for the board to regulate pharmaceutical agent prescription including standards and limitations on practice determined by the board.

Section five AS 08.72.278 Limitation on practice adds a new section that sets limitations on services, ensuring that the board may not authorize any

procedure beyond the scope of the licensee's education and experience.

Section six AS 08.72.300(3) updates the optometry definition to reflect current practice.

Section seven Effective date for Section 2. This is because (3) of Section two was added to statute in 2016 via Senate Bill 74, the Medicaid Reform bill, and it had the effective date of July 2017, so (4) is written to comply with that date as well. (per Legislative Drafting)

[4:01:58 PM](#)

REPRESENTATIVE WOOL requested the information on the omitted procedures in Section 1.

MS. NISBETT stated that the language in the original bill version that was removed under the CS pertained to ophthalmic surgery.

[4:02:44 PM](#)

REPRESENTATIVE SPOHNHOLZ emphasized that to define ophthalmic surgery in a way that made a clear statute is challenging; this resulted in the language being taken out in the bill. She said that the word "surgery" has a very specific meaning to the average person but is a broadly used term in the medical field. She shared that she had had a small foreign body removed from her left eye and how that meets the definition of ophthalmic surgery. She said she doesn't want to "split hairs" in the statute but instead leave the authority to the board to develop uniform standards of practice for optometry. Representative Spohnholz stated this won't give the board the authority to allow for surgeries that are outside of [a licensee's] scope of practice. She stated that [the board] needs to find language that will be relevant after a few years. She gave an example of the language that isn't durable on page 2, section 3, which is a whole section describing a timeframe for continuing education that is not as aggressive as the board's regulations for continuing education. Representative Spohnholz encouraged allowing the board to regulate itself as regularly as it would like, without having to bring requests for minor changes to the legislature.

[4:05:02 PM](#)

REPRESENTATIVE JOSEPHSON asked who determines the background requirements for optometry practices regarding education and training.

REPRESENTATIVE SPOHNHOLZ responded both the Board of Examiners in Optometry and the Department of Law.

[4:05:46 PM](#)

MS. NESBITT, in response to a question from Representative Knopp, explained that the sponsor intends to change the language on page 2, line 6, of CSHB 103(HSS), which read as follows:

**(4) publish advisory opinions regarding standards for the practice seven of optometry as provided under this chapter.**

MS. NESBITT said [the bill sponsor] would like to change that language to read as in the statute for the Alaska Board of Nursing, AS 08.68.100(a) (9), which read as follows:

(9) publish advisory opinions regarding whether nursing practice procedures or policies comply with acceptable standards of nursing practice as defined under this chapter;

MS. NESBITT noted that "optometric" would replace "nursing".

REPRESENTATIVE KNOPP expressed his approval of the bill. He said Ms. Nesbitt, in presenting the sectional analysis, had addressed any concerns he had regarding optometrists operating "within the limits of their training."

[4:08:29 PM](#)

HARRIET MILKS, Assistant Attorney General, Commercial and Fair Business Section, Civil Division, Juneau, Department of Law (DOL), said that she represented professional licensing boards.

[4:08:42 PM](#)

REPRESENTATIVE JOSEPHSON related that Ms. Nesbitt had told him that [the bill sponsor's] office would not "intervene on policy or comment on how the board regulates itself." He asked if the Department of Law has the authority to determine whether optometrists have the necessary training to "do 'X'."

MS. MILKS responded, "Absolutely, that is our role, and the way we do that is we look very carefully at the scope of the statutory authority that you would give the board, and that's our starting point." She explained that at that point the Department of Law would advise the board if a proposed regulation goes beyond the scope of the statutory authority.

REPRESENTATIVE JOSEPHSON shared his understanding that ophthalmologists have concerns that under the proposed bill, optometrists would be able to define what treatment means. He asked whether the department has any authority over the board's decisions regarding treatment being within the scope of field of optometry.

[4:10:57 PM](#)

MS. MILKS responded that it "can be a delicate balance." She said the Department of Law doesn't make judgements or substitute its vision of what the policy should be; it looks at the language of the statute.

[4:12:15 PM](#)

REPRESENTATIVE BIRCH asked how the Good Samaritan Law would be affected by CSHB 103 (HSS). He related that in rural areas of the state, dentists, veterinarians, and physicians often help outside their field of practice. Representative Birch offered a hypothetical example of an individual getting a fish hook stuck in his/her eye, and the only person in town that could help is an optometrist.

MS. MILKS responded she would have to research the Good Samaritan Law and get back to the committee. She added that optometrists have authority to remove fish hooks.

REPRESENTATIVE BIRCH stated many rural areas in Alaska have incidences that would be affected by the proposal legislation, and he stated that he is interested in the topic.

[4:14:38 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked Ms. Milks if she was aware of a court case where there had been a challenge regarding the prescribed duties of optometrists versus ophthalmologists.

MS. MILKS replied that she was not familiar with any.

[4:15:23 PM](#)

REPRESENTATIVE WOOL referred to Representative Spohnholz's example that having a small foreign body taken out of her eye would constitute surgery. He implied that the definition "would make a lot of layman surgeons." He questioned if the definition for surgery would need to be in statute, how the Department of Law defined the terms, and if the Department of Law needed direction through statute over words like surgery.

MS. MILKS stated the Department of Law refers to sources, such as statute and the board, and the board seeks public comment. She said, "What we don't do is make it up."

[4:17:08 PM](#)

REPRESENTATIVE KNOPP asked for Ms. Milks' thoughts on whether an optometrist is equally qualified to do what an ophthalmologist does.

MS. MILKS stated she did not have an opinion on that question.

[4:17:47 PM](#)

REPRESENTATIVE SPOHNHOLZ cited current statute, AS 08.72.273, which reads as follows:

Removal of foreign bodies. A licensee may remove superficial foreign bodies from the eye and its appendages. This section is not intended to permit a licensee to perform invasive surgery.

She explained that she had read this statutory language to avoid [the committee discussion] "going down the rabbit hole."

[4:18:48 PM](#)

REPRESENTATIVE JOSEPHSON expressed his concern regarding the ongoing dispute between the two professions, and he stated his presumption that the debate will shift to the board.

[4:20:02 PM](#)

MS. MILKS answered that the Department of Law provides legal advice at every public meeting if the board requests an

attorney. She stated that she can't predict what would happen between the two professions.

REPRESENTATIVE JOSEPHSON stated the previous version of the bill that suggested an interest in optometrists performing surgery. He opined that there would have to be "a day of reckoning where some surgeries will be allowed, and some won't." He asked if the proposed bill would resolve this or if it would be resolved at a different date.

MS. MILKS deferred to the bill sponsor.

[4:21:48 PM](#)

CHAIR KITO opened public testimony on HB 103.

[4:22:08 PM](#)

PAUL BARNEY, MD, Chair, Board of Examiners on Optometry, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community & Economic Development (DCCED), testified in support of HB 103. He noted that he is an optometrist and past president of the Alaska Optometric Association, who has practiced for the last 17 years as the center director of the Pacific Cataract and Laser Institute (PCLI), which is a referral center limited to medical and surgical eye care. He continued as follows:

I practice with an ophthalmologist and a certified registered nurse anesthetist. Our approach to eye care is to approach it as a team and optimize each practitioner's education and skills. I bring up my mode of practice with other eye care professionals, because by practicing to our fullest potential, we're able to provide quality, more affordable, surgical eye care for Alaskans. In fact, we are largest provider of cataract care in the state of Alaska.

I support HB 103, because it'll allow the Board of [Examiners on] Optometry to regulate the details of the practice of optometry. This is how advance practice nurses, dentists, and medical doctors are regulated in Alaska. With that said, this legislation will not set a new [precedent] in healthcare ... and will not be a risk to Alaskans since this is already the way other health care providers are regulated in Alaska. HB 103 will give optometrists better

opportunity to practice at the highest level of their education by allowing the Board of [Examiners on] Optometry to write regulations that are commensurate with educational advances that occur with new technology. The current optometry statute was written over 40 years ago and requires optometry to pursue a statute change whenever there are advances in education and technology. As you know, statute changes are costly and time consuming.

Like other professional regulatory boards, the Board of [Examiners on] Optometry cannot promulgate regulations for practices or procedures that are beyond the education of optometrists. The Board of [Examiners on] Optometry is overseen by the Department of Law, just like other healthcare boards, and the Alaska Department of Law would ensure that the Board of [Examiners on] Optometry's regulations were within the scope of optometric education.

Other safeguards are our medical legal system and insurance system. Any healthcare provider who provides care outside of their education is subject to disciplinary action by their respective board, as well as serious medical legal ramifications. Additionally, insurance carriers do not pay providers for care that they provide outside their scope of education. As a result, there's no incentive for any healthcare provider to provide care outside of their education, and there are very serious consequences, both financially and to their licensure, to practitioners that do provide care outside of their education.

As chair of the Alaska Board of [Examiners on] Optometry, I can assure you that the primary concern of the board is the safety of the public. In the six years that I've served on the board, we've had no complaints from the public that were serious enough that they even considered disciplinary action. Optometrists, in general, are conservative and cautious practitioners, and the passage of HB 103 would not change their conservative nature.

HB 103 would be good for the state of Alaska. The bill puts the regulatory details regarding the practice of optometry in the authority of the Board of [Examiners on] Optometry. These changes are important

to allow the profession and practice of optometry to incorporate new technologies and advances in eyecare as they occur. Optometry provides approximately 70 percent of the eye care in the U.S., and in rural areas, especially in Alaska, they often are the only eye care provider in the community. The citizens of Alaska deserve to be served by a profession that is allowed to stay current with advances in education and new technology.

DR. BARNEY concluded his testimony by urging the committee to support HB 103.

[4:26:31 PM](#)

REPRESENTATIVE BIRCH asked how optometrists and ophthalmologists "do a hand-off" with their patients.

MR. BARNEY answered that optometrists and ophthalmologists work well together. He stated that the two professions understand each other's potential and know what statutory authority is in each profession.

[4:27:56 PM](#)

JILL GEERING MATHESON, OD, Alaskan Vision Center Optometry, testified in support of HB 103. She related that she was a former chair of the Board of Examiners in Optometry. She continued, as follows:

Over 25 years, I have testified numerous times before this committee and many other legislative committees in support of changes to the Alaska Optometry statutes, and these have been successful over the years. This is due to the level of trust that the ... legislators have given optometrists in spite of rhetoric saying that we were going to harm people.

Now I come before you not to argue safety or get the efficacy of treatment options that need to be in statute but to ask for your support for HB 103, which gives the Board [of Examiners in Optometry] the authority to regulate optometrists. Just as the people of Alaska elect all of you to represent them honestly, safely, and responsibly, the members of the state boards and commissions are appointed and confirmed by the legislature to do the same under

their various areas of expertise. The days of the medical board's being the holy grail of overseeing every health profession are long gone.

Alaska chose to set up separate boards for each profession because each profession is unique, and Alaska saw that the oversight for those professions needed to be handled by those members. So, the people of Alaska - through the legislature - have approved statutes that are very broad to many of the other health boards, and these boards are now able to autonomously manage their respected profession in an honest, safe, and responsible manner. The optometry statute, on the other hand, is currently too complicated and restrictive. All HB 103 does is allow the state Board of Examiners in Optometry to have the same autonomy.

DR. GEERING MATHESON said HB 103 is not about "eye surgery," which she said is a buzz term used by the opposition as a scare tactic. She said she was licensed 25 years ago, and Doctors of Optometry are trained to do minor surgeries that are within their scope of practice. She said she would no more conduct an eye surgery she was not qualified to do than would a dentist perform jaw reconstruction, a nurse perform spinal surgery, or a physician perform neural surgery. She stated her belief that the world must evolve and that professions change. She stated, "There is no way to predict what tools or treatment options a Doctor of Optometry will need twenty years from now to protect or cure the eyes and vision of a patient." She explained this is why HB 103 is written with such broad language - "to allow for updates as things advance" and encompass "unforeseeable changes in technology." She said she trusts members of the Board of Examiners of Optometry to make and oversee those changes.

[4:31:22 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked for examples of continuing education units (CEUs) that would broaden the scope of practice [within the field of optometry].

DR. MATHESON answered that CEUs are unforeseen. She gave an example from other states of minor surgical procedures that Alaska doesn't do, like laser procedures.

[4:32:22 PM](#)

REPRESENTATIVE KNOPP said the state and board mandates are for the timeline for completion of CEUs for an optometrist.

DR. MATHESON answered that under regulation, optometrists are required to complete 18 hours every year. She said the licensing period is two years, so the total requirement is 36 hours during each licensing period. The 36-hour requirement under regulation is more than the current statutory requirement, which is eight hours.

REPRESENTATIVE KNOPP asked what credentials optometrists need to get and how many years it takes them to get certified.

DR. MATHESON answered four years undergraduate, four years optometry school, and then optional residencies.

REPRESENTATIVE KNOPP mentioned that some ophthalmologists are certified in laser procedures while others are not, and he asked if there have been recent changes with that issue.

DR. MATHESON indicated she did not know.

[4:34:17 PM](#)

REPRESENTATIVE WOOL referenced feedback his office received that highlights a difference of opinion between ophthalmologists and optometrists as to what optometrist are qualified to do. He then asked if continuing education counts as "basic training."

[4:36:01 PM](#)

DR. MATHESON answered that if the board allowed a new procedure, then there would be required training that would go along with that new procedure. She gave an example of what has been done in the past with new procedures and the number of hours optometrists have had to complete before they were allowed to perform that procedure.

[4:37:06 PM](#)

REPRESENTATIVE WOOL gave an example of dental hygienists in other states administering Novocain injections, which 20 years ago may not have happened. He asked what the process would be for the board to allow changes.

DR. MATHESON answered that all medical professionals must meet a standard of care and all are held to high standards through their education.

[4:38:41 PM](#)

SCOTT LIMSTROM, MD, President, Alaska Society of Eye Physicians and Surgeons (ASEPS), stated that HB 103 and its companion bill SB 36 are opposed by the Alaska Society of Eye Physicians and Surgeons, the State of Alaska Board of Medical Examiners, the Alaska State Medical Association, and the American Academy of Ophthalmology. He stated that the controversy with the proposed legislation is that it would allow non-medical professionals unrestricted ability to prescribe all scheduled drugs. He said, as an ophthalmologist, he rarely prescribes narcotics for pain control. He spoke of the epidemic in Alaska resulting in deaths from overdoses of narcotics.

[4:40:38 PM](#)

DR. LIMSTROM opined that HB 103 and SB 36, as written, are the most expansive scope of practice bills in the nation. He stated that the proposed legislation would give the board full authority to determine which invasive, diagnostic, and surgical procedures ophthalmologists may perform on patient's eyes. He noted that there are no doctors or surgeons on the board. In response to a previous remark by the bill sponsor that the attorney general would be scrutinizing the regulations of the board, he questioned what the attorney general's qualifications are on eye surgery. He referenced the State of Washington as having very clear law defining eye surgery. In the law optometrists are prohibited from performing surgery. Dr. Limstrom said ASEPS requests clear definition of eye surgery. He opined that for the safety of [Alaskans], HB 103 should not move forward.

[4:41:49 PM](#)

REPRESENTATIVE KNOPP asked if prescribing drugs will be covered under continuing education requirements.

DR. LIMSTROM stated the bill gives unrestricted ability to prescribe all scheduled drugs.

REPRESENTATIVE KNOPP noted that Dr. Limstrom had requested a clear definition of eye surgery. He questioned whether Dr.

Limstrom felt description of the educational experience of optometrists was insufficient.

DR. LIMSTROM answered no, he doesn't. He referenced that Washington State enacted a definition many years ago. He expressed concern that the current bill could leave the board to define what [optometrists] can and can't do and dictate what the education requirements are.

[4:44:03 PM](#)

REPRESENTATIVE BIRCH asked if dentists and nurses have the same authority as ophthalmologists for prescribing narcotics.

DR. LIMSTROM stated he isn't familiar with what authority nurses and dentists have. The requirements for becoming an ophthalmologist, as a medical doctor, include going to medical school, serving internships, and undergoing fellowship training. He explained his ability subscribe all five scheduled medications but said the strongest medication he prescribes, as a physician, is hydrocodone and rarely his prescriptions go beyond three to four days post operation. Dr. Limstrom stated that the reason these medications are restricted is that the more prescriptions are written, the more abuse will occur in the general public. So, when the Food and Drug Administration (FDA) and the Drug Enforcement Administration (DEA) restricted [prescribing ability], it caused a reduction in the number of prescriptions being written.

[4:45:18 PM](#)

REPRESENTATIVE JOSEPHSON asked what ophthalmic surgeries are acceptable for optometrists to get trained on and perform.

DR. LIMSTROM stated that Representative Josephson would get a different answer regarding what is acceptable and unacceptable, depending on whom he asks. He affirmed that there are procedures that optometrists are allowed to perform and that there are more procedures that optometrists are capable of with the proper training. He questioned if it is necessary or safe for the public. He said a person who wants to perform a surgery with general anesthesia has to go to medical school. He asserted that as an ophthalmologist, the procedures he does are complicated, and many require generalized anesthesia. He warned that the danger of HB 103 is that the optometrists have not had [the same level of] training.

[4:47:31 PM](#)

EVAN WOLF, MD, Wolf Eye Center, testified in opposition to HB 103. He said he has been in practice for 15 years. He opined that the proposed bill is the most expansive scope of practice bill in the country. He referenced Washington State's legislation, which established a definition on the scope of practice for optometry, the definition of surgery, and a list of procedures that aren't considered surgical and, thus, can be done by an optometrist in the clinic. He cited a Washington State statute labeled RCW 18.53.010, Section 8, which he opined would be a good reference for Alaska lawmakers. Dr. Wolf cited Malcolm Gladwell's book, Outliers. The book theorizes that it takes 10,000 hours to become an expert in anything. He explained how this theory relates to surgical knowledge, since it took him 26,000 hours of training to use laser and perform cataract surgery safely. He stated that the training for an optometrist would be about 8,000 hours. Dr. Wolf cited a 2016 Journal of America Medical Association (JAMA) study, in which Joshua Dr. Stein, MD, MS, discovered what happens if an optometrists and ophthalmologist perform the same procedures, in states like Kentucky and Oklahoma where optometrists are doing basic laser procedures. The study asked what the outcomes would be if they compared optometrists or ophthalmologists doing the same procedures. Dr. Wolf said the study showed that worst-case scenario is that the procedure needs to be repeated. The study found that procedures performed by optometrists were 2.3 times more likely to need to be repeated compared to those performed by ophthalmologists.

[4:52:42 PM](#)

REPRESENTATIVE WOOL asked if Dr. Wolf did 26,000 hours of training before performing an unaccompanied surgery.

DR. WOLF answered by stating his 26,000 hours of training included medical school and residency. Residency is a four-year process of learning, including basic surgeries and development of knowledge and vocabulary.

REPRESENTATIVE WOOL asked if Dr. Wolf's overall medical education of eight years was not specifically surgery training.

DR. WOLF broke down the hours of training he obtained: 12,000 hours of medical training and 14,000 hours of ophthalmology training.

4:53:54 PM

ERIK CHRISTIANSON, OD, testified in support of HB 103. He stated that as the only medically based optometrist in Ketchikan, he sees how HB 103 could benefit his community. He already performs minor surgeries every day and refers patients to ophthalmologists for complex surgeries. His community and the communities around him only have access to ophthalmologists who rotate through; it can be tough to get an ophthalmologist because of travel restraints. Dr. Christianson said he knows of patients performing minor procedures on themselves because of the lack of medically trained individuals available. Dr. Christianson is asking [the legislature] to modernize the optometry statute so that optometrists are "able to do things within our training."

4:57:56 PM

MATTHEW GUESS, MD, testified in opposition to HB 103. He expressed concern that under HB 103, the Board of Examiners in Optometry could self-regulate its scope of practice, thus allowing invasive procedures in or around the eye, for which optometrists have received no meaningful formal training. He referenced earlier testimony by Dr. Matheson, in which he indicated that part of ophthalmologists' continuing education required seven hours of injection training for eyelid procedures. He said he spent time in medical school, residencies, and two extra years of training in a fellowship, and he learned to both diagnose and treat diseases of the eye with operative procedures and operative invasive surgeries. During that time, he spent two years in a fellowship, worked 55 to 65 hours per week, examined tens of thousands of patients, and performed thousands of surgeries under the guidance of experienced mentors. He stated there is no substitute for this training; the training allows him to provide diagnoses treatment and perform procedures and surgeries in the safest possible manner for patients. He stated that seven hours of training a year sounds like a minimal amount of work to learn new procedures or stay current on the procedures that are available.

5:00:24 PM

KELLY LORENZ, MD, testified in opposition to 103. She expressed concern over the vague wording of HB 103 and stated the proposed bill would support optometrists performing procedures that they are not adequately trained to do, including: several types of laser procedures; eyelid surgery, including eye lifts; limbal

relaxing incisions; and many other procedures. She stated her concern that "a couple weekend courses at a local hotel by an optometrist will not make up for years of surgical training by an ophthalmologist." She stated that the bill would lower the standards of surgical care in Alaska. She shared statistics that 90 percent of people polled stated they would rather have a medical doctor performing a surgery.

5:03:30 PM

STEVE DOBSON, OD, testified in support of HB 103. He said he has answers for all the questions he heard from the ophthalmologists that had testified. He said he thinks either there is intent to mislead or, perhaps, there is a misunderstanding of the intent of the proposed legislation. He stated that HB 103 is not about surgery but, for some reason, organized ophthalmology has turned it into "a surgical bill." He said HB 103 is about board autonomy and about optometrists practicing at the highest level for which they are trained. He indicated that malpractice is the same in those states [that allow optometrists] to perform minor procedures, such as minor laser procedures, as it is in Alaska, and he emphasized that "insurance companies understand risk." Dr. Dobson stated, "Obviously optometrists are doing what they trained to do and nothing more." He continued, "Optometrists are trained in very few of the procedures that ophthalmologists do. I think we all agree with that. And that's not what we're trying to do, and it's actually not what this legislation is about." Dr. Dobson stressed the importance of what ophthalmologists do, and he reiterated that there is little crossover between the two professions. He proffered that if dentists and nurses can maintain their own boards, then it's time optometrists were given the respect and consideration to regulate themselves. He said [this issue] has been repeated before the legislature for years, with the same arguments given by ophthalmologists, whom he said vehemently oppose the recognition of "any of the advances in optometric care."

5:08:25 PM

CHAIR KITO announced that HB 103 was held over.

5:09:04 PM

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:09 p.m.