

**ALASKA STATE LEGISLATURE**  
**SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE**

March 17, 2017

1:30 p.m.

**MEMBERS PRESENT**

Senator David Wilson, Chair  
Senator Cathy Giessel  
Senator Tom Begich

**MEMBERS ABSENT**

Senator Natasha von Imhof, Vice Chair  
Senator Peter Micciche

**COMMITTEE CALENDAR**

SENATE BILL NO. 83

"An Act relating to the protection of vulnerable adults and residents of long term care facilities."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 83

SHORT TITLE: PROTECT: VULNERABLE ADULTS/LONG TERM CARE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/08/17	(S)	READ THE FIRST TIME - REFERRALS
03/08/17	(S)	HSS, FIN
03/17/17	(S)	HSS AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

TERESA HOLT, Long Term Care Ombudsman  
Alaska Mental Health Trust Authority  
Anchorage, Alaska

**POSITION STATEMENT:** Presented information on SB 83.

**ACTION NARRATIVE**

[1:30:39 PM](#)

**CHAIR DAVID WILSON** called the Senate Health and Social Services Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Begich, Giessel, and Chair Wilson. Senators Von Imhof and Micciche were excused.

**SB 83-PROTECT: VULNERABLE ADULTS/LONG TERM CARE**

[1:31:17 PM](#)

CHAIR WILSON announced the consideration of SB 83.

TERESA HOLT, Long Term Care Ombudsman, Alaska Mental Health Trust Authority, presented information on SB 83. She provided an overview of SB 83:

SB 83 will amend provisions of AS 47.62 Office of the Long Term Care Ombudsman and AS 47.24 protection of vulnerable adults to ensure alignment with the Older Americans Act and its implementing regulations. In 2016, the Older Americans Act was reauthorized and new regulations for Long Term Care Ombudsman were created. As a result, the Administration for Community Living reviewed all states to ensure compliance with these changes. Through this review, these Alaska statutes were identified as being out of alignment with the reauthorized Older Americans Act and Long Term Care Ombudsman regulations. But regardless of federal requirements these changes are good policy changes for our office and we would recommend them anyway.

Briefly, this bill would:

Align state statutes with federal statutes and regulations to ensure Office of the Long Term Care Ombudsman only shares resident information with informed consent.

Ensure Office of the Long Term Care Ombudsman can obtain records to investigate and make referrals when resident is unable to provide informed consent.

Add new term for resident and resident representative  
Due to a conflict of interest, removes the option for mandatory reporters to meet reporting requirements by submitting report to the Office of the Long Term Care Ombudsman.

Clarify the separation of the role of the Long Term Care Ombudsman from the role of DHSS.

Clarify that Office of the Long Term Care Ombudsman may serve residents in long term care facilities under the age of 60.

[1:33:42 PM](#)

At ease

[1:36:56 PM](#)

MS. HOLT presented the sectional analysis:

**Section 1** is a technical amendment to AS 47.24.010(a) update the name of the entity responsible for receiving reports to the department "vulnerable adult centralized intake office". This section also adds the statutory reference for the definition of mental health professional.

**Section 2** is a technical amendment to AS 47.24.010(e) to update the name of the entity responsible for receiving reports to the department "vulnerable adult centralized intake office".

**Section 3** amends AS 47.24.013(a) to remove the requirement to forward reports of maltreatment to the Long Term Care Ombudsman's office. Adds passive language to allow the DHSS to transfer reports for Long Term Care Ombudsman's investigation as defined under AS.62.015.

**Section 4** amends AS 47.24.013(b) to delete reference to DHSS's obligation to investigate reports for vulnerable adult's age 60 or less. The Department of Health and Social Services is responsible for reports involving vulnerable adults ages 18 and older.

**Section 5** amends AS 47.24.013(d) to remove the Long Term Care Ombudsman's obligation to mandatorily provide a report to the DHSS Central Intake. Aligns state law with federal law requiring the Long Term Care Ombudsman's office to only forward information of a complainant or resident with appropriate consent or court order. (45 CFR 1327.11(e)(3)). Amended to reflect current Department of Human and Social

Services responsibility for vulnerable adult centralized intake.

**Section 6** amends AS 47.24.015(a) to remove reference to reports transferred to the Office of Long Term Care Ombudsman under 47.24.013. Updates legislative language to appropriately reference subjects of reports are vulnerable adults. Removes requirement for face to face interview.

**Section 7** amends AS 47.62.015(a) to add language to align state law with federal law by providing the Long Term Care Ombudsman the authority to investigate and resolve a complaint for a person residing in a long term care facility who is not defined as an older Alaska.

**Section 8** amends AS 47.62.015(c) to include all residents of a long term care facility.

**Section 9** repeals and reenacts AS 47.62.025 to define access to long term care facilities, older Alaskan, and records.

Title amended to include all ages of residents of long term care facilities. Section (a) amended to include all ages of residents of long term care facilities. Section (b) amended to include all ages of residents of long term care facilities and amended to allow for consent to be provided by the resident or the resident's representative or by subpoena.

**Section 10** repeals and reenacts AS 47.62.030(b) to include all ages of residents. Amended to allow for disclosures with consent. Adds authority for resident representative to give consent. Amended to align state law with federal law to clarify limited circumstances when the Office of Long Term Care Ombudsman has authority to report resident-identifying information without obtaining resident or resident representative consent.

**Section 11** amends AS 47.62.060 to include all ages of residents of long term care facilities.

**Section 12** amends AS 47.62.090 to revise the definition of "older Alaskan" as an individual who lives in Alaska since definition of "resident" was

added to mean individual living in a long term care facility. Adds new sections to define resident as an individual who resides in a long term care facility and to align state law with federal law to define resident representative and authority the resident representative has to act on behalf of the resident.

**Section 13** repeals AS 47.24.010(f), AS 47.24.013(c)(3), and AS 47.24.013(e). AS 47.24.010(f) is repealed as Federal statute and regulations prohibit representatives of the Office Long Term Care Ombudsman from abuse reporting requirements when such reporting would disclose identifying information of a complainant or resident without appropriate consent or court order. (45 CFR 1327.11(e)(3)). Therefore mandatory reporting to the Office of Long Term Care Ombudsman does not fulfill a mandatory reporter's obligation under law to make mandatory reports of maltreatment. AS 47.24.013(c)(3) repeals the requirement for the Office of the Long Term Care Ombudsman to provide results of investigation to the DHSS. OAA Section 712(d)(2)(B) establishes strict disclosure limitations. The Long Term Care Ombudsman program is intended to be a safe, person-centered place for residents to bring their concerns. Residents can be assured that their information will not be disclosed without their consent, the consent of the resident representative, or court order. AS 47.24.013(e) is repealed as the Office of the Long Term Care Ombudsman is not the appropriate agency to officially substantiate abuse or neglect complaints on behalf of DHSS. The Office of the Long Term Care Ombudsman represents the interests of residents, rather than the interests of the DHSS. (See OAA Section 712(a)(3)(E), (a)(5)(B)(iv); 45 CFR 1327.13(a)(5), 1327.19(a)(4)).

[1:40:15 PM](#)

CHAIR WILSON asked for clarification of Section 10 regarding elders that do not have someone to advocate for them.

MS. HOLT explained that they often deal with those who are unable to give informed consent and do not have someone to make decisions on their behalf. There are four conditions that must be met: the referral must affect their health, welfare, safety, or rights; there must be reasonable cause that it is in their best interests; that all situations are approved by the

Ombudsman; and there is no evidence that the person would be opposed to the referral. She listed the referral options they might have - to the police, adult protective services, licensing, or elder fraud.

[1:41:48 PM](#)

SENATOR BEGICH noted that in District J, 168 out of 300 beds had seniors and the rest were vacant. Under Sections 4, 8, 9, and 11 the Long Term Care Ombudsman will now have to consider clients below the age of 60, and yet there are zero fiscal notes. The bill appears to be a burden to what is being done currently. He asked if there is additional cost for the potential new clients.

MS. HOLT explained that the changes come from Ombudsman regulations and the reauthorization of the Older Americans Act. The reauthorization changed the wording from "older residents in long term care facilities" to "residents in long term care facilities." She said she asked if they must expand services and was told that it allows for expansion, but it is not required - it is optional. She provided an example of their ability to prioritize needs and services for their clients. Top priorities are seniors who live in senior licensed facilities, mental health and development disabilities, abuse and neglect.

[1:44:52 PM](#)

SENATOR BEGICH summarized that they don't anticipate a financial burden because they are not required to take on new patients.

MS. HOLT agreed.

[1:45:46 PM](#)

CHAIR WILSON opened public testimony on SB 83.

He noted the people who were available to answer questions.

[1:46:27 PM](#)

CHAIR WILSON closed public testimony and held SB 83 in committee.

[1:47:43 PM](#)

There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee at 1:47 p.m.