

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

April 14, 2017

9:35 a.m.

**MEMBERS PRESENT**

Senator Mia Costello, Chair  
Senator Kevin Meyer  
Senator Gary Stevens  
Senator Berta Gardner

**MEMBERS ABSENT**

Senator Shelley Hughes, Vice Chair

**COMMITTEE CALENDAR**

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."

- MOVED CSSB 79(L&C) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

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)
03/14/17	(S)	Heard & Held
03/14/17	(S)	MINUTE(L&C)
03/16/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/16/17	(S)	Scheduled but Not Heard
03/21/17	(S)	L&C AT 9:30 AM BELTZ 105 (TSBldg)

03/21/17 (S) Bill Postponed to 1:30 p.m. 3/21/17 Meeting  
03/21/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
03/21/17 (S) Heard & Held  
03/21/17 (S) MINUTE(L&C)  
03/23/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
03/23/17 (S) -- MEETING CANCELED --  
04/04/17 (S) L&C AT 9:00 AM BELTZ 105 (TSBldg)  
04/04/17 (S) <Bill Hearing Canceled>  
04/14/17 (S) L&C AT 9:00 AM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

WESTON EILER, Staff  
Senate Labor and Commerce Committee  
Alaska State Legislature

**POSITION STATEMENT:** Presented the CS for SB 79, version J.

JAY BUTLER, Chief Medical Officer  
Division of Public Health  
Department of Health and Social Services (DHSS)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions related to SB 79, version J.

SARAH CHAMBERS, Deputy Director  
Division of Corporations, Business and Professional Licensing  
Department of Commerce, Community and Economic Development  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to SB 79, version J.

STACY KRALEY, Chief Assistant Attorney General  
Civil Division  
Human Services Section  
Department of Law  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to SB 79. version J.

JEANNIE MONK  
Alaska State Hospital and Nursing Home Association  
Juneau, AK

**POSITION STATEMENT:** Testified in support of SB 79, version J, and pointed out an omission.

**ACTION NARRATIVE**

9:35:02 AM

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 9:35 a.m. Present at the call to order were Senators Meyer, Stevens, and Chair Costello. Senator Gardner arrived shortly.

**SB 79-OPIOIDS;PRESCRIPTIONS;DATABASE;LICENSES**

CHAIR COSTELLO announced the consideration of SB 79. She stated that her aide would present the proposed committee substitute (CS) and Dr. Butler would provide his view of the changes.

9:36:38 AM

SENATOR STEVENS moved to adopt the work draft CS for SB 79, labeled 30-GS1021\J, as the working document.

CHAIR COSTELLO objected for an explanation of the changes.

9:36:52 AM

WESTON EILER, Aide, Senate Labor and Commerce Standing Committee, Alaska State Legislature, explained that the administration brought the changes forward in response to the concerns articulated by the Alaska pharmacist community. The concerns relate to the administrative burden this bill and Senate Bill 74 places on members of the profession. He directed members' attention to the red line version of the bill that helps lay out the changes to the original version A.

MR. EILER described the following changes:

Page 2, Section 1. The new Chapter 55 in AS 13 is moved [to page 26, Section 31, of version J]. Conforming changes to AS 08.64.250 and AS 08.64.312 are found on page 12 of the red line version. [These are found on pages 10-11, Sections 12 and 13, of version J.]

Page 16 of the red line version changes the definition of adult from "a person" to "an individual." [This is found in Section 15, page 14, lines 20-21 of version J.]

Page 17 of the red line version has new text amending AS 08.68.100(a), as amended by sec. 10, ch. 25, SLA

2016. This pertains to advanced practice registered nurses. Regulations for an advanced practice registered nurse who holds a valid federal Drug Enforcement Administration registration number must address training in pain management and opioid use and addiction. New text is also added to address concerns raised during public testimony. On page 18, paragraph (10) requires applicants under this chapter to submit fingerprints and fees required by the Department of Public Safety. This is intended to address concerns about the connection between opioids used for pain management and drug abuse. [This is found in Section 18, pages 15-16, of version J.]

Pages 21-22, Section 23, of the red line version adds new text to [AS 08.72.140] relating to qualifications for licensure as an optometrist. The regulations governing these professionals must include qualifications for licensees holding a valid federal DEA registration number that address training in pain management and opioid use and addiction. [Section 23 is found on pages 19-20 of version J.]

Page 27, Section 30, of the red line version covers grounds for imposition of disciplinary sanctions for abuse of prescription opioids, including animal care. [Section 30, is found on pages 25-26 of version J].

The new Chapter 55 appears on pages 28-29 of the red line version. It details some of the committee concerns including definitions. It also includes some of the amendments brought forward by the Alaska Hospital community including prepack and other prescription drugs issued from prescribers.

MR. EILER summarized that the CS intends to cover the committee's jurisdiction over licensing pharmacists and prescribing professions licensed under the Department of Commerce.

CHAIR COSTELLO asked Dr. Butler to express his understanding of the bill and the role he played in drafting the committee substitute.

[9:43:24 AM](#)

JAY BUTLER, Chief Medical Officer, Division of Public Health, Department of Health and Social Services (DHSS), Anchorage,

stated that SB 79 is part of a multi-faceted response to address the current opioid epidemic. The bill specifically addresses the flood of legal prescription opioids in Alaska communities and improving patient safety.

[9:44:38 AM](#)

SENATOR GARDNER joined the committee.

DR. BUTLER said the first three amendments embodied in the CS relate to concerns from the Alaska Pharmacy Association. First, Section 28 brings the language pertaining to partial fills of opioid prescriptions into alignment with the federal Comprehensive Addiction and Recovery Act (CARA). It allows partial fills without requiring the remaining quantity of the prescription to be voided. Thus, the requirement to notify the prescribing practitioner is moot.

Second, the CS clarifies the role of the prescribing provider and the pharmacist. The prescribing provider is responsible for checking the prescription drug monitoring program prior to writing a prescription for a Schedule II or Schedule III controlled substance. The pharmacist is responsible for populating the Prescription Drug Monitoring Program (PDMP) when they dispense prescriptions for these controlled substances. This aligns with the intention of both this bill and SB 74 that passed last year.

Third, the CS delays implementing the requirement for daily updates of the PDMP until July 2018. The CS also expands the liability waiver for the advance directive to include events of an inadvertent administration of an opioid to someone who has an opioid advance directive. The concern was that in emergency situations it may not always be feasible to follow an opioid advance directive.

[9:48:39 AM](#)

CHAIR COSTELLO asked what the Comprehensive Addiction and Recovery Act (CARA) does and how the CS brings state law into alignment with that federal Act.

DR. BUTLER said the language in the original bill authorized pharmacists to partially fill a prescription, but the remainder of the prescription was voided. The pharmacist was also required to notify the prescribing provider of that voiding. Federal law under CARA 2016 allows partial fills without voiding the remainder of the prescription. This removes a potential barrier to partial fill that the original language may have created. The

administrative burden on the dispensing pharmacist is also decreased because they would no longer have to notify the prescribing provider.

CHAIR COSTELLO asked him to talk about the report that compares the rate that different providers in a community prescribe opioids and the importance of knowing the scope of opioid prescriptions.

DR. BUTLER explained that the provider community introduced the concept of providers receiving a regularly scheduled report from the Department of Commerce that provides feedback on the quantity of opioids they prescribed during the prior year relative to their peers. The reason for this is that some providers may not realize how much they are prescribing. The intent is not punitive but to help providers review their practices and perhaps rethink their approach to treating patients that experience pain.

CHAIR COSTELLO asked him to talk about the training requirements in the bill to help educate providers about the different options for pain management.

DR. BUTLER said the bill includes requirements for continuing professional education for each prescriber group under the different boards. These include the Medical Board the Board of Nursing, the Board of Veterinary Examiners, and the Board of Pharmacy. For example, when he renews his medical license every two years he must document that he received credit for 40 hours of continuing medical education. SB 79 requires that two of those hours be designated to issues related to addiction or pain management. He highlighted that the topic of physical dependency and addiction is broader than just opioids.

[9:56:35 AM](#)

CHAIR COSTELLO noted that the CS requires weekly reporting for hospital pharmacies. She asked him to talk about how hospital pharmacies differ from a pharmacy she and her family might use.

DR. BUTLER said it appears that the way that opioid pain killers have been used in the outpatient setting is an important determinant in the creation of the opioid epidemic. By comparison, hospital pharmacists and emergency departments dispense small amounts at a time and do not account for a large volume of opioids going into the community. He said the CS intends to bring the requirements for updating prepacks in line with what is required of prescribers when small volumes are

dispensed and in line with the way that inpatient prescriptions are managed.

CHAIR COSTELLO asked how the bill affects the professional requirements for pharmacists working with the Department of Corrections (DOC).

DR. BUTLER explained that an inmate who receives care inside the prison walls is considered an inpatient and the same rules would apply as an inpatient in a hospital. Data does not need to be put into the PDMP and the PDMP doesn't need to be accessed in advance of dispensing. However, if an opioid is prescribed at the time of discharge from the prison system, the rules for outpatient prescribing would apply and the prescriber would need to use the PDMP.

[10:00:58 AM](#)

SENATOR STEVENS asked if a physician can prescribe a partial fill.

DR. BUTLER said it's unlikely a prescriber would do that because of the cost of prescribing repeated small prescriptions.

SENATOR STEVENS read paragraph (9) on page 28 and asked if there can be a disciplinary sanction if someone simply overprescribes a drug. He observed, "That's replacing a physician's decision or judgement with someone else's."

DR. BUTLER said the Medical Board historically has investigated disciplinary issues based on patient complaints. He deferred to Ms. Chambers or the Medical Board for further comment.

SENATOR STEVENS expressed concern about the potential abuse of disciplinary sanctions. He asked Ms. Chamber if overprescribing a drug is grounds for disciplinary sanction.

[10:04:20 AM](#)

SARAH CHAMBERS, Deputy Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), Juneau, explained that each of the boards that governs prescribers would initiate disciplinary action if there was a violation of law, but at this point Alaska law has no prescription limits for opioids. Last year these boards—except the veterinary board—worked with legislative committees to develop reasonable guidelines for prescribing, but those are not codified in statute or regulation.

Speaking to Senator Steven's concern about the potential for misuse of disciplinary sanctions, she said the PDMP is intended to be used as a tracking and educational tool. However, it's possible that at some point in the future the PDMP could be used as evidence if there is a complaint. Any discipline would be done by the governing board.

SENATOR STEVENS said he likes the idea of the partial fill and the nonpunitive approach to getting data to doctors about prescribing habits.

MS. CHAMBERS said what this bill and Governor Walker hope to achieve is to continue to appropriately manage the diversion of prescription medications. She suggested that Dr. Butler could speak to a new program called "Mind Your Meds" that is focused on how to manage prescription medications in the home medicine cabinet. "I think this bill does go a long way to address some of those things that I think we can control."

[10:08:56 AM](#)

SENATOR MEYER expressed support for the CS and agreement with Senator Stevens' concerns. He noted that stakeholders were not present today and expressed hope that they were involved in drafting the CS and that everyone agrees with this approach.

CHAIR COSTELLO asked Mr. Butler to address Senator Meyer's concerns.

DR. BUTLER stated that part of the planning for the bill was to contact various organizations and health professionals in the state. He said that pharmacists were difficult to reach when the CS was drafted, but their early participation during public testimony was valuable.

He said he's heard that the CME [continuing medical education] requirements have raised questions among providers that don't prescribe opioids, but he believes those requirements may be misunderstood. They are part of what is primarily an opioid bill and the broader issue in terms of addiction and substance abuse is important.

DR. BUTLER said too many in the medical profession haven't recognized the medical aspects of substance abuse and addiction. They aren't aware of the number of people who live in recovery and that this special population needs appropriate care. He reported that about 8 percent of the U.S. population meet the

formal definition of some type of substance abuse disorder, but just 10 percent have received any specific treatment. This includes alcohol, opioid, and other drug abuse and addictions.

SENATOR MEYER asked if those are national statistics.

DR BUTLER said yes.

SENATOR MEYER asked if Alaska statistics are similar.

DR. BUTLER said he doesn't have exact data but the recent report on the cost of substance misuse and addiction suggests that Alaska is no better than the rest of the country in addiction rates. However, Alaska does have a larger proportion of overdose deaths related to opioids compared to the rest of the country.

SENATOR MEYER said he wondered if overprescribing is as serious a problem in Alaska as the Lower-48, but it doesn't really matter because even one is too many.

CHAIR COSTELLO commented that SB 74 will provide the information members are looking for. She noted that a recent Twitter feed reported that 144 people in the U.S. die every day from a drug overdose. She expressed support for SB 79's focus on education and the fact that the report to prescribers is confidential. The idea is to turn the focus from a pain free society using drugs to one that won't put patients at risk of becoming addicted to prescription medications that are supposed to make them better.

[10:15:58 AM](#)

SENATOR STEVENS questioned the zero fiscal notes. "Can we honestly say there is a zero-fiscal note here or are we just kidding ourselves?"

MS. CHAMBERS said DCCED is receipt supported so there are no general funds associated with the bill. She related that the department has successfully partnered with the Department of Health and Social Services (DHSS) to support the legislature's intent language to create the PDMP in 2008 and seek federal grant funding to support education and the functionality of the PDMP. "If there were any expenses that were to be incurred on the Commerce side, it would all be expenditure authority and not UGF, as we look at this bill."

DR. BUTLER confirmed that the departments have been working together aggressively seeking grants and even donations to support this effort. He cited the example of a donation of

several thousand drug disposal bags that will help people deactivate excess medications at home making them safe to throw away.

SENATOR STEVENS said he appreciates the effort to get grants, but "whether it costs money or not we need to move ahead with it."

CHAIR COSTELLO highlighted for the record that the Medicaid reform bills the legislature has passed have added positions to DHSS, and a recent bill adds a position to the Board of Pharmacy.

[10:20:04 AM](#)

SENATOR GARDNER raised the question of confidentiality regarding the language on pages 32-33 that allows federal, state, and local law enforcement authorities access to the database.

DR. BUTLER suggested Department of Law address the question.

[10:21:19 AM](#)

STACY KRALEY, Chief Assistant Attorney General, Civil Division, Human Services Section, Department of Law, Juneau, explained that the amendment is a technical correction. A prior version omitted a reference to the federal government. The information in the Alaska Prescription Drug Monitoring Program (PDMP) would be provided to those entities if a valid court order or search warrant is presented. The information would not be shared with anything less than that.

CHAIR COSTELLO solicited public testimony on SB 79.

[10:23:27 AM](#)

JEANNIE MONK, Alaska State Hospital and Nursing Home Association, pointed out that an amendment that was supposed to be included in the CS—and was approved in the House version—did not end up in the bill. It relates to inpatient pharmacy and emergency department prescriptions.

[10:24:08 AM](#)

At ease

[10:40:13 AM](#)

CHAIR COSTELLO reconvened the meeting and asked Ms. Monk tell the committee about the provision that was inadvertently omitted.

[10:40:35 AM](#)

MS. MONK said the amendment ASHNHA requested relates to outpatient dispensing of a controlled substance from a hospital pharmacy or emergency department. She noted that hospitals are already exempt from reporting when prescription medications are administered to inpatients. The proposed amendment exempts a hospital pharmacy or emergency department from reporting requirements when they send someone home with an outpatient supply of 24 hours or less. The regular reporting requirements apply if the supply is more than 24 hours.

[10:41:24 AM](#)

SENATOR GARDNER moved Conceptual Amendment 1 to version J. Add the language in Section 41, subsection (u) of CSHB 159, version O.

Section 41

(u) A practitioner or a pharmacist is not required to comply with the requirements of (a) and (b) of this section if a controlled substance is

(1) administered to a patient at

(A) a health care facility; or

(B) a correctional facility;

(2) dispensed to a patient for an outpatient supply of 24 hours or less at a hospital

(A) inpatient pharmacy; or

(B) emergency department.

[10:42:33 AM](#)

CHAIR COSTELLO objected to asked if the conceptual amendment includes any confirming language that may be needed.

SENATOR GARDNER said yes.

CHAIR COSTELLO removed her objection and Conceptual Amendment 1 was adopted. She removed her objection to the CS and version J, as amended, was adopted.

SENATOR MEYER asked if there was additional public testimony.

[10:43:08 AM](#)

CHAIR COSTELLO found no further public testimony on SB 79 and closed it.

[10:43:21 AM](#)

SENATOR STEVENS moved to report SB 79, as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO announced that without objection, CSSB 79(L&C) [30-GS1021\J, as amended] moved from the Senate Labor and Commerce Standing Committee.

10:43:40 AM

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 10:43 a.m.