

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 14, 2017

1:39 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Shelley Hughes, Vice Chair
Senator Kevin Meyer
Senator Gary Stevens
Senator Berta Gardner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 4

"An Act relating to the Board of Barbers and Hairdressers; relating to a limited license to practice non-chemical barbering; relating to a license to practice hair braiding; relating to the Department of Environmental Conservation; and providing for an effective date."

- MOVED SSSB 4 OUT OF COMMITTEE

SENATE BILL NO. 16

"An Act adopting and relating to the Revised Uniform Fiduciary Access to Digital Assets Act."

- MOVED SB 16 OUT OF COMMITTEE

SENATE BILL NO. 32

"An Act relating to biological products; relating to the practice of pharmacy; relating to the Board of Pharmacy; and providing for an effective date."

- MOVED SB 32 OUT OF COMMITTEE

SENATE BILL NO. 64

"An Act adopting the Uniform Environmental Covenants Act; relating to environmental real property covenants and notices of activity and use limitation at contaminated sites to ensure the

protection of human health, safety, and welfare, and the environment; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 79

"An Act relating to the prescription of opioids; establishing the Voluntary Nonopioid Directive Act; relating to the controlled substance prescription database; relating to the practice of dentistry; relating to the practice of medicine; relating to the practice of podiatry; relating to the practice of osteopathy; relating to the practice of nursing; relating to the practice of optometry; relating to the practice of veterinary medicine; related to the duties of the Board of Pharmacy; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 37

"An Act relating to the Board of Pharmacy; relating to the licensing and inspection of certain facilities located outside the state; relating to drug supply chain security; and creating a position of executive administrator for the Board of Pharmacy."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 4

SHORT TITLE: NON-CHEMICAL BARBERING; HAIR BRAIDING

SPONSOR(S): SENATOR(S) MICCICHE

01/09/17	(S)	PREFILE RELEASED 1/9/17
01/18/17	(S)	READ THE FIRST TIME - REFERRALS
01/18/17	(S)	L&C, FIN
02/17/17	(S)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
02/17/17	(S)	L&C, FIN
03/02/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/02/17	(S)	Heard & Held
03/02/17	(S)	MINUTE(L&C)
03/14/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 16

SHORT TITLE: FIDUCIARY ACCESS TO DIGITAL ASSETS

SPONSOR(S): SENATOR(S) HUGHES

01/13/17 (S) PREFILE RELEASED 1/13/17
01/18/17 (S) READ THE FIRST TIME - REFERRALS
01/18/17 (S) L&C, JUD
03/07/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/07/17 (S) Heard & Held
03/07/17 (S) MINUTE(L&C)
03/14/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 32

SHORT TITLE: PRESCRIPTIONS FOR BIOLOGICAL PRODUCTS
SPONSOR(s): SENATOR(s) HUGHES

01/23/17 (S) READ THE FIRST TIME - REFERRALS
01/23/17 (S) HSS, L&C
02/10/17 (S) HSS AT 1:30 PM BUTROVICH 205
02/10/17 (S) Heard & Held
02/10/17 (S) MINUTE(HSS)
02/15/17 (S) HSS AT 1:30 PM BUTROVICH 205
02/15/17 (S) Moved SB 32 Out of Committee
02/15/17 (S) MINUTE(HSS)
02/17/17 (S) HSS RPT 2DP 1NR 1AM
02/17/17 (S) NR: WILSON
02/17/17 (S) DP: VON IMHOF, BEGICH
02/17/17 (S) AM: GIESSEL
03/07/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/07/17 (S) Heard & Held
03/07/17 (S) MINUTE(L&C)
03/14/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 64

SHORT TITLE: UNIFORM ENVIRONMENTAL COVENANTS ACT
SPONSOR(s): SENATOR(s) MICCICHE

02/17/17 (S) READ THE FIRST TIME - REFERRALS
02/17/17 (S) CRA, L&C
02/28/17 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
02/28/17 (S) Heard & Held
02/28/17 (S) MINUTE(CRA)
03/07/17 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
03/07/17 (S) Moved SB 64 Out of Committee
03/07/17 (S) MINUTE(CRA)
03/08/17 (S) CRA RPT 2DP 2NR
03/08/17 (S) DP: BISHOP, HOFFMAN
03/08/17 (S) NR: MACKINNON, STEDMAN
03/14/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 79

SHORT TITLE: OPIOIDS; PRESCRIPTIONS; DATABASE; LICENSES
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/06/17 (S) READ THE FIRST TIME - REFERRALS
03/06/17 (S) L&C, HSS, FIN
03/14/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 37

SHORT TITLE: PHARMA BD & EMPLOYEES; DRUG DIST/MANUFAC
SPONSOR(s): GIESSEL BY REQUEST

01/25/17 (S) READ THE FIRST TIME - REFERRALS
01/25/17 (S) L&C, FIN
03/14/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

RACHEL HANKE, Staff
Senator Peter Micciche
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented an overview of SB 64.

KRISTIN RYAN, Director
Division of Spill Prevention and Response
Department of Environmental Conservation
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 64.

DR. JAY BUTLER, Chief Medical Officer
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: Presented information on SB 79.

DANIEL NELSON, Director of Pharmacy
Tanana Chiefs Conference
Fairbanks, Alaska

POSITION STATEMENT: Presented concerns about SB 79.

MICHAEL CARSON, Chair
Mat-Su Opiate Task Force
Mat-Su, Alaska

POSITION STATEMENT: Testified in support of SB 79.

LEIF HOLM, Chair
Board of Pharmacy
North Pole, Alaska

POSITION STATEMENT: Voiced concerns about SB 79 and testified in support of SB 37.

BARRY CHRISTENSEN, Co-Chair
Legislative Committee
Alaska Pharmacists Association
Ketchikan, Alaska

POSITION STATEMENT: Voiced concerns about SB 79; testified in support of SB 37.

GERALD BROWN, Pharmacist
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to parts of SB 79.

SCOTT WATTS, Pharmacist
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to parts of SB 79.

SENATOR CATHY GIESSEL
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 37.

JANE CONWAY, Staff
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis of SB 37 on behalf of the sponsor.

ACTION NARRATIVE

[1:39:19 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:39 p.m. Present at the call to order were Senators Meyer, Stevens, Gardner, and Chair Costello. Senator Hughes arrived shortly thereafter.

SB 4-NON-CHEMICAL BARBERING; HAIR BRAIDING

[1:40:11 PM](#)

CHAIR COSTELLO announced that the first order of business would be SB 4. She noted it is the second hearing on the bill and the intent is to take any remaining questions of committee members and then look to the will of the committee. She welcomed the sponsor and others available to answer questions.

[1:40:54 PM](#)

SENATOR HUGHES moved to report SSSB 4, labeled 30-LS0078\J, from committee with individual recommendations and attached fiscal notes.

CHAIR COSTELLO announced that without objection, SSSB 4 is reported from the Senate Labor and Commerce Standing Committee.

[1:41:07 PM](#)

At ease

SB 16-FIDUCIARY ACCESS TO DIGITAL ASSETS

[1:42:40 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 16. She noted it is the second hearing on the bill and there would be public testimony. She listed those available to answer questions.

CHAIR COSTELLO, after seeing no testifiers, closed public testimony.

[1:44:03 PM](#)

SENATOR HUGHES thanked the committee for hearing the bill.

SENATOR HUGHES moved to report SB 16, labeled 30-LS0172\D, from committee with individual recommendations and attached fiscal notes.

CHAIR COSTELLO announced that without objection, SB 16 is reported from the Senate Labor and Commerce Standing Committee.

[1:44:33 PM](#)

At ease

SB 32-PRESCRIPTIONS FOR BIOLOGICAL PRODUCTS

[1:46:16 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 32. She said it is the second hearing of the bill. She listed those available to answer questions.

[1:47:07 PM](#)

CHAIR HUGHES expressed appreciation to the committee for hearing the bill. She pointed out a letter of support from the Alaska State Medical Association.

[1:47:23 PM](#)

SENATOR HUGHES moved to report SB 32, labeled 30-LS0188\J, from committee with individual recommendations and attached fiscal notes.

CHAIR COSTELLO announced that without objection, SB 32 is reported from the Senate Labor and Commerce Standing Committee.

[1:47:45 PM](#)

At ease

SB 64-UNIFORM ENVIRONMENTAL COVENANTS ACT

[1:49:09 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 64. She noted it is the first hearing of the bill. The intent is to hear from the sponsor, take members' questions, take public testimony, and hold the bill for further consideration. She noted those available for questions.

[1:49:48 PM](#)

RACHEL HANKE, Staff, Senator Peter Micciche, Alaska State Legislature, presented an overview of SB 64. She said the primary goal of the bill is to return [contaminated] fields back to commerce, resolve liability, and protect future owners. She explained that an environmental covenant is a recordable interest in real property with no financial interest. SB 64 allows manageable contamination to remain with certain use and activity restrictions. It formalizes an existing practice - Institutional Controls - and allows for covenants to be placed on federal land. The database that is required already exists.

[1:50:52 PM](#)

MS. HANKE reviewed the following sectional analysis for SB 64:

Section 1 adds a new article to AS 46.04 that establishes all necessary guidelines and procedures for environmental covenants for holders who are bound by the covenant, subordination, required documents, common law protections, notice procedures, recording rules, termination procedures, and creates a process for placing use restrictions on federal property, and a database. It also provides definitions used in the Act.

Section 2 [provides] that DCCED and DNR [may] adopt necessary regulations [necessary to implement this Act.]

Section 3 provides for an immediate effective date for Section 2.

[1:51:59 PM](#)

CHAIR COSTELLO asked what the Uniform Environmental Covenants Act addresses.

MS. HANKE explained that it is uniform law that has been used all over the U.S. to return contaminated properties back to the market.

CHAIR COSTELLO asked if other states have passed similar legislation.

MS. HANKE said yes. She deferred to Ms. Ryan to provide more information.

CHAIR COSTELLO welcomed Ms. Ryan and asked her to respond to both questions.

[1:52:56 PM](#)

KRISTIN RYAN, Director, Division of Spill Prevention and Response, Department of Environmental Conservation (DEC), explained that her job involves cleanup of contaminated sites in Alaska.

MS. RYAN related that SB 64 is a transparency law to communicate when DEC puts restrictions on properties. The problem is that sometimes restrictions are not communicated to future buyers. It allows DEC to place a covenant that would run with the property so that future owners are aware of restricted uses placed on their land. It is a legal mechanism to safely transfer contaminated property, and it removes a lot of the stigma associated with contaminated property. She provided examples of restrictions.

[1:54:46 PM](#)

SENATOR MEYER asked if it includes federal lands.

MS. RYAN said yes, and the majority of contaminated sites in the state are federal properties. DEC can't put a covenant on federal property, but can impose a use restriction. She used Colorado as an example.

1:55:40 PM

SENATOR HUGHES asked how many contaminated sites this impacts.

MS. RYAN said DEC is currently monitoring about 2,000 contaminated sites; over 1,000 are allowed to remain above cleanup levels under institutional control. DEC intends to apply covenants to about 1,000 sites going forward.

1:56:20 PM

SENATOR HUGHES observed that the bill is not retroactive. She asked how the mechanism works going forward.

MS. RYAN explained the process of working with the responsible party that has contaminated property. The department and property owner would make a joint decision to leave the contamination in place for a variety of reasons. Next, they would establish a covenant on the title that includes a future mechanism for removing the covenant and an appeal process.

SENATOR HUGHES asked how long it would take before all contaminated sites would have covenants.

MS. RYAN said DEC does not project a timeframe. A large percentage of the 1,000 contaminated sites will be cleaned up and not need covenants. A covenant is a transparency tool for future buyers.

1:58:53 PM

CHAIR COSTELLO asked if Alaska should take an approach that is similar to the Colorado law.

MS. RYAN explained that SB 64 is a uniform law from the National Conference of Commissioners on Uniform State Laws (NCCUSL) which proposed model legislation ten years ago. Colorado has adapted the law to fit its situation of having a large amount of contaminated federal land. They created a mechanism for noting restrictions on federal property.

She said DEC has worked closely with NCCUSL and their testimony is included in members' packets. NCCUSL agreed that Alaska's changes to their model law are improvements and they have accepted Alaska's better version. Currently, Alaska is only one of seven states that has not adopted a procedure for an environmental covenant.

2:00:08 PM

CHAIR COSTELLO asked if the public access page is the transparency aspect of the bill.

MS. RYAN said she envisions DEC working with the records office to put the restrictions on the title, as well as having a database of contaminated sites. The database is currently in place.

CHAIR COSTELLO asked if other states have experienced opposition to this type of legislation.

MS. RYAN said DEC has talked to many stakeholders and all are supportive of the concept. She pointed out that there is one letter from the Department of Defense (DOD) requesting an amendment. DEC disagrees with that request related to concerns about the state setting any standards on federal property, a long-standing debate. No other states have encountered problems doing what SB 64 proposes.

[2:02:46 PM](#)

CHAIR COSTELLO asked if the bill would apply to "Travesty Wells" [in the National Petroleum Reserve-Alaska (NPR-A)] on federal lands.

MS. RYAN said yes, and it would also apply to the legacy wells on [Bureau of Land Management (BLM)] land [within and adjacent to NPR-A], if BLM decides, with DEC's involvement, to lease contaminated sites above cleanup levels so future owners are aware of the contamination.

[2:03:14 PM](#)

CHAIR COSTELLO asked how DEC can have a zero fiscal note if they plan to investigate properties and handle communication.

MS. RYAN responded they are already putting restrictions on properties. The bill allows DEC to put restrictions on land titles and this will not increase workloads. The database is in place and they will absorb costs to write regulations.

[2:04:13 PM](#)

CHAIR HUGHES asked if Alaska is using the same mechanism as other states. She voiced concern about DOD's opposition.

MS. RYAN said the federal property aspect of SB 64 is identical to Colorado's legislation. It was implemented several years ago, and DOD and the Air Force have been in compliance.

[2:04:56 PM](#)

SENATOR STEVENS asks if SB 64 exonerates a bad actor that abandons the contaminated property.

MS. RYAN said no. That person is still liable and would be pursued for cleanup. The covenant is a mechanism to communicate to future owners if the owner leaves contamination above cleanup levels.

SENATOR STEVENS asked if the financial cost to the owner is taken into consideration.

MS. RYAN said that is a factor DEC considers and one of the reasons why contamination remains. DEC tries to minimize the risks and can allow the contamination to remain in place by imposing restrictions. Their goal is to limit exposure pathways.

[2:06:30 PM](#)

SENATOR MEYER asked how DEC determines whether land is contaminated. He provided an example of buried batteries that no one knew about.

[2:06:54 PM](#)

MS. RYAN said DEC needs to be notified to become involved in the process. They often find out about those kinds of contaminations. She gave an example of lead acid batteries discovered in Wrangell after several iterations of ownership. They use the Department of Law to help find the responsible party.

SENATOR MEYER asked if realtors have a position on SB 64.

MS. RYAN said they agree with the concept, but don't want it to be overly cumbersome. DEC has agreed to work with them during the drafting of regulations.

[2:08:09 PM](#)

CHAIR HUGHES asked what types of things might be in a covenant.

MS. RYAN referred to a flyer in members' packets that describes a covenant. She provided examples of restrictions: no digging, no wells, and no day care, depending on the contamination.

SENATOR HUGHES added - no residential land use, no disturbance of soil, construction worker notice, engineer-controlled for soil, no drilling, and no use of groundwater.

MS. RYAN said those are some examples. She provided another example of no allowed vapor intrusion.

[2:10:13 PM](#)

CHAIR COSTELLO closed public testimony on SB 64 and held the bill in committee.

SB 79-OPIOIDS; PRESCRIPTIONS; DATABASE; LICENSES

[2:11:23 PM](#)

CHAIR COSTELLO announced the consideration of SB 79. She noted that the bill was introduced on behalf of Governor Walker. SB 79 helps address a major issue facing Alaska, an opioid epidemic. It is a national epidemic. She provided an example from the New York Times about a farmer who lost two children to opioids. She said this type of addiction can lead to heroin abuse and staggering problems across the country. Deaths related to opioid abuse have increased three-fold in the past seven years.

She said SB 79 looks at a strategy in Alaska to prevent prescription pain killer abusers from becoming heroin users. In 2008 the legislature established a controlled substance database known as the Alaska Prescription Drug Monitoring Program. Last year the legislature identified ideas to help combat this issue through managing patient data. She shared another example of a parent in Juneau who lost a son in January. She maintained that the state has a moral obligation to address this issue because of the tremendous impact it is having on Alaska.

She said this is the first hearing of SB 79. The intent is to hear from the sponsor, take members' questions, take public testimony, and then hold the bill for further consideration.

[2:13:20 PM](#)

DR. JAY BUTLER, Chief Medical Officer, Department of Health and Social Services, commented that Chair Costello has nicely outlined the reason for hearing SB 79. He noted the increasing number of deaths due to opioid overdose, which has mirrored the increase in the rate of prescribing opioid pain relievers. Alaska is at a point where many people are dependent on or addicted to opioids and are more susceptible to heroin and fentanyl abuse. About 80 percent of those using heroin started their addiction by using prescription painkillers.

DR. BUTLER spoke of an increase in rates of hepatitis C associated with drug use and more emergency room admissions. He emphasized that "all statistics are people with tears wiped

away." He said that, today, most everyone has been touched by the opioid epidemic.

[2:15:13 PM](#)

DR. BUTLER highlighted the need to address overdose, treatment of addiction, addiction as a chronic health condition, and prevention, including limiting legal and illegal opioids, involving law enforcement, curbing overprescribing, and addressing why people self-medicate. The bill is part of the larger response and is designed to encourage more evidence-based prescribing and limit the flood of opioid painkillers into communities. It intends to increase access to treatment and destigmatization by improving provider knowledge. SB 79 aligns with guidelines in SB 74 by healthcare boards, as well as with the Centers for Disease Control Pain Management Guidelines, the Surgeon General's Report on Alcohol Drugs and Health, and recent statements from the American Medical Association and the American Dental Association.

[2:16:50 PM](#)

DR. BUTLER said SB 79 provides an option for patients who do not wish to be prescribed opioids to communicate their preference to their providers by way of a voluntary, revocable, opioid advance directive. This was a suggestion from the recovery community. It also allows patients to request from pharmacists, less than the total prescribed amount.

He said SB 79 requires that five percent of providers' continuing education credits be committed to pain management and addiction. The bill sets limits on the initial opioid prescription to a seven-day supply. Exceptions can be made by providers in certain instances.

SB 79 includes changes to the Prescription Drug Monitoring Program (PDMP), a centralized database where providers can go to look at a patient's prescription history. The bill authorizes the Pharmacy Board to issue routine, periodic, confidential reports to prescribers to provide feedback on their prescribing practices. He referred to a recent report in the New England Journal of Medicine that, using the Medicare Part D database, looked at prescribing habits of emergency room physicians. People who received opioids in the emergency department were more likely to have dependency a year later. There was a three-fold variation in the rate of prescribing opioids, which clearly demonstrated a lack of agreement among providers as to how to manage acute pain.

He named states that have been effective in reducing the number of excessive prescriptions due to the non-punitive reports issued to providers.

[2:20:20 PM](#)

DR. BUTLER spoke of two controversial aspects of the bill. One requires veterinarians who prescribe opioids to register and use the PDMP. The second controversial aspect is requiring daily updates of the PDMP to make it a more useful tool.

[2:21:25 PM](#)

CHAIR COSTELLO noted that Public Safety Commissioner Walt Monegan is present and showing support for the bill.

DR. BUTLER continued to say that 25 states have the requirement of daily updates of the PDMP.

He stressed that the bill does not place blame. The goal is for everyone to be responsible for owning the problem and doing their part to address it.

[2:22:52 PM](#)

CHAIR COSTELLO requested the sectional analysis.

[2:23:13 PM](#)

DR. BUTLER presented the following sectional analysis for SB 79:

Sec. 1 Adds a new Chapter 55, Voluntary Nonopioid Directive Act, to AS 13, Decedents' estates, guardianships, transfers, trusts, and health care decisions, that provides an option for patients to execute a Voluntary Nonopioid Directive that would allow a person in recovery (or for other reasons) to make clear the person's desire not to be administered an opioid. A person, guardian, conservator or other appointed person may revoke a directive at any time. The person would provide this confidential information to a health care provider or hospital on a form provided by the Department of Health and Social Services. The department would promulgate regulations on procedures, confidentiality, and exemptions for emergency or substance misuse treatment. Providers are not liable for following a directive. Prescriptions are assumed to be valid; pharmacists are not liable for dispensing a controlled substance in contradiction to a directive. The directive does not alter an advance health care directive, limit opioid overdose

drugs, or limit treatment for substance abuse or opioid dependence.

CHAIR COSTELLO asked if there are alternatives to opioids that doctors can use.

DR. BUTLER said there are. He described the evolution over the past 20 years where opioids have become the first line of treatment for all pain. He noted the influence of market forces and the four-fold increase in prescribing and abuse, with no decrease in the level of pain. Physical dependency is also a factor.

He shared that there are updated clinical guidelines for back pain by the American College of Physicians. Now, opioids are given as the third line of pain relief, starting with something like Tylenol and physical therapy.

[2:26:11 PM](#)

CHAIR COSTELLO noted that the bill will be in committee again for further discussion.

SENATOR HUGHES thanked Dr. Butler and expressed appreciation of the Governor's concern about the opioid crisis. She discussed liberal prescribing practices in the 90s and noted that today most doctors use opioids as a last resort. She asked how extensive overprescribing is today.

DR. BUTLER opined that all providers use more opioids today than five years ago. He said overprescribing is spread across the profession nationally, but primary care providers prescribe more than half of all opioids. He pointed out that Oxycodone was heavily marketed to primary care providers. Heroin users switched to Oxycodone before 2010 because it was so prevalent and cheap. In the 90s there was a trend to be "pain free."

He discussed the importance of pain and noted that it is subjective. It also can be debilitating and needs to be managed.

SENATOR HUGHES asked Dr. Butler if he has access to the PDMP data to see who may be overprescribing.

[2:31:23 PM](#)

DR. BUTLER said he does not. He explained that PDMP monitoring falls to the Pharmacy Board under SB 74, however, Public Health can access de-identified data for public health purposes.

SENATOR HUGHES asked if law enforcement has access to the PDMP with a warrant from the DEA.

DR. BUTLER said yes.

[2:32:17 PM](#)

DR. BUTLER continued the sectional analysis of SB 79:

Sec. 2-25 Amend AS 08, Business and Professions, for the Boards of Dentistry, Medicine, Nursing, and Optometry to:

Require two (2) hours of pain management and opioid misuse and addiction instruction;

Disciplinary actions for prescribing or dispensing an opioid in excess of the maximum dosage allowed by law or violated a law related to drugs, regardless of any criminal action;

Set the maximum dosage for initial opioid prescriptions at a seven-day supply unless, in the practitioner's professional judgment, it is necessary for chronic pain management or a patient is unable to access a practitioner in time to refill the prescription; and

Require, for a minor under 18 years of age, the practitioner discuss with the parent or guardian why the prescription is necessary, and the risks associated with opioid use.

He provided an example of a 15-year-old who was prescribed Vicodin.

He continued the sectional analysis of SB 79.

Sec. 26-27 Amend AS 08.80 for the Board of Pharmacy to Register with the Prescription Drug Monitoring Database (PDMP) with or without a federal Drug Enforcement Administration registration number; and

Allow pharmacists to dispense less than the prescribed amount of a schedule II or III controlled substance at a person's request; the pharmacists would inform the prescribing practitioner and the Prescription Drug Monitoring Database.

[2:35:21 PM](#)

Sec. 28 Amends AS 08.98 for the Board of Veterinary Medicine to:

Register with the Prescription Drug Monitoring Database if the veterinarian has a federal Drug Enforcement Administration number; and

Identify resources and educational materials for veterinarians to identify clients at risk for opioid misuse or diversion of prescribed opioids.

Sec. 29-36 Amend AS 17.30, Controlled Substances, to change the frequency pharmacists report to the Prescription Drug Monitoring Database from weekly to daily; remove the prohibition on sharing information with the federal government. The pharmacy board may provide a confidential unsolicited notification in summary form to a practitioner's licensing board which includes the basis for the notification. The notification must be provided to the practitioner as well.

Sec. 37 Directs the Department of Health and Social Services to draft regulations to implement the Voluntary Nonopioid Directive Act.

Sec. 38 Repeals sunset dates in sections 52 and 73 of Ch. 25, SLA 2016 (SB 74).

Sec. 39-40 Set an immediate effective date and provide an effective date for regulations.

[2:37:29 PM](#)

CHAIR COSTELLO thanked Dr. Butler and opened public testimony on SB 79.

[2:37:52 PM](#)

DANIEL NELSON, Director of Pharmacy, Tanana Chiefs Conference, presented concerns about SB 79. He agreed with the overall intention of the bill and noted a consensus amongst the entire medical community that opioid addiction is a huge problem.

He addressed specific concerns in the bill. He pointed out that SB 74 from last year will not be implemented until July 17, 2017, and it contains several provisions that will significantly positively impact the inappropriate prescribing of opioids. It would make some things in SB 79 unnecessary. Also, there has

been a lack of participation in drafting the bill by medical and pharmaceutical communities. Another concern is in Section 31 where there is a removal on the prohibition of sharing the PDMP information with the federal government, which would undermine public trust in PDMP. The requirement of daily updates to the PDMP is unnecessary and onerous. Finally, the voluntary non-opioid directive is unnecessary; no one is precluded from doing that now, and the partial filling of controlled substance prescriptions can be requested now.

MR. NELSON stated support for the mandatory continuing education course.

CHAIR COSTELLO noted Department of Health and Social Services Commissioner Davidson was present.

[2:41:13 PM](#)

SENATOR GARDNER requested Mr. Nelson repeat the last sentence.

MR. NELSON restated that the mandatory continuing education is beneficial.

SENATOR STEVENS asked for clarification about partially filling a prescription at the patient's request.

MR. NELSON explained that a pharmacist can fill a prescription using a lower quantity drug, at the patient's request.

SENATOR STEVENS asked if pharmacists would be comfortable overriding a physician.

MR. NELSON said only in that situation.

[2:43:28 PM](#)

MICHAEL CARSON, Chair, Mat-Su Opiate Task Force, stated that the Task Force supports limiting opioid prescriptions to seven days and imposing stricter rules tied to the PDMP. He thanked Chair Costello for her introduction and confirmed that fatal overdoses have tripled in the state due to the increase of heroin abuse; fentanyl mixed with heroin is a factor. He said 80 percent of heroin users started with opioids. He concluded that the goal is to turn off the prescription spigot.

[2:45:50 PM](#)

LEIF HOLM, Chair, Board of Pharmacy, voiced concerns with SB 79. He concurred with Mr. Nelson's testimony. He agreed it is necessary to find ways to combat the opioid epidemic. He

maintained that the bill unfairly singles out pharmacists and looks to correct SB 74, which has yet to take effect. He stated that pharmacists have consistently spearheaded actions against the opioid epidemic, especially in finding funding sources for and using the PDMT. He questioned issues related to the partial-fill provision. He concluded that he opposes the bill in its current form.

SENATOR GARDNER asked if partial fill and voiding the balance of a prescription is state law, and what needs to change to allow retention of the remaining prescription.

MR. HOLM related that since July 2016 partial fills have been allowed without voiding the balance of a prescription. He stated support for that.

SENATOR GARDNER asked how the bill could be written to ensure that a partial fill does not void the remaining amount.

MR. HOLM suggested eliminating the phrase, "the remainder of the prescription is voided."

[2:49:55 PM](#)

BARRY CHRISTENSEN, Co-Chair, Legislative Committee, Alaska Pharmacists Association, voiced concern with SB 79. He concurred with the previous testifiers, Mr. Holm and Mr. Nelson. He spoke of the poor timing, given the passage of SB 74. He shared the many contributions pharmacists have made to this issue and said many pharmacists feel that the Governor's press release put a negative spin on them.

He voiced concern about patients being scared, due to tightening legislation, to refill medications for chronic pain management. He shared the risks related to patients suddenly quitting their pain meds.

GERALD BROWN, Pharmacist, testified in opposition to parts of SB 79. He said many items in SB 79 are similar to those in SB 74. He suggested not holding the pharmacist in charge liable for failing to check the database, as written in Section 32. He pointed out the real control of abuse is when "the pen hits the paper." He commented on revisiting page 2 of the bill.

CHAIR COSTELLO noted the people available to answer questions and invited them back the next time the bill is heard. She said she is keeping public testimony open.

[2:55:25 PM](#)

SCOTT WATTS, Pharmacist, testified in opposition to parts of SB 79. He voiced appreciation for what the bill is trying to accomplish. He suggested that more input from pharmacy associations would help correct some of the problems in the bill. He said that daily monitoring of the database can be done electronically at his pharmacy if the bill passes, however, it may be more difficult for some pharmacies. He suggested having some implementation time for that.

He pointed out that prescribers can check the PDMP database in their offices in advance. He said pharmacists don't always have the time to check the PDMP database, and they have better avenues to see about prescribing data and usage. He did not want to see daily checking of the database being a requirement. They are willing to maintain and enter the data in PDMP. He said he liked the ability to decrease the number of pills in the prescription.

[2:57:39 PM](#)

SENATOR GARDNER asked if the database is confidential and requires logging in every time.

MR. WATTS said correct. Pharmacists are waiting for SB 74, which allows for an agent to monitor the database.

SENATOR HUGHES asked if there could be software to interface with PDMP to flag problems.

MR. WATTS said there has been talk of that, but it is expensive.

SENATOR COSTELLO held SB 79 in committee with public testimony open.

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At ease

SB 37-PHARMA BD & EMPLOYEES; DRUG DIST/MANUFAC

[3:01:47 PM](#)

CHAIR COSTELLO announced the consideration of SB 37. She noted this is the first hearing. The intent is to hear from the sponsor, take members' questions, take public testimony, and hold the bill for further consideration.

[3:02:40 PM](#)

SENATOR CATHY GIESSEL, Alaska State Legislature, sponsor of SB 37, said she appreciates teaming SB 79 with SB 37. She noted the bill is at the request of the Board of Pharmacy. It is not a new issue; a similar bill was heard last session.

She stated that SB 37 ensures a more secure drug supply chain to ensure that Alaskans receive safe, non-counterfeit, unadulterated medications. In Alaska, when a pharmacy, doctor, or hospital orders a supply of prescription medications, they may order from one of the wholesale distributors in Alaska or one in the Lower 48. Alaska is one of two states that does not license out-of-state wholesale distributors. In 2012 contaminated medicines were distributed that resulted in the death of many people in the Lower 48. To protect Alaska, SB 37 would ensure that out-of-state applicants seek licensure and comply with the same regulations Alaska wholesale distributors comply with.

She said that SB 37 also brings Alaska into compliance with a federal law - the Drug Quality Security Act of 2013 - and will create a new license category under the Board of Pharmacy for out-of-state wholesale distributors. The Division of Corporations, Business, and Professional Licensing estimates that this will equal about 400 new licensees. Currently, the Alaska Board of Pharmacy has no authority to regulate out-of-state wholesale distributors and SB 37 would provide that. It would require certain guidelines for the distributor: obtain a license in Alaska, authorize inspection by a designee of the Board, and give the Board the authority to appoint an agent to examine the distributor's facility.

She highlighted the definition section of the bill, noting that one definition - "outsourcing facility" - is a facility that compounds sterile drugs. It is an example of an entity that would fall under SB 37.

[3:05:55 PM](#)

SENATOR GIESSEL advised that the Board of Pharmacy is being asked to take on more responsibilities. Last year under the Medicaid reform bill the Prescription Drug Monitoring [Program] (PDMP) was established, which puts more responsibilities on the Board. SB 37 will allow the Board to create an executive administrator position to implement statutes and regulations and manage the Board's new responsibilities.

She noted a fiscal note for SB 37 and that the services provided are all receipt services. Monies will be recovered through

wholesale license fees and the executive administrative position will be funded by licensees of the Board of Pharmacy.

CHAIR COSTELLO noted that Sara Chambers from the Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community and Economic Development was available to answer questions.

[3:07:45 PM](#)

JANE CONWAY, Staff, Senator Cathy Giessel, Alaska State Legislature, presented the sectional analysis of SB 37 on behalf of the sponsor. She read the following:

Section 1: Amends AS 08.80.030(b)

(14): Amends and allows licensing and inspection for out-of-state drug distributors and outsourcing facilities

(15): Establishes qualifications and duties of executive administrator. Executive administrator is delegated authority in order to conduct board business

Section 2: Amends AS 08.80.030 by adding a new subsection:

AS 08.80.030(c): Specifications for facilities, equipment, personnel, and procedures for control of drugs in compliance with the federal Drug Supply Chain Security Act.

Section 3: Amends AS 08.80.157 by adding a new subsection:

(k): Applies to wholesale drug distributors and outsourcing facilities outside the state under AS 08.80.159, regarding licensing.

Section 4: Amends AS 08.80 by adding a new section:

Sec. 08.80.159: Requires that a wholesale drug distributor or outsourcing facility have a license in Alaska before shipping, mailing, or delivering prescription drugs to a licensee in the state or before advertising in the state, that an agent must be appointed in the state, and a designee of the board must authorize inspection of the facility.

An outsourcing facility, in addition, must comply with the federal Drug Quality and Security Act of 2013.

The board may require an inspection of facilities located outside of the state, approve a designee to inspect. The board shall adopt regulations to implement this section.

[3:09:53 PM](#)

Section 5: Amends AS 08.80 by adding new section to Article 2:

Sec. 08.80.270: Allows the Board to create an executive administrator position. Defines the role of the executive administrator.

Section 6: Amends AS 08.80.480 by adding a new paragraph:

AS 08.80.480(37): Defines "outsourcing facility"

[3:10:26 PM](#)

SENATOR STEVENS asked if Alaska wholesalers receive federal inspections and inspections by other states.

SENATOR GIESSEL said she did not know. She suggested asking pharmacists.

[3:11:00 PM](#)

SENATOR GARDNER asked about reciprocity and why Alaska can't rely on inspection standards of other states for wholesale drug companies.

[3:11:33 PM](#)

SENATOR GIESSEL said she did not know. She suggested asking the pharmacists. She said one provision in the bill is that the Board could designate someone in another state to examine that state's wholesaler.

SENATOR GARDNER asked how much medication is brought into Alaska by wholesalers and how many wholesalers are in Alaska.

SENATOR GIESSEL said she believes there is one wholesale distributor in Alaska.

[3:13:23 PM](#)

CHAIR COSTELLO opened public testimony on SB 37. She requested that Mr. Christensen address members' questions.

BARRY CHRISTENSEN, Co-Chair, Alaska Pharmacists Association, testified in support SB 37. He deferred to Mr. Holm to answer members' questions. He said the bill is necessary to ensure that Alaskans are receiving good medications. He agreed that the Board of Pharmacy has been taxed with doing more with minimal staffing. He supported having an executive administrator on the Board.

[3:15:00 PM](#)

LEIF HOLM, Chair, Board of Pharmacy, testified in support of SB 37. He reiterated the purpose of the bill. He voiced support for the executive assistant position due to the increased workload of the Board. He repeated the funding mechanisms outlined in the fiscal note.

SENATOR STEVENS asked, if the federal government inspects wholesalers in Alaska, why there is a need for an extra inspection. He also wondered whether other states inspect Alaska wholesalers.

MR. HOLM clarified that the bill is written so that Alaska "may" do an inspection. He did not have information on what other states do. He added that there are 21 states that recognize the National Association of the Boards of Pharmacy's Verified Accredited Wholesale Distributor Program (VAWD), which is a built-in inspection. The Alaska Board of Pharmacy accepts that as part of the licensure process.

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CHAIR COSTELLO asked if the Board can direct an individual to conduct the inspection. She asked whether the VAWD fulfills that requirement.

MR. HOLM said he believes that would work.

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SENATOR GARDNER asked if it is customary in some places for pharmaceutical wholesalers to be licensed to hold VAWD accreditation.

MR. HOLM responded that four states require that accreditation to do business in their state.

SENATOR GARDNER asked if it would make sense for Alaska to require VAWD certification.

MR. HOLM said not at this point. Other states also have other extensive pharmacy inspections that Alaska accepts. He did not want to limit the drug supply, just insure its quality.

[3:20:50 PM](#)

SENATOR GARDNER asked if passing SB 37 means that if an Alaskan pharmacist were to purchase drugs they would have to buy them from an Alaskan wholesaler or an outside distributor with an Alaskan license and certificate of inspection.

MR. HOLM said he believes they would have to have an Alaskan wholesale license.

[3:22:07 PM](#)

SENATOR HUGHES asked Mr. Holms to explain the current makeup of the Board. She wondered if the new executive position would be covered by outside license fees and if pharmacist license fees will increase. She also inquired whether pharmacists support SB 37.

[3:23:08 PM](#)

MR. HOLM related that the Board's licensing examiner is backlogged with work. The wholesale license fee is anticipated to be \$1,000 to \$5,000, which should be more than sufficient to cover the cost of an executive administrator. He did not anticipate that pharmacist license fees will increase.

CHAIR COSTELLO closed public testimony on SB 37 and held the bill in committee for further consideration.

[3:24:41 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor & Commerce Committee at 3:24 p.m.