

SENATE FINANCE COMMITTEE

April 13, 2018

4:23 p.m.

[4:23:55 PM](#)

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 4:23 p.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Peter Micciche
Senator Donny Olson
Senator Gary Stevens
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Representative Colleen Sullivan-Leonard, Sponsor; Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit; Janey McCullough, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development; Ted Madsen, Staff, Representative Ivy Spohnholz.

PRESENT VIA TELECONFERENCE

Richard Holt, Chair, AK Board of Pharmacy, Anchorage; Leif Holm, Board of Pharmacy, North Pole; Danielle Lafon, Chair, Board of Social Worker Examiners, Fairbanks; Crystal Koeneman, Staff, Representative Sam Kito; David Edwards-Smith, Chair, Board of Massage Therapists, Soldotna.

SUMMARY

CSHB 110(L&C)

MASSAGE THERAPY LICENSING; EXEMPTIONS

CSHB 110(L&C) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal note: FN2 (CED).

CSHB 318(FIN)

MEMBERSHIP OF & EXTEND BD .SOC WORK EXAM

CSHB 318(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from Department of Commerce, Community and Economic Development.

HB 323 EXTEND: BOARD OF PHARMACY

HB 323 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN 1(CED).

#hb323

HOUSE BILL NO. 323

"An Act extending the termination date of the Board of Pharmacy; and providing for an effective date."

[4:25:20 PM](#)

REPRESENTATIVE COLLEEN SULLIVAN-LEONARD, SPONSOR, discussed the bill. She explained that the bill extended the termination date of the Board of Pharmacy. The bill would extend the board for four years; from June 30, 2018 through June 30, 2022. Adoption of the bill would continue existing activities by the board, and administration by the Division of Corporations, Business and Professional Licensing (DCBPL). Failure to adopt the legislation would result in a one-year wind-down of the board, with the division assuming all license responsibility in FY 20. The composition of the board was seven members including five licensed pharmacists and three members from the public.

Representative Sullivan-Leonard continued to discuss the bill; informing that the board regulated admission in to the practice of pharmacy, established and enforced compliance with professional standards, and adopted regulations. The board established and maintained a controlled substance database. The board also oversaw licensing for pharmacists, pharmacy interns, technicians, licensing for drug rooms (inside institutional facilities);

and also registered pharmacies located outside the state if a pharmacy shipped drugs to consumers inside the State of Alaska.

4:27:47 PM

AT EASE

4:28:15 PM

RECONVENED

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, reminded that the purpose of a sunset audit was to determine whether a board or commission was serving the public interest and should be extended. She referenced the document "A Sunset Review of Department of Commerce, Community and Economic Development, Board of Pharmacy (board)" (copy on file).

Ms. Curtis read from the report conclusions listed on the first page:

The audit concluded the board operated in the public interest by effectively licensing pharmacists, pharmacy interns, pharmacy technicians, in-state pharmacies, drug rooms, and wholesale distributors. Board meetings were conducted in accordance with applicable laws and the board was active in amending regulations to improve the industry.

Ms. Curtis read from page 9 of the report, which showed licensing and registration activity. She detailed that there were 3,747 active licenses as of March 2017; which was a 33 percent increase compared to the prior 2009 sunset audit.

Ms. Curtis directed attention to the schedule of revenues and expenditures on page 10 of the report and noted that the board had a surplus of approximately \$275,000 as of the end of FY 17. She noted that there was a schedule of licensing fees at the bottom of page 11 and added that DCBPL management planned to do a fee analysis at the end of 2017 to examine adjustment of fees.

Ms. Curtis relayed that the Division of Legislative Audit was recommending a four-year extension for the board in recognition that recent statutory changes expanded the board's responsibilities in relation to the controlled

substance prescription database. She read from the background information on page 3 of the report:

Senate Bill 196, passed in 2008, requires the Board of Pharmacy (board) to establish and maintain a controlled substance prescription database as provided in AS 17.30.200. The law was passed with the intent to improve patient care and foster the goal of reducing misuse, abuse, and diversion of controlled substances.

The statute requires each dispenser submit to the board, by electronic means, information regarding each prescription dispensed for a controlled substance. The database electronically collects information from in-state and out of-state pharmacies as well as other dispensers of controlled substance prescriptions. The database allows pharmacists and practitioners to review prescription history prior to prescribing or dispensing a controlled substance. The database is also to be used to:

- monitor prescribing practices and patterns of prescribing or dispensing;
- identify practitioners who prescribe controlled substances in an unprofessional or unlawful manner;
- identify individuals who may be abusing controlled substances; and
- identify individuals who present forgeries or otherwise false or altered prescriptions to a pharmacy.

Ms. Curtis relayed that there were quite a few structural problems when the legislation went into effect in 2008, and the problems were slow to be addressed. The report grouped the challenges into two areas, including the completeness of information, which was listed on page 4. The law did not provide a way to identify the people that were required to submit information to the database, so the board could not verify completeness. Regulations established at the time of the creation of the database called for monthly reporting; which was not timely enough to be useful.

Ms. Curtis continued to discuss the requirement for the board to monitor the prescription drug database. The second area of challenge was the use of the information gathered. The law did not require practitioners and pharmacists to consult the database prior to prescribing or dispensing,

rather it was totally voluntary. The board was advised by the Department of Law that information in the database could not be forwarded to practitioners or pharmacists because it was illegal to send an unsolicited report. Consequently, the board did not use the information, and it was not used to identify patterns of abuse or prescribing practices.

[4:31:58 PM](#)

Ms. Curtis continued discussing the new requirements regarding the drug database. She described that there had been recent significant changes in the law to address the problem areas. Changes included that prescribers and dispensers must register with the database, and the board of pharmacy could notify other occupational boards that licensees had registered. The change provided a way to identify incompleteness and noncompliance. In 2018, beginning in July, dispensers would be required to submit information to the database daily. Dispensers and practitioners would be required to check the database prior to dispensing or prescribing or administering medication with controlled substances (with some exclusions). The board was also able to provide unsolicited reports.

Ms. Curtis noted that on page 12 of the report there was a conclusion that with the statutory changes the board was empowered to help combat the abuse of controlled substance. Given that the changes were very recent, the audit was unable to evaluate the degree to which the board would use the new authority to serve the public's interest. The conclusion furthered that DCBPL management did not believe the board should proactively analyze data to meet public health objectives. Further, Department of Commerce, Community, and Economic Development (DCCED) management indicated that additional resources were needed if the legislature intended for the board to analyze data and become proactive in helping enforce prescription drug laws.

Ms. Curtis continued discussing the recommendations of the audit. She noted that the report included two recommendations that began on page 14:

Recommendation 1: DCBPL's chief investigator should work with the director to improve the timeliness of investigations.

The audit identified and reviewed 13 of 20 cases opened for over 180 days between July 2014 and March 2017. Six of the 13 (46 percent) cases were found to have unjustified periods of inactivity ranging from 51 to 184 days.

Ms. Curtis explained that the periods of inactivity were largely due to competing priorities, specifically oversight of the controlled substance prescription database.

Ms. Curtis read recommendation 2 from page 14 of the report:

DCBPL's director should improve procedures to ensure required licensure documentation is appropriately obtained and retained.

Three of 25 facility applications tested as part of the audit did not include the required regulatory documentation.

Ms. Curtis reported that in one case, a self-inspection report was not provided, in one case a background check report was not obtained, and in one case DCBPL staff did not follow up when an application disclosed that a citation was issued on a pharmacist out-of-state license. The board was not held responsible for the errors, as it did appropriately approve the license pending receipt of key documentation. The oversight was due to lack of follow-through by DCBPL staff in obtaining the documentation. Further, the division tested 25 individual licenses tested found that one pharmacy intern's license application file did not include evidence of the applicant meeting the educational requirement.

[4:35:03 PM](#)

Ms. Curtis informed that responses to the audit began on page 45. The governor's office agreed that the board served the public's interest and should be extended and did not comment regarding the controlled prescription drug database. The department's response was on page 47. It agreed with both recommendations of the audit. Regarding

recommendation 1, DCCED stated that it had implemented new procedures to address the finding. Regarding recommendation 2, the department agreed that additional checks and balances were needed to make sure that administrative record was complete. The department stated that additional resources were needed to ensure that standards were being met. The board chair's response was on page 49, and the chair agreed with both recommendations.

[4:35:53 PM](#)

Vice-Chair Bishop asked about Exhibit 1 on page 1; and asked if the board was fully staffed.

Ms. Curtis deferred the question to the board chair. She stated that the audit was dated August 2016.

Co-Chair MacKinnon planned on bringing up the department staff to address questions. She addressed the excess receipt authority in the amount of \$275,000. She wondered why there a request had not been made to hire the necessary personnel.

Representative Sullivan-Leonard was pleased to see that the board extension was recommended for four years rather than six or eight. She thought it was important to follow the board closely with regard to new statutory requirements; as well as ensure that the board had the necessary resources to accomplish its goals.

[4:37:30 PM](#)

RICHARD HOLT, CHAIR, AK BOARD OF PHARMACY, ANCHORAGE (via teleconference), stated that the board worked diligently in the protection of Alaskan patients and serving communities. The board had worked hard in adapting to ever-changing pharmacy practice and licensing, in addition to the controlled substance prescription database. He supported the extension of the board, in order for the board to continue serving the needs of patients and populations that were reliant upon the board as subject matter experts in the field of pharmacy.

Co-Chair MacKinnon asked if Mr. Holt had heard the comments from Ms. Curtis regarding the department's assertion that the board needed more personnel to complete its duties.

Mr. Holt informed that the board had a new employee that split duties between board functions and monitoring of the prescription drug database. He referenced SB 37, which had proposed to give the board authority to hire an executive administrator using licensing receipts services fees for out of state entities.

Co-Chair MacKinnon asked how the board was trying to gain authority.

Mr. Holt explained that SB 37 was heard in the House Finance Committee the previous day and would provide the board with authority to hire an executive administrator.

[4:40:18 PM](#)

Senator Stevens asked about the board's \$275,000 of surplus funds.

Mr. Holt did not recall the exact amount of surplus from year to year. He thought the amount of surplus was cumulative.

Co-Chair MacKinnon informed that according to the Legislative Finance Division (LFD) the carry-forward for FY 12 to FY 13 was \$29,896; for FY 14 to FY 15 the carry-forward was \$201,479; and in FY 16 to FY 17 the carry-forward surplus was \$275,216.

[4:41:25 PM](#)

Vice-Chair Bishop asked Mr. Holt if the board was at full strength.

Mr. Holt answered in the affirmative.

[4:41:56 PM](#)

LEIF HOLM, BOARD OF PHARMACY, NORTH POLE (via teleconference), agreed with the remarks of the previous testifier.

Co-Chair MacKinnon OPENED public testimony.

Co-Chair MacKinnon CLOSED public testimony.

[4:42:43 PM](#)

Vice-Chair Bishop discussed FN 1 from Department of Commerce, Community and Economic Development. The fiscal note had a cost of \$27,900 annually if the bill passed. There would be \$26,400 of expenses would be incurred for travel for members to attend four board meetings. Advertising the board meetings would cost \$400, and \$1000 in expenses would be incurred for training and conference fees. There would be \$100 stipends for board members attending.

Co-Chair MacKinnon noted that the fiscal note did not reflect the full cost to the state or the board members. The board's total revenue was \$1,014,241 and its total expenditures was \$940,504.

Vice-Chair Bishop stated that the funds were Designated General Funds (DGF) of receipt supported services.

Co-Chair MacKinnon noted that the members of the profession were providing the state with resources to continue the administration of the pharmacy profession.

[4:44:34 PM](#)

JANEY MCCULLOUGH, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, stated that the board had a level of pharmacy expertise that was needed in the division. She recommended extension of the board.

Senator Micciche asked about a gap of \$75,000 between funds received and the cost to run the program.

Ms. McCullough asked if Senator Micciche was talking about revenues and expenditures listed in the report. She informed that the excess funds were carried forward for the program to be used in years of non-renewal of licenses.

Senator Micciche asked if Co-Chair MacKinnon could repeat the figures associated with the cost of operating the board.

Co-Chair MacKinnon specified that in FY 16 and FY 17, the board's total expenditures were \$940,504. The information came from an LFD review.

[4:46:24 PM](#)

Senator Micciche asked who covered the costs.

Co-Chair MacKinnon asked if those who were licensed under the board paid a fee and supported the DGF.

Ms. McCullough stated that the licensing fees paid by all licensees supported the program and paid all the expenses. There was no other revenue received to support the expense of the board.

Senator Micciche considered the actual cost of the programs was being discussed. He thought it was helpful for the public to understand that all the costs were covered by licensees.

Ms. McCullough answered in the affirmative.

[4:47:51 PM](#)

AT EASE

[4:49:16 PM](#)

RECONVENED

Co-Chair MacKinnon stated that there were 72 hours remaining in session. The committee had discussed the bill and the associated funding. She wanted to make sure that the bill would pass both bodies before the legislature adjourned.

Vice-Chair Bishop MOVED to report HB 323 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 323 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN 1(CED).

[4:51:01 PM](#)

AT EASE

[4:52:52 PM](#)

RECONVENED

#hb318

CS FOR HOUSE BILL NO. 318(FIN)

"An Act extending the termination date of the Board of Social Work Examiners; relating to the composition of the Board of Social Work Examiners; and providing for an effective date."

[4:52:52 PM](#)

Co-Chair MacKinnon read the title of the bill. She noted that the sponsor, Representative Ivy Spohnholz, was on the House floor.

TED MADSEN, STAFF, REPRESENTATIVE IVY SPOHNHOLZ, discussed the bill. He noted that the bill was an eight-year sunset extension for the Board of Social Work Examiners. He noted that Section 2 of the bill contained a "tweak" to the board's composition. The subject was discussed on page 10 of the report by the Division of Legislative Audit. Under current law, the board could not be entirely composed of government agency employees, or non-profit social workers. He explained that the requirement had made it onerous to fill the seats of the board. The proposed change would allow for the four licensed social workers on the board to be non-profit employees. He noted that it was difficult to find a for-profit social worker to fill the position on the board. The agency responses indicated that the change had been supported.

[4:55:03 PM](#)

Ms. Curtis discussed the document "A Sunset Review of the Department of Commerce, Community and Economic Development, Board of Social Work Examiners (board)," (copy on file). She read from the report conclusions on the first page:

The audit concluded that the board operated in the public's interest by effectively licensing and regulating social workers. Board meetings were conducted in compliance with law, investigations were generally processed timely, and the board issued or changed regulations to improve the profession.

Ms. Curtis informed that the division was recommending an eight-year extension of the board. She directed attention to page 6, which showed a schedule of licensing activity. As of March 2017, there were 783 total active licenses, which was a 41 percent increase when compared to the 2009

sunset audit. Page 7 of the report was a schedule of revenues and expenditures. At the end of FY 17 there was a surplus of \$95,000. The fees were listed on page 8 of the audit.

Ms. Curtis directed attention to page 9, where the report began listing two recommendations for improvements:

Recommendation No. 1:

DCBPL's director should improve procedures to ensure board-required documentation is obtained prior to licensure.

Ms. Curtis detailed that of the 25 licenses tested, there was one error. The board had appropriately approved the license, but it was conditional upon receiving key documentation. Subsequently DCBPL staff had issued the license without obtaining the documentation.

Ms. Curtis continued discussing the recommendations:

Recommendation No. 2:

The Office of the Governor, Boards and Commissions director should work with the board to identify potential applicants for the board's vacant clinical social worker position.

Ms. Curtis detailed that the position became vacant in March 2017, and was still vacant in October of the same year. She referenced earlier testimony regarding the statutory requirements for board members and the difficulty in finding applicants.

Ms. Curtis noted that the response to the audit began on page 19. The Office of the Governor responded to recommendation 2 and agreed that the stringent requirements should be changed and encouraged the board to seek a legislative fix. The response from DCCED was on page 21, and agreed with both recommendations. With regard to the recommendation for improving licensure documentation, the department agreed that additional checks and balances were needed to ensure the administrative record was complete. The department also stated it needed additional supervisory resources to ensure the standards were met.

Ms. Curtis continued discussing the audit and noted that the board's response was on page 23 of the audit. The board agreed with both recommendations.

[4:57:58 PM](#)

Co-Chair MacKinnon asked if Ms. Curtis had done historical research in order to determine why the legislature had adopted such stringent guidelines.

Ms. Curtis answered in the negative.

Mr. Madsen indicated he had contacted Legislative Research Services regarding the original enactment of the board. The board member guidelines had been a part of the original legislation crafted to create the board in 1988. The intent was to find a private, for-profit social worker to serve on the board; however, the vast majority of individuals working in social work were not working for a for-profit entity.

[4:59:25 PM](#)

AT EASE

[5:00:22 PM](#)

RECONVENED

Mr. Madsen read an excerpt of an email from Legislative Research Services (copy not on file):

We reviewed the bill files and House committee minutes for HB 526, and note that a major concern in 1988 was the issue of social workers in private practice and a lack of regulation or any means to discipline those individuals when or if a client complained of unprofessional behavior.

During the committee process, the bill was amended to include regulation of a clinical social worker in private practice and language was added to ensure that at least one licensed member of the board was in private practice.

DANIELLE LAFON, CHAIR, BOARD OF SOCIAL WORKER EXAMINERS, FAIRBANKS (via teleconference), spoke in support of HB 318. She stated that the board supported HB 318, and thought the

board was necessary to continue providing public protection by overseeing social work licensure in Alaska.

5:01:45 PM

Senator Stevens asked if there were social workers that were not government employees.

Ms. Lafon stated that there were social workers in the state that were not governmental employees, however it was hard to quantify the number as the board did not track employment location.

Senator Stevens asked if Ms. Lafon could estimate a number of non-governmental employee social workers in the state.

Ms. Lafon answered in the negative.

Senator Stevens asked if Ms. Lafon saw an advantage in having a non-governmental social worker on the board.

Ms. Lafon was not sure why the regulation was written as such. She noted that the board had a vacancy for a year due to the challenging regulation and lack of applicants. The board had discussed the matter extensively and did not see a conflict with changing the requirement as proposed.

5:03:14 PM

Co-Chair MacKinnon referenced a recommendation that additional supervision was needed. She asked if the board had made the request of the administration.

Ms. Lafon was not sure what Co-Chair MacKinnon referenced.

Ms. Curtis clarified that the agency's response to the audit was to state that it was important to ensure checks and balances were in place in order to ensure its administrative record was complete. The department believed additional supervisory resources were needed to ensure departmental standards were met.

Co-Chair MacKinnon asked if the administration had come to the board to ask for additional receipt authority or support for using board funds from licenses.

Ms. Lafon discussed the audit findings. She stated that the board sent its division employees to training sessions through the Association of Social Work Boards. The board members also received training. The board had received notification from the division that it was educating its staff to license social workers appropriately.

[5:05:50 PM](#)

Co-Chair MacKinnon asked if the administration had requested additional DGF to support from the board for additional supervision of the board's licensees.

Ms. Lafon answered in the negative.

Co-Chair MacKinnon stated that the committee would direct the department to have communication with the board on the matter.

Ms. Curtis stated that the comment from the department could be seen in multiple sunset audits. Legislative Audit had found multiple instances (for multiple boards) in which DCPBL staff did not follow up to obtain documentation or other details. There was standard language inserted regarding the need for additional resources.

Co-Chair MacKinnon asked if the department was making such statements when there was excess DGF available from the board. She wondered if the problem was a training issue or a personnel issue.

Ms. Curtis stated that the department had made the statement multiple times, and she thought all the boards in question were in a state of surplus.

[5:07:43 PM](#)

Co-Chair MacKinnon referenced a repeated theme in the audits related to a recommendation for additional staff. She wondered if there was a connection between surplus revenue and the request.

Ms. McCullough stated that the division had identified the need to have more occupational licensers to be able to issue more licenses.

[5:09:15 PM](#)

AT EASE

[5:09:28 PM](#)

RECONVENED

Ms. McCullough stated that the division had determined (through audit findings) that occupational licensing examiners needed more oversight on the quality of work. She detailed that supervisors typically had 7 to 8 employees under direct supervision, which could include 6 or 7 boards under a supervisor's purview. The division was finding that more training, oversight and mentoring would solve the resource problem.

Ms. McCullough continued that the division would need spending authority to provide more of the resources needed.

Co-Chair MacKinnon asked if the division would ask all boards for additional funds for extra supervisory capacity.

Ms. McCullough stated that the division would spread out the work of an additional supervisor, and all programs would benefit from additional supervision over daily occupational licensing work.

Co-Chair MacKinnon asked how the funds would be collected, and if it would adequately be shared with all licensures, or only with those boards that had a surplus.

Ms. McCullough reiterated that all programs would benefit from additional staff.

Co-Chair MacKinnon asked if all programs would pay for additional staff.

Ms. McCullough answered in the affirmative and clarified that additional supervisory staff would be supported by all licensing fees.

[5:12:56 PM](#)

Vice-Chair Bishop commented that he hoped that the DCCED commissioner was listening, so he could assist with the issues being discussed.

Co-Chair MacKinnon noted that the commissioner had been present earlier in the meeting.

5:13:35 PM

Vice-Chair Bishop discussed a new fiscal impact note from the Department of Commerce, Community and Economic Development, OMB Component 2360. He detailed that the cost would be \$21,400 annually. He read from the Analysis on page 2 of the fiscal note:

If the bill passes the following expenses will be incurred:

Travel: \$19.9(board members to attend four board meetings per year)

Services: \$0.4 (advertising of public notice of board meetings) \$1.0 (training and conference fees) \$0.1 (stipends for board members attending board meeting in community of residence)

Professional licensing programs within the Division of Corporations, Business and Professional Licensing are funded by Receipt Supported Services, fund source 1156 Rcpt Svcs (DGF). Licensing fees for each occupation are set per AS 08.01.065 so the total amount of revenue collected approximately equals the occupation's actual regulatory costs.

Co-Chair MacKinnon noted that from FY 16 to FY 17, the board's total revenue \$333,783; and had expenditures totaling \$215,924. The information had been provided by LFD. The carry-forward in the FY 12 to FY 13 time period was \$36,860. From FY 14 to FY 15 there had been a deficit carry-forward of \$21,989. The surplus carry-forward from FY 16 to FY 17 was \$95,870.

5:15:16 PM

Co-Chair MacKinnon OPENED public testimony.

Co-Chair MacKinnon CLOSED public testimony.

Vice-Chair Bishop MOVED to report CSHB 318(FIN) out of Committee with individual recommendations and the accompanying fiscal note.

CSHB 318(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note

from Department of Commerce, Community and Economic Development.

[5:16:23 PM](#)

AT EASE

[5:19:01 PM](#)

RECONVENED

#hb110

CS FOR HOUSE BILL NO. 110 (L&C)

"An Act relating to the Board of Massage Therapists; relating to the practice of massage therapy; relating to massage therapy establishments; relating to the Department of Commerce, Community, and Economic Development; and providing for an effective date."

[5:19:01 PM](#)

CRYSTAL KOENEMAN, STAFF, REPRESENTATIVE SAM KITO (via teleconference), discussed the bill. The bill was brought forward by the Board of Massage Therapy, which was newly established in 2015. She referenced the recent board extension, at which time some licensure issues came forward. The bill would address the issues to more effectively license members of the profession, give the board better oversight, and protect Alaskans.

Ms. Koeneman continued discussing the bill. She relayed that the bill would require the Board of Massage Therapy to adopt regulations covering massage therapy establishments; which would give authorities the tools needed to shut down operations of human trafficking and prostitution that tried to use massage therapy as a front. In 2015 the board learned from the Federal Bureau of Investigation (FBI) that there were 35 businesses in Anchorage that were used as a front for human trafficking. Regulating massage establishments gave the board an additional tool in order to hold owners of the establishments accountable.

Ms. Koeneman relayed that the bill would increase the minimum course of study from 500 hours to 625 hours, which was in line with national standards. In 2012, national massage therapy associations met and had developed new standards for the industry. One recommendation was to increase the required course hours, but the information had

not been available at the time the original legislation passed. All three massage schools in Alaska would exceed the minimum course hours requirement. The bill also reduced the minimum required safety education which covered blood-borne pathogen coursework, in order to address redundancy.

Ms. Koeneman detailed that there was a change to the bill in the other body that would remove a restriction that prevented members having served on prior boards. The bill also modified the bi-annual fingerprint requirement to every six years, which would decrease burden on licensees but would still gave the board adequate oversight to continue background checks.

[5:24:10 PM](#)

Co-Chair MacKinnon OPENED public testimony.

[5:24:44 PM](#)

DAVID EDWARDS-SMITH, CHAIR, BOARD OF MASSAGE THERAPISTS, SOLDOTNA (via teleconference), spoke in support of the bill.

Co-Chair MacKinnon asked if Mr. Edwards-Smith could speak to the fingerprinting issue.

Mr. Edwards-Smith stated that HB 110 would reduce the burden of a renewing licensee having to redo fingerprinting every period. He felt fingerprinting was very important for background checks, but thought reducing it to every three cycles would be adequate.

Co-Chair MacKinnon asked Mr. Edwards-Smith if the board had any problem with chain-of-custody with fingerprints.

Mr. Edwards-Smith referenced a letter from Sara Chambers, Deputy Director, DCBPL (copy on file) that indicated the division was looking to make improvements including a board recommendation to accept a certain type of finger printers. He discussed the concept of chain-of-custody and recommendations.

[5:28:20 PM](#)

Co-Chair MacKinnon referenced a letter from the Americans For Prosperity group (copy on file) that supported reducing

the number of required course hours. She asked if he could speak to the board's discussion on the matter.

Mr. Edwards-Smith stated that the 625 required course hours proposed in the bill was a product of seven national massage therapy organizations that had been active for many years. The groups had done a study to look at the tests and educational requirements for massage therapy. The comprehensive study and other boards had determined 625 hours was a national standard.

[5:31:08 PM](#)

Co-Chair MacKinnon asked if the board anticipated that other states would follow suit after the study was disseminated. She questioned if other states believed 500 hours was adequate.

Mr. Edwards-Smith indicated that through conversation with other states, the board understood that every single state that was licensing massage therapy would like to change to 625 hours.

Co-Chair MacKinnon asked if the board had discussed the issue and was supportive of the proposed 625 required hours.

Mr. Edwards-Smith answered in the affirmative.

[5:33:36 PM](#)

Senator Micciche thought it seemed as though half of states had 500 hours of required training. He preferred the minimum adequate hours of training. He asked what could be gained through the additional training.

Mr. Edwards-Smith asserted that additional education would provide for a stronger therapist with backgrounds related to pathology, anatomy and physiology, and technique. He discussed proposed changes to curriculum, to better deal with pathologies that had changed since the adoption of the 500-hour requirement.

Senator Micciche wished he had a list of all the states required hours of education and training.

[5:35:36 PM](#)

Co-Chair MacKinnon CLOSED public testimony.

Vice-Chair Bishop asked if fingerprints changed.

Ms. Koeneman answered in the negative, and informed that fingerprints were not kept on file, and so the fingerprints would need to be reprocessed to be run through a national background check program.

Co-Chair MacKinnon asked if Ms. Koeneman had any other points to make on the fingerprinting change.

Ms. Koeneman offered that the current fingerprinting process for boards under DCCED was the same that was in place for a concealed carry permit. She noted that the FBI had not flagged other boards over the fingerprinting process but had flagged that of the Board of Massage Therapy. She thought that appearances might suggest that the process was less secure, but in reality the process was secure.

Co-Chair MacKinnon referenced the aforementioned April 9, 2018 letter authored by Sara Chambers of DCCED, regarding audit findings.

[5:38:59 PM](#)

Ms. Koeneman pointed out that there were 495 programs throughout the country that offered massage therapy coursework and certification. Of the 495, there were only 73 that fell below the 625 hours. Well over 400 programs across the nation had over 625 hours required to cover all the needed material for massage therapy certification.

[5:39:45 PM](#)

Vice-Chair Bishop discussed FN 2 from the Department of Commerce, Community and Economic Development. For FY 19 the cost was \$10,800. In the out years, there would be a cost of \$4,600. He read from the fiscal note analysis on page 2:

HB 110 provides authority for the Board of Massage Therapy to establish a license for massage therapy establishments and to develop regulations for licensing requirements. Regulating massage therapy establishments intended to facilitate protection of

the public from businesses that engage in prostitution, sex trafficking, and the employment of unlicensed persons performing massage-therapy type activities.

If the bill passes the following expenses will be incurred:

Travel: \$4.6 (two trips per year to conduct onsite investigative inspections in out years)

Services: \$10.8 (costs to amend regulations including legal, printing and postage in the first year)

The potential number of establishments affected by this bill is unknown at this time. Future costs for legal and hearing service expenses in out years are unknown.

Professional licensing programs within the Division of Corporations, Business and Professional Licensing are funded by Receipt Supported Services, fund source 1156 Rcpt Svcs (DGF). Licensing fees for each occupation are set per AS 08.01.065 so the total amount of revenue collected approximately equals the occupation's actual regulatory costs.

[5:41:35 PM](#)

Co-Chair MacKinnon thought she may have not spoken accurately regarding revenue and expenses. Many of the boards and licensees were providing DGF, and there had been great concern that the budget should be cut, and she was trying to make a distinction. The state brought in revenues from licensees to support the work of the boards. She noted that the Board of Massage Therapy's expenses for 2017 had been \$224,300.

[5:43:13 PM](#)

AT EASE

[5:45:58 PM](#)

RECONVENED

Co-Chair MacKinnon asked about total cost and total expenses, and asked about a discussion of the board's surplus.

Ms. McCullough explained that in FY 15, the program was new and had not yet collected licensing fees. The board had

gone into a deficit position of \$69,926 at the end of FY 15. When revenue was collected in FY 16, \$586,230 was brought in and there was a total expenditure of \$254,892, for an annual surplus of \$331,338.

Ms. McCullough discussed expenditures and surpluses since the inception of the board and collection of licensing fees. At the end of FY 17, the board had a surplus balance of \$335,053. The department had completed a fee analysis, and lowered fees so the board did not have to carry such a high surplus.

5:48:26 PM

Co-Chair MacKinnon thought there had been a rate decrease.

Ms. McCullough reiterated that because of the large surplus, the division tried to keep revenues and expenditures as close as possible, as required by AS 08.01.065.

Co-Chair MacKinnon thanked Ms. McCullough for her work.

Vice-Chair Bishop MOVED to report CSHB 110(L&C) out of Committee with individual recommendations and the accompanying fiscal note.

Senator Micciche OBJECTED for discussion.

Senator Micciche discussed his objection. He stated that he didn't normally support an increase to training requirements. He thought there were many people in the state that were looking for work and that additional training added additional expense. He surmised that most of the people in the industry supported the increase. He spoke about DGF and clarified that the funds were generally from Alaskans paying for a service.

Senator Micciche WITHDREW his OBJECTION. There being NO further OBJECTION, it was so ordered.

CSHB 110(L&C) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal note: FN2 (CED).

5:51:39 PM

AT EASE

5:53:41 PM

RECONVENED

Co-Chair MacKinnon discussed the schedule for the following day.

#

ADJOURNMENT

5:55:05 PM

The meeting was adjourned at 5:55 p.m.