

HOUSE FINANCE COMMITTEE  
March 19, 2020  
9:03 a.m.

[9:03:17 AM](#)

CALL TO ORDER

Vice-Chair Ortiz called the House Finance Committee meeting to order at 9:03 a.m.

MEMBERS PRESENT

Representative Dan Ortiz, Vice-Chair  
Representative Ben Carpenter  
Representative Andy Josephson  
Representative Gary Knopp  
Representative Bart LeBon  
Representative Kelly Merrick  
Representative Colleen Sullivan-Leonard  
Representative Cathy Tilton  
Representative Adam Wool

MEMBERS ABSENT

Representative Neal Foster, Co-Chair  
Representative Jennifer Johnston, Co-Chair

ALSO PRESENT

Senator Cathy Giessel, Sponsor; Jane Conway, Staff, Senator Cathy Giessel; Senator Peter Micciche, Sponsor; Michael Willis, Staff, Senator Peter Micciche; Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit.

PRESENT VIA TELECONFERENCE

Cynthia Montgomery, Advanced Practice Registered Nurse, Anchorage; Michael Alexander, Doctor, Chief of Psychiatry, Alaska Psychiatric Institute, Anchorage; Jeff Edwards, Executive Director, Alaska Parole Board;

SUMMARY

CSSB 120 (HSS)

ADMINISTRATION OF PSYCHOTROPIC MEDICATION

CSSB 120 (HSS) was HEARD and HELD in committee for further consideration.

SB 137 EXTEND BOARD OF PAROLE  
SB 137 was HEARD and HELD in committee for further consideration.

Vice-Chair Ortiz reviewed the agenda for the meeting.

#sb120

CS FOR SENATE BILL NO. 120 (HSS)

"An Act relating to administration of psychotropic medication to a patient without the patient's informed consent; and providing for an effective date."

9:04:06 AM

Vice-Chair Ortiz invited the sponsor and her staff to the table.

SENATOR CATHY GIESSEL, SPONSOR, explained that SB 120 related to the administration of psychotropic medications. She emphasized that the legislation was an emergency response bill requested by the Alaska Psychiatric Institute (API). The state had a shortage of psychiatrists which was impacting API. Presently, they had one psychiatrist on staff. The provider was on call 24/7 working long hours. The bill proposed to improve patient safety during those times when the psychiatrist was not present at the hospital and unable to be reached by cell phone at a time when a patient crisis was occurring.

Senator Giessel continued that psychotropic drugs were medications prescribed or administered in a psychiatric crisis. The individuals that were hospitalized had very serious psychiatric issues. When a patient had a psychiatric crisis, it was an emergency. The goal was to protect the patient, people around the patient, and staff. Psychotropic medications were administered to help a patient calm down. She listed several of the medications used. Only one of the drugs was a controlled substance. The rest of them were medications that physician assistants (PA) and advanced practice registered nurses (APRN) could

prescribe and administer. However, there was a rule in place requiring that the psychiatrist be consulted before the medication was administered. Senate Bill 120 would authorize the PA or APRN who was with the patient to administer the medication, thereby, calming the patient and protecting the patient and others nearby. Currently, the psychiatrist was the only person that could conduct an initial assessment on a patient and prescribe medication in a crisis. By allowing the APRN or the AP the opportunity to administer needed medication, it would keep everyone much safer. She added that because of API's issues, patients with behavioral health issues often times assault people and end up in jail. The more that could be done to help patients get immediate care to ramp down a crisis situation, the more patients would be protected from a worse environment.

Vice-Chair Ortiz relayed the names of available testifiers.

[9:09:36 AM](#)

JANE CONWAY, STAFF, SENATOR CATHY GIESSEL, explained there were only 2 sections in the bill. She was happy to review them if it was the will of the committee.

Vice-Chair Ortiz indicated the committee would move on to questions.

[9:09:56 AM](#)

Representative LeBon asked if additional training would be necessary for a PA or APRN to administer the medications. Senator Giessel deferred to the representative from API who could better answer the question. She noted that the medications fell within the scope of practice for a PA and APRN. She also pointed out that the practitioners working in the environment at API understood the treatment of the patients with specialized needs.

Representative LeBon restated his question about additional training. He wondered if PAs and APRNs would be able to act immediately. Senator Giessel believed so but would to defer to the APRN online.

CYNTHIA MONTGOMERY, ADVANCED PRACTICE REGISTERED NURSE, ANCHORAGE, responded that APRNs and PAs that practiced at API were very familiar with the medications that were used

in crisis periods. They were often the same medications already prescribed on a daily basis to patients. No additional training would be necessary.

9:12:20 AM

Representative Knopp had a question for Dr. Alexander if he was available. He referred to the fifth paragraph in the sponsor statement which read: "The psychiatrist being unfamiliar with the case may decline to prescribe needed medication." He wondered if there was any reason a psychiatrist would not want to have a drug administered.

MICHAEL ALEXANDER, DOCTOR, CHIEF OF PSYCHIATRY, ALASKA PSYCHIATRIC INSTITUTE, ANCHORAGE, replied that all of the mid-level practitioners including PAs and APRNs had previously been in a position of prescribing crisis medications. About a year prior it was discovered that the law did not include mid-level practitioners. He continued that when the laws were originally established, mid-level practitioners were not working at API. In 2007, when he was working at API, it was unheard of to have a mid-level provider working at the facility. Mid-level practitioners started working at API in 2010 or 2011. Currently, API had four mid-level providers who had been administering psychotropic drugs for the previous several years until it was discovered that the law prevented them from doing so.

Representative Knopp was wondering if there was any scenario in which a patient should not receive the medication. However, it sounded like it was a matter of updating statutes with changing times. Dr. Alexander responded, "That is correct."

9:15:09 AM

Representative Josephson asked Dr. Alexander if he thought the bill should read that the mid-level practitioners should be able to provide medication via teleconference.

Dr. Alexander responded that traditionally in the past mid-level practitioners had been able to via teleconference. The Alaska Psychiatric Institute was not a 24-hour manned facility. Mid-level practitioners provided on-call services just like physicians. They worked their regular day then took calls from home through the call

system. In the night there was an on-call provider to direct services, but no one was physically in the building.

Representative Josephson asked the protocol. Dr. Alexander responded that providers received calls from nurses working on the floors who would evaluate the patient. If the patient went into a psychotic state and became extremely violent, a nurse on duty would call the on-call psychiatrist or mid-level practitioner. They would discuss the case and start a crisis period providing medications over objection. The following morning, the provider would interview the patient and decide if the crisis period should continue or end. The process was done over the phone.

Representative Josephson asked the credential for the person administering medication. Dr. Alexander replied that a registered nurse would be giving the medication.

Vice-Chair Ortiz recognized that Representative Carpenter had joined the meeting.

Representative Sullivan-Leonard asked if there had been increased situations with patients which had necessitated the legislation. Dr. Alexander responded that there had been a number of incidents in which staff or patients had been assaulted. He wanted to ensure that the institute was a safe place equipped with all of the right tools.

Representative Sullivan-Leonard confirmed that the need for the legislation was based on the need to be able to immediately control a situation that could become dangerous when it occurred at API. She wondered if her assessment was accurate. Dr. Alexander responded that API needed immediate help to control a situation whether a patient was trying to hurt themselves or others.

Representative Wool asked if there were limitations to what an APRN or a PA could prescribe. Senator Giessel responded that presently an APRN had the privilege of independent practice in Alaska, and full prescriptive authority. The Advanced Practice Nurse could prescribe controlled substances if they had applied and received a DEA number. The same was true for a PA except that they practiced in a collaborative agreement with a physician. Typically, PAs were rather independent and with a DEA number could prescribe and administer controlled substances.

9:20:55 AM

Representative Wool assumed that if an APRN or a PA already had DEA approval to write prescriptions for controlled substances they could already do what was being proposed in the bill. He asked if he was correct.

Senator Giessel replied that there was a law in place that prior to 2010 there were no PAs and APRNs in API. There was also a rule in place that only a psychiatrist could authorize the administration of medications which the bill was trying to change. She pointed to page 1, line 11 of the bill. She read directly from the bill: "Harm to the patient or another person as determined by the licensed physician." She was adding: "or physician assistant or advanced practice registered nurse." She was reading from a committee substitute. Next, she referred to page 2, line 4 which read: "The medication is ordered by a licensed physician, physician assistant, or advanced practice registered nurse." The same was repeated on line 16. It was an update to get rid of the restrictive law currently in place.

Representative Wool thought the law already allowed PAs and APRNs to prescribe controlled substances with a DEA endorsement. He asked for additional clarity. Ms. Conway responded that it was a section of law (AS.47.30.838) that governed Psychotropic medications in crisis situations. Currently, the only person that could determine that a person was in a crisis situation was a physician. The bill added PAs and APRNs to the list of those that could prescribe medications immediately. Rather than having to call the psychiatrist, they would be able to make an assessment on the scene.

Representative Wool brought up the issue of a patient's consent. He relayed he had experience working in a psychiatric hospital in Boston that had about the same number of patients as API. He relayed that anytime someone had to administer drugs a doctor had to be called first. The process could be done over the phone. He suggested that the law would allow a PA or an APRN to be called avoiding a conversation with a doctor entirely. He remarked that there should be more than one physician at API, a matter that he thought should be dealt with as soon as possible. He wondered why a doctor could not be contacted within 72

hours. He understood the immediacy of an acute situation and the need for someone to be medicated quickly. However, he thought a physician could be reached within 3 days. He asked for clarification.

[9:26:14 AM](#)

Senator Giessel thought Representative Wool was referring to the section on page 2, beginning with line 15 in Section C. She explained that it was referring to line 4. She read from the bill: "The medication is ordered and valid for only 24 and may be renewed for a total of 72 hours." The restriction was in current law and related to the renewal of the medication previously administered. If the person was requiring the medication for 72 hours, further intervention might be necessary. She deferred to Dr. Alexander.

Dr. Alexander responded that in order for API to prescribe medications with patients who did not want to take any medications the institute had to either appeal to a judge for permission or enter a crisis period. Judges were not available for 72 hours considering weekends. Court occurred at the institute 3 days per week. Often times, the time between court days was significant. It allowed API to administer medications over 72 hours. The client was seen immediately the following day with necessary adjustments being made. Being able to prescribe medication for the period allowed API to get control. Otherwise, the patient might receive a medication, but reoffend once the medication wore off. He added that for every day a person was psychotic, it became more difficult to control and maintain safety. The length of time a person was on medication was limited because a decision by the court would be necessary for any length of time.

[9:30:37 AM](#)

Representative Sullivan-Leonard wondered why the bill was referred to the House Finance Committee rather than the House Health and Social Services Committee, as the fiscal notes were zero-impact notes. She wondered if the bill would be heard in the House Health and Social Services Committee. Senator Giessel did not know.

Representative Sullivan-Leonard commented that it struck her curiosity because of a zero-impact fiscal note. She

wondered if the bill would be heard in the House Health and Social Services Committee or the House Labor and Commerce Committee.

Vice-Chair Ortiz offered that the deputy commissioner from DHSS was available for questions.

Representative Sullivan-Leonard questioned the route of the bill. She asked if the Medical Board had taken a position on the bill. Senator Giessel responded that she had several letters of support. She noted the authors of the support letters. She mentioned that the bill was heard in the Senate Health and Social Services Committee with no objections to the legislation.

Representative Josephson asked Ms. Conway for clarification about mid-level practitioners being on the scene at the time of an incident versus on the phone. Ms. Conway responded that the representative was correct. A mid-level practitioner might not be on the scene. Senator Giessel added that clarity was critical. The practitioners were not new healthcare providers. She relayed that the APRNs and PAs had been practicing at API for 10 years. Nurse practitioners practiced independently in Alaska since 1984 with prescriptive authority. She could not confirm the same longevity for PAs, but they were not new clinicians.

[9:34:41 AM](#)

Representative Wool thought it was astonishing that the patients would be jailed for their behavior. He asked if calling the police was a recent phenomenon. He asked if it happened elsewhere. Senator Giessel deferred to Dr. Alexander. Dr. Alexander responded that it was not a recent phenomenon or limited to API. The Alaska Psychiatric Institute tried diligently to keep patients at the facility. However, the institute also tried to keep its staff safe. In the prior year, there had been over 100 assaults on staff by patients. He clarified that not all of the patients that did the assaulting were sent to jail. However, the staff had the right to file charges against a patient.

Representative Tilton wanted to know whether a guardian could give permission to administer drugs rather than having to get permission from a court. Senator Giessel deferred to Dr. Alexander. Dr. Alexander replied that the

statute specified that once a patient arrived at API, no guardian or any other representative of the patient could mandate any kind of medication other than by going through a crisis period or going to court. He thought API's attorney could cite the statute.

[9:38:48 AM](#)

Representative Josephson thanked the sponsor for the legislation. He clarified his previous statement. His intended point was to make them a new group that would be dually authorized to expressly administer or deputize others to administer psychotropic drugs. Senator Giessel appreciated Representative Josephson's remarks. She reminded members that until recently, when the law was noted by someone else, the PA and APRN were actually functioning in the role.

Vice-Chair Ortiz announced that amendments were due by the end of the day at 5:00 p.m.

#sb137

SENATE BILL NO. 137

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

[9:40:16 AM](#)

SENATOR PETER MICCICHE, SPONSOR, indicated that his bill would extend the termination date of the Alaska Parole Board from June 30, 2020 to June 30, 2025 with an immediate effective date.

MICHAEL WILLIS, STAFF, SENATOR PETER MICCICHE, relayed the bill extended the Board's termination date to June 30, 2025, for 5 years. He reviewed the auditor's opinion that the Board was serving in the public's interest by effectively evaluating prisoners' likelihood of recidivism and whether they pose a threat to the public. The auditor recommended that the legislature extend the Board's termination date 5 years instead of the maximum 8 years because of recent changes to the Board's statutes and responsibility revisions. The legislative auditor and the director of the Alaska Parole Board were available for questions. He thanked members for their consideration of the bill.

Representative Knopp asked about the personnel services line of the fiscal note in the amount of \$1.7 million which equated to approximately \$144,000 per individual. He asked if the monies were for full-time staff. Senator Micciche deferred to Jeff Edwards.

[9:43:23 AM](#)

JEFF EDWARDS, EXECUTIVE DIRECTOR, ALASKA PAROLE BOARD, responded that the board members were considered part-time non-state employees. They received an honorarium. If they worked a half day, they were paid for a half day. If they worked a full day, they were paid for a full day. They were not full-time state employees.

Representative Knopp asked if the monies were for support staff rather than the Board. Mr. Edwards responded that himself and his staff were included in the personnel services line.

Representative Carpenter asked how many staff Mr. Edwards had. Mr. Edwards responded, "Eleven."

Representative Carpenter asked why the Board needed eleven staff plus the director. Mr. Edwards replied that the Board added staff as a result of the passage of SB 91. It was well documented in the audit what occurred in terms of the number of hearings. The review and preparation for hearings was very concentrated and the Parole Board conducted thousands of hearings per year. The Alaska Board of Parole rotated through every correctional facility four times per year. In some of the remote locations hearing were done telephonically. The Board went to each of the prisons on the road system to interview inmates. The workload was intensive. Every review for individual cases was immense. His office had to review an individual essentially since birth until the events of the crime, their institutional conduct, their release plan, and more. Putting all of the information together for the Board to consider was extensive.

[9:46:34 AM](#)

Representative Wool noted Mr. Edwards comments about thousands of hearings occurring per year and the labor-intensive preparation work. He supposed board members were

working close to full-time. Mr. Edwards thought they worked about three-quarters of the time. He indicated board members worked a lot from home reviewing case files. In addition, they did preliminary hearings, which could be equated to a bail hearing, throughout the months. Board members worked close to full-time.

Representative Knopp commented that he had an acquaintance on the Board. He sat with the person after the passage of SB 91 and was appalud there was not a full-time workforce.

Vice-Chair Ortiz announced that amendments were due by the end of the day at 5:00 p.m.

9:49:00 AM

AT EASE

9:49:02 AM

RECONVENED

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, indicated the audit could be found in members' packets and was dated May 8, 2019. The statutory changes that happened after May 9, 2019 were not included in the audit. She reported that there was a background information section that described an overview of parole. She drew attention to the bottom of page 8 of the audit report which discussed how SB 91 changed the parole statutes and how it impacted the Board's workload and procedures. She read from the audit report:

Senate Bill 91 significantly changed the statutes effective January 2017. First, it expanded discretionary parole for all offenders except for unclassified offenders and for class A sex offenders. Prior to SB 91 offenders who committed their first class B felony and up to their second class C felony were eligible for discretionary parole after serving 25 percent of their sentences. Post SB 91, generally any offenders who committed a number of A, B, or C felonies were eligible for discretionary parole after serving one-quarter of their sentences broadening who was eligible. Secondly, SB 91 removed the discretionary parole application requirement which meant that prior to SB 91 a prisoner initiated the parole process by filing an application. Not all eligible Prisoners would file an application. Post SB

91, the application requirement was removed, and a mandate was established that all eligible prisoners would be subject to consideration of parole and would have a hearing. The change significantly altered how the Board approached the parole hearings. Thirdly, SB 91 shortened the technical revocation hearing timeline providing less time to conduct the hearings.

Ms. Curtis turned to the report conclusions on page 11 of the audit. Legislative Audit concluded that the Board responded in an effective and efficient way to significant changes in the parole laws. The Board conducted meetings, made parole decisions, set parole conditions, and held revocation hearings in accordance with state law. Legislative Audit was recommending a 5-year extension which was 3 years less than the 8 years allowed in statute solely in recognition that their statutes continued to change. She believed it was prudent to have increased oversight during the period of change.

Ms. Curtis continued that there were several tables in the report to help communicate the Board's activities during the audit period. She drew attention to page 12, Exhibit 5. As discussed in the background information section, SB 91 changed eligibility standards and removed the application requirement. She pointed out the impact on the number of discretionary parole hearings conducted. The number ramped up in 2017 and 2018. The increase in discretionary parole hearings included a significant number of hearings that prisoners did not attend, referred to as "no shows." No shows were the result of eliminating the application process and mandating that hearings be held for all eligible prisoners regardless of whether they wanted parole.

Ms. Curtis relayed that according to the Board's executive director, a prisoner might not want parole for various reasons including not wanting to sign the parole conditions - wanting to leave the facility with no conditions. Initially, after SB 91 passed, parole officers and the Board held hearings for no shows in a similar manner as for prisoners that attended the hearing. It was not an effective use of resources given that parole was not granted if a prisoner did not attend a hearing.

Ms. Curtis reported that the Board recognized the inefficient use of their resources and changed their

procedures in November 2017. The new procedures required institutional parole officers to complete condensed parole packets and held abbreviated hearings to facilitate the process. As shown in Exhibit 6, no shows represented 21 percent of discretionary parole hearings in 2017 and 29 percent in 2018.

Ms. Curtis conveyed that according to Board staff, the increase in discretionary parole hearings led to an increase in revocation hearings. She referred to page 14, Exhibit 7. She pointed to the jump in 2017 which was partially offset in 2018 by the use of an administrative sanction and an incentive program that allowed probation officers to impose sanctions without a hearing for the most common technical violations based on a guide prepared by Department of Corrections (DOC) management.

Ms. Curtis continued that the Board effectively coped with the increase in hearings by traveling to facilities 4 times per year instead of 2 and hired additional staff. Senate Bill 91 authorized 5 additional staff members to cope with the increase.

[9:54:24 AM](#)

Ms. Curtis referred to the recommendations on page 18. None of the recommendations were significant enough to decrease the auditor's recommended term of extension. The reduced extension was solely because of their changing statutes. Recommendation 1 was for the executive director to improve procedures to ensure final revocation hearings were performed timely. Legislative Audit conducted testing and found that 16 percent were not performed within 120 days after a parolee's arrest. The hearings were late by 5-12 days.

Ms. Curtis moved to Recommendation 2. The auditor recommended that the Board's executive director work with the commissioner of DOC to improve the quality of telephonic hearings. The auditor found poor quality telephone systems at 4 of the 13 correctional facilities including Yukon-Kuskokwim, Wildwood, Fairbanks, and Highland Mountain. These facilities accounted for 14 percent of the parole and revocation hearings for calendar years 2015 through 2018.

Ms. Curtis reviewed Recommendation 3. The Board should take steps to ensure regulations were properly updated. During the audit she found two regulations that were not correctly updated due to human error.

Ms. Curtis moved to the final recommendation on page 20. Recommendation 4 suggested that the director of DOC's Division of Administrative Services should take steps to ensure that the Alaska Correction Offender Management System complied with the Information Securities Standards, a national best practice. She did not include the details of weaknesses to avoid exploit. The information was communicated to management in a separate confidential letter.

Ms. Curtis reported that responses to the audit began on page 31 with the governor's response. The governor did not comment on whether to extend the Alaska Parole Board. On page 33, the DOC commissioner agreed with the recommendations and indicated they were moving forward with corrective action within the constraints of their budget. On page 35, the board chair concurred with the 3 recommendations directed to the Board. The report went on to describe the corrective actions.

Representative Wool asked about the changes made with HB 49 [Legislation passed in 2019 related to crimes, sentencing, drugs, thefts, and reports] and whether SB 91 undid much of what was implemented. Ms. Curtis did not know, as the report was dated May 8, 2019 and the bill was passed after the date.

Senator Micciche reminded members that the bill was about extending the Board. The finances associated with the 5 new positions resulting from SB 91 because there was no longer a discretionary parole application process which forced the process. Since then, as a result of HB 49, the provision had been removed which might reveal that the positions were no longer needed. He referred to page 1, Exhibit 2 which showed the positions. Five of them were new because of SB 91. After the following year through the budget process it was likely that the costs could be reduced. The issue should be watched through the next budget process.

Vice-Chair Ortiz indicated that the amendments were due by 5:00 p.m. in the afternoon of the present day. He reviewed the agenda for the afternoon. He reminded members that the agenda would be fluid.

#

ADJOURNMENT

[9:58:53 AM](#)

The meeting was adjourned at 9:59 a.m.