

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

March 10, 2020

3:07 p.m.

**MEMBERS PRESENT**

Representative Tiffany Zulkosky, Chair  
Representative Ivy Spohnholz, Vice Chair  
Representative Matt Claman  
Representative Harriet Drummond  
Representative Geran Tarr  
Representative Sharon Jackson  
Representative Lance Pruitt

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 86

"An Act relating to a state-owned inpatient mental health treatment hospital; and providing for an effective date."

- MOVED CSHB 86(HSS) OUT OF COMMITTEE

HOUSE BILL NO. 183

"An Act relating to the duties of the Department of Health and Social Services; relating to the duties of the Department of Labor and Workforce Development; and relating to staffing and wage standards for the Alaska Psychiatric Institute."

- MOVED CSHB 183(HSS) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 86

SHORT TITLE: MENTAL HEALTH HOSPITAL: CONTRACTS/BIDS

SPONSOR(S): REPRESENTATIVE(S) FIELDS

03/06/19	(H)	READ THE FIRST TIME - REFERRALS
03/06/19	(H)	HSS, L&C
03/26/19	(H)	HSS AT 3:00 PM CAPITOL 106
03/26/19	(H)	<Bill Hearing Rescheduled to 3/28/19>
03/28/19	(H)	HSS AT 3:00 PM CAPITOL 106
03/28/19	(H)	Heard & Held

03/28/19 (H) MINUTE (HSS)  
03/03/20 (H) HSS AT 3:00 PM DAVIS 106  
03/03/20 (H) -- MEETING CANCELED --  
03/05/20 (H) HSS AT 3:00 PM DAVIS 106  
03/05/20 (H) Heard & Held  
03/05/20 (H) MINUTE (HSS)  
03/10/20 (H) HSS AT 3:00 PM DAVIS 106

BILL: HB 183

SHORT TITLE: ALASKA PSYCHIATRIC INSTITUTE  
SPONSOR (S): REPRESENTATIVE (S) FIELDS

01/21/20 (H) PREFILE RELEASED 1/10/20  
01/21/20 (H) READ THE FIRST TIME - REFERRALS  
01/21/20 (H) HSS, L&C  
03/03/20 (H) HSS AT 3:00 PM DAVIS 106  
03/03/20 (H) -- MEETING CANCELED --  
03/05/20 (H) HSS AT 3:00 PM DAVIS 106  
03/05/20 (H) Heard & Held  
03/05/20 (H) MINUTE (HSS)  
03/10/20 (H) HSS AT 3:00 PM DAVIS 106

**WITNESS REGISTER**

VIKKI JO KENNEDY  
Kodiak, Alaska

**POSITION STATEMENT:** Testified in support of HB 86.

FAITH MYERS, Mental Health Advocate  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 86.

REPRESENTATIVE ZACK FIELDS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided information and answered questions during the hearing on HB 183, as prime sponsor.

FAITH MYERS, Mental Health Advocate  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 183.

MICHAEL CAMPBELL, Clinical Social Worker  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 183.

STACIE KRALY, Chief Assistant Attorney General; Statewide  
Section Supervisor  
Human Services Section  
Administrative Services Division  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during hearing on HB  
183.

CLINTON LASLEY, Deputy Commissioner  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB  
183.

ANDREE MCLEOD  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 183.

#### **ACTION NARRATIVE**

[3:07:48 PM](#)

**CHAIR TIFFANY ZULKOSKY** called the House Health and Social  
Services Standing Committee meeting to order at 3:07 p.m.  
Representatives Zulkosky, Drummond, Claman, Tarr, Jackson, and  
Spohnholz were present at the call to order. Representative  
Pruitt arrived as the meeting was in progress.

#### **HB 86-MENTAL HEALTH HOSPITAL: CONTRACTS/BIDS**

[3:08:23 PM](#)

CHAIR ZULKOSKY announced that the first order of business would  
be HOUSE BILL NO. 86, "An Act relating to a state-owned  
inpatient mental health treatment hospital; and providing for an  
effective date."

[Before the committee was the committee substitute (CS) for HB  
86, Version 31-LS0623\U, Marx, 3/26/19, adopted as work draft on  
3/5/20.]

[3:09:30 PM](#)

CHAIR ZULKOSKY opened public testimony on HB 86.

[3:09:56 PM](#)

VIKKI JO KENNEDY testified that she is in support of HB 86 and offered that privatizing Alaska Psychiatric Institute (API) may be the right solution. She relayed that the patients of API are some of the neediest people in society. She stated, "A society who forgets its needy people is a society itself that will soon be forgotten."

[3:11:41 PM](#)

The committee took a brief at-ease.

[3:12:38 PM](#)

FAITH MYERS, Mental Health Advocate, expressed her belief that API should remain a state-owned and -managed psychiatric hospital. She opined that the "openness of API, including available statistics" gave API a unique opportunity to set a high standard of patient care in Alaska. She shared statistics from 30 private psychiatric units: In 2011, the Disability Law Center (DLC) of Alaska reported that patients at API could not file grievances in a fair way. In 2016, the [U.S. Centers for Medicare and Medicaid Services (CMS), U.S. Department of Health and Social Services (HSS)], "Medicaid" and "Medicare", reviewed patient complaints at API and found serious problems with how management handled them. In 2019, the Alaska State Ombudsman ("Ombudsman") office reported that a female patient at API was sexually assaulted in the television (TV) room; at some point, staff intervened; the woman was left half naked by herself before wandering back to her room; the perpetrator was released without being charged; the woman did not receive proper assistance. She cited AS 47.30.660(b)(13) and said that the Department of Health and Social Services (DHSS) must delegate its responsibility for caring for psychiatric patients to mostly private facilities and units. She maintained that the legislature should require a specific state-patient standard of care in a separate bill. She offered to the committee reference information regarding the substance of such legislation to establish a state standard of care and protection for psychiatric patients.

[3:15:10 PM](#)

CHAIR ZULKOSKY, after ascertaining that there was no one else who wished to testify, closed public testimony.

[3:15:24 PM](#)

REPRESENTATIVE PRUITT moved to adopt Amendment 1, [labeled 31-LS0623\U.2, Marx, 3/4/20], which read:

Page 1, line 6, following "section":

Insert "unless the Department of Health and Social Services has been notified by the Joint Commission on Accreditation of Healthcare Organizations or the United States Centers for Medicare and Medicaid Services that there is an immediate risk that the hospital will lose its certification"

Page 1, line 9, following "section":

Insert "unless the Department of Health and Social Services has been notified by the Joint Commission on Accreditation of Healthcare Organizations or the United States Centers for Medicare and Medicaid Services that there is an immediate risk that the hospital will lose its certification"

Page 3, line 18, following "hospital":

Insert "unless the department has been notified by the Joint Commission on Accreditation of Healthcare Organizations or the United States Centers for Medicare and Medicaid Services that there is an immediate risk that the hospital will lose its certification"

REPRESENTATIVE SPOHNHOLZ objected for discussion purposes.

[3:15:37 PM](#)

REPRESENTATIVE PRUITT explained that under the proposed amendment, DHSS would be allowed to contract for the ownership or management of an inpatient mental health treatment hospital if it had been notified by the Joint Commission, which accredits facilities that serve CMS patients that it is at risk of losing [accreditation]. He relayed that in 2019, DHSS hired an outside consulting firm when it had been notified that API would lose accreditation. Currently API is not at risk due to improvements at the facility. He maintained that in a situation in which the state is struggling to manage API, it should have every tool at its disposal to ensure that API does not lose accreditation.

[3:17:46 PM](#)

REPRESENTATIVE SPOHNHOLZ stated that she opposed Amendment 1. She relayed that what was learned last year [2019] through a series of hearings on the privatization of API was that privatization is a process that should not be taken in an emergent, rushed fashion; there are a myriad of considerations that should be methodically addressed; among those considerations are whether a private organization could improve outcomes or meet Joint Commission or other regulatory agency standards. She maintained the reason API struggled was that it was chronically underfunded and chronically understaffed. The API governance board, which was functional up to 2016, was disbanded; therefore, there was no oversight. She stated the current administration, with the support of the legislature, has reconstituted the governance board, secured additional funding, augmented staff, and brought in contract expertise to train staff. The result is an organization that is "back on step." She asserted that the organization did not need privatization, but funding and oversight to enable it to function. She said, "Even a brand-new Mercedes will not drive if it doesn't have fuel in it." She emphasized that functionally API was like a car with no fuel in it.

[3:19:21 PM](#)

REPRESENTATIVE TARR commented that she did not mind the intent of Amendment 1. She offered that for Alaska, with such a fragile health care system and just one facility [for psychiatric care], a high-risk situation is problematic. She pointed out that it took six to eight years to get to where API currently is, under multiple administrations and legislatures. She said that "immediate risk" is not well defined; that decline occurs in phases; therefore, it was difficult to evaluate what phase would constitute immediate risk and warrant action under the proposed amendment. She expressed her belief the department could act in an emergency, but if not, then the point of acting should be more clearly defined. She said, "I just don't want this to be so gray that it basically nullifies the intent of the bill."

[3:21:30 PM](#)

REPRESENTATIVE JACKSON said that Alaska had options. She expressed it was heart-wrenching for Alaska to be in a position of losing accreditation [for API] as a state-operated institution. She emphasized, "We should never come close to that - ever again." She stated she supported Amendment 1 -

minus the "immediate risk" - because Alaska should never wait until the loss of accreditation to recognize a crisis. She said both the patients and the public employees were important. She expressed all opportunities and resources should be available to the state to care for the API population.

[3:26:06 PM](#)

REPRESENTATIVE ZACK FIELDS, Alaska State Legislature, reiterated testimony that the proposed amendment could provide a loophole that nullified Version U; that an administration with an objective to privatize API could manufacture a crisis and use [the provision in the amendment] to privatize it. He stated he does not support the proposed amendment.

[3:26:50 PM](#)

REPRESENTATIVE CLAMAN stated he opposed the proposed amendment. He expressed his belief that the risk of losing accreditation last year was very low due to access to care; if the federal government closed API, there would be nowhere else for patients to go. He said his interpretation of the notices from the federal government was that Alaska had problems and needed to fix them; the pressure would increase, and if the situation became bad enough, there may be federal lawsuits. He agreed the language in Amendment 1 was vague, ambiguous, and invited uncertainty, that it provided a loophole, and that it may encourage the lack of commitment to providing good services in the long term.

[3:28:31 PM](#)

CHAIR ZULKOSKY offered that API was a state-operated institution; that Wellpath [Recovery Solutions] merely provided consulting services to API; therefore, the state had a direct relationship with the accrediting agencies. She said it was for that reason she did not support the proposed amendment.

[3:29:40 PM](#)

REPRESENTATIVE PRUITT suggested changing the language to address concerns. He offered when an institution finds itself in a place in which the most vulnerable people in the state are not just in jeopardy, but are being harmed, limiting the options and insisting that API be operated by the "people who failed" is not the right thing to do. He asserted that narrowing the state's

options and maintaining that the state "knew best" went against the evidence collected by the Ombudsman.

[3:31:07 PM](#)

REPRESENTATIVE SPOHNHOLZ maintained her objection to Amendment 1.

[3:31:11 PM](#)

A roll call vote was taken. Representatives Jackson and Pruitt voted in favor of Amendment 1. Representatives Tarr, Claman, Drummond, Spohnholz, and Zulkosky voted against it. Therefore, Amendment 1 failed to be adopted by a vote of 2-5.

[3:31:54 PM](#)

REPRESENTATIVE SPOHNHOLZ moved to report the CS for HB 86, Version 31-LS0627\U, Marx, 3/26/19, out of committee with individual recommendations and the accompanying fiscal notes.

[3:32:11 PM](#)

REPRESENTATIVE JACKSON objected. She maintained that the mission of the committee was to look out for the well-being of the patients. She acknowledged all committee members cared about the patients. She asked the committee to change the amendment language to "secure the state and secure the well-being of the patients," and thereby better serve the state.

[3:33:23 PM](#)

REPRESENTATIVE SPOHNHOLZ restated her motion, and moved to report the CS for HB 86, Version 31-LS0623\U, Marx, 3/26/19, out of committee with individual recommendations and the accompanying fiscal notes.

[3:33:42 PM](#)

REPRESENTATIVE JACKSON objected.

[3:33:48 PM](#)

REPRESENTATIVE PRUITT expressed he did not understand why committee members would support eliminating any options, which may be necessary for ensuring the most vulnerable people could be protected. He said that the state failed, and the proposed

legislation suggested that the state was the best entity to operate API. He maintained every option should be available regardless of the administration in power. He stated there was no testimony from patients and family members. He maintained those who had bad experiences at API would not care what entity was operating the facility; they would only care the problems were corrected. He said, "Now we're going to say we're the best person, and we should never have the option for someone else." He asserted it manifested poor judgement. He continued by saying if the concern were for employees, there was no intent to eliminate the employees. He offered the proposed legislation was bad policy if legislators were truly concerned with helping the most vulnerable people under its charge.

[3:36:06 PM](#)

REPRESENTATIVE TARR mentioned the topic under discussion was one that could be in a special session if time allowed. She mentioned the many related challenges. She said the intent of Version U was to force the state to do a better job and not shirk its responsibility to manage API. She offered she tended to err on the side of the public-operated facility. She expressed the importance of legislative oversight.

[3:37:28 PM](#)

REPRESENTATIVE SPOHNHOLZ clarified supporting the bill did not suggest committee members did not care about patients at API. She stated she has spent a great deal of time ensuring API was as successful and as functional as was possible; she understood the vulnerability of the patients; their illnesses often made it impossible for them to advocate for themselves. The disagreement [in committee] was about how to approach a solution and not lack passion for the issue or commitment to the patients. She reiterated she fundamentally believed API failed due to lack of oversight - which was why she has introduced legislation to codify in law the governance board - and due to inadequate funding. For six years there was no increase in fulltime employees (FTEs) at API. The needs at API were not being met. The state faced fiscal challenges at the time, and no one was advocating for API; therefore, API suffered from neglect. It was not intentional but had real consequences. She mentioned a patient advocate testified that it was important to keep API in the public trust; she agreed with that sentiment and supported Version U.

[3:40:10 PM](#)

REPRESENTATIVE JACKSON maintained her objection.

[3:40:18 PM](#)

A roll call vote was taken. Representatives Spohnholz, Tarr, Claman, Drummond, and Zulkosky voted in favor of reporting CSHB 86, Version 31-LS0623\U, Marx, 3/26/19, out of committee. Representatives Pruitt and Jackson voted against it. Therefore, CSHB 86(HSS) was reported from the House Health and Social Services Standing Committee by a vote of 5-2.

[3:40:50 PM](#)

The committee took an at-ease from 3:40 p.m. to 3:46 p.m.

**HB 183-ALASKA PSYCHIATRIC INSTITUTE**

[3:46:08 PM](#)

CHAIR ZULKOSKY announced the next order of business would be HOUSE BILL NO. 183, "An Act relating to the duties of the Department of Health and Social Services; relating to the duties of the Department of Labor and Workforce Development; and relating to staffing and wage standards for the Alaska Psychiatric Institute." [Before the committee was the proposed committee substitute (CS) for HB 183, Version 31-LS1211\S, Marx, 3/3/20, adopted as work draft on 3/5/20.]

[3:46:19 PM](#)

REPRESENTATIVE ZACK FIELDS, Alaska State Legislature, relayed that Version S would address capacity and workforce issues that were intimately related to the safety of both patients and employees. He stated he had heard from providers that when the Alaska Psychiatric Institute (API) had inadequate capacity and people were held one-on-one in emergency departments, it was expensive and dangerous for [psychiatric] patients, other patients in the hospital, and employees. The proposed legislation would help to remedy that situation by providing adequate capacity at API.

[3:47:21 PM](#)

CHAIR ZULKOSKY opened public testimony on HB 183.

[3:47:34 PM](#)

FAITH MYERS, Mental Health Advocate, testified that she supported HB 183. She said matching staff salary at API with the private sector and improving staff safety would help to create a stable workforce. She stated that in 2017, there were over 500 patient complaints at API; 116 patients were injured, 90 needing medical care or hospitalization. She relayed the Alaska State Legislature had not given the disabled the right to file a formal appeal for grievances - one of the few states that had not. In 1992, the legislature knew psychiatric patients would have problems receiving treatment in psychiatric facilities or units. Patients were given the right to bring grievances to an impartial body under AS 47.30.847, but the law was poorly crafted, and patients did not have access to an impartial body. She concluded by saying that a trained and stable workforce, [indisc.] state laws, and hospital policies are all essential for patient recovery.

[3:49:46 PM](#)

MICHAEL CAMPBELL, Clinical Social Worker, stated he worked at API from 1988 to 1995 and for a short period in 2002. He stated he supports HB 183. He said API was one part of a large mental health system; what impacted one part of the system rippled through the whole system, and problems with API were felt by community mental health centers. There had been an issue with API maintaining adequate staff to operate the hospital at full capacity; that put pressure on API to discharge patients rapidly and often before they were ready to be discharged; that in turn placed an additional burden on community mental health centers which weren't equipped to adequately manage people who were still acutely disturbed and in need of intense services. The community mental health centers had substantial caseloads; therefore, when one of the newly discharged clients had severe needs, it took time away from other clients. He stated having a fully staffed hospital as well as salaries that are commensurate or at a premium with other providers would help attract and retain staff. He offered that in addition to salary, adequate staff training, and support would encourage staff retention. He said from the very beginning, the hospital was built for much less capacity than was needed; the inadequate capacity further burdened the system and did a disservice to the people who desperately needed it. He offered his support for HB 183 to raise salaries and increase the census at API.

[3:54:09 PM](#)

The committee took a brief at-ease.

[3:54:39 PM](#)

CHAIR ZULKOSKY, after ascertaining that there was no one else who wished to testify, closed public testimony.

[3:54:58 PM](#)

REPRESENTATIVE PRUITT moved to adopt Amendment 1, labeled 31-LS1211\S.1, Marx, 3/5/20, which read:

Page 2, line 4:  
Delete "and"

Page 2, line 6, following "funding":  
Insert "; and  
(6) the number of allegations, and the  
results of all substantiated incidents, of  
(A) violence toward a patient;  
(B) inappropriate seclusion or restraint of  
a patient;  
(C) maltreatment of a patient; and  
(D) neglect of a patient"

REPRESENTATIVE SPOHNHOLZ objected for discussion purposes.

[3:55:05 PM](#)

REPRESENTATIVE PRUITT offered the proposed legislation called for a report on activities specifically related to employees, but nothing related to patients. The proposed amendment would include the type of information the legislature received through the Ombudsman. He reviewed the additional requirements for the report under Amendment 1 and maintained they would provide information on how services were delivered to patients - particularly the items of concern brought forward by the Ombudsman.

[3:56:25 PM](#)

REPRESENTATIVE FIELDS said he did not object to the intent of the proposed amendment and suggested adding "or staff" after "violence toward a patient" in subparagraph (A), [line 8], of Amendment 1.

[3:57:26 PM](#)

The committee took an at-ease from 3:57 p.m. to 3:59 p.m.

[3:59:48 PM](#)

REPRESENTATIVE CLAMAN asked whether the addition of the items specified under Amendment 1 to the activity report would raise any issues for the state regarding tort liability or other liabilities that may arise should the report be published on an annual basis.

[4:01:21 PM](#)

STACIE KRALY, Chief Assistant Attorney General; Statewide Section Supervisor, Human Services Section, Administrative Services Division, Department of Law (DOL), replied it could likely lead to increased litigation or other tort violations.

REPRESENTATIVE CLAMAN asked whether providing the information in a public report would raise any Health Insurance Portability and Accountability Act [of 1996] (HIPPA) violation issues.

MS. KRALY answered it would depend how the information was being disclosed: if disclosed as deidentified aggregate data with no way to identify an individual, there would be no HIPPA or confidentiality issues. She added the same would hold true for tort liability.

[4:03:12 PM](#)

REPRESENTATIVE CLAMAN asked whether adding the language in Amendment 1 would have a significant potential of exposing the state to tort liability of an unknown amount.

MS. KRALY expressed her belief that the language would not present significant risk of liability, but it would increase the risk of potential liability.

[4:03:48 PM](#)

REPRESENTATIVE CLAMAN offered that Amendment 1 would be an invitation to lawsuits. He stressed the importance of monitoring how well services were being provided at API, however, did not support publishing a report that served as an "open book" for more investigations costing the state more money. He opined there may be ways to provide that information,

but Amendment 1 would not serve that purpose. He stated he did not support the proposed amendment.

[4:04:32 PM](#)

REPRESENTATIVE SPOHNHOLZ stated she opposed the proposed amendment. She offered the intent was to ensure API was a safe and secure facility; however, she did not believe that would be achieved through Amendment 1. She mentioned she was concerned with potential liability. She mentioned her work with the API governance board on legislation regarding an oversight board; one requirement of the oversight board would be an annual report to the legislature that consisted of a high-level look at the functionality of API in meeting its public mission.

[4:05:27 PM](#)

REPRESENTATIVE SPOHNHOLZ maintained her objection.

REPRESENTATIVE PRUITT highlighted that the four items in Amendment 1 were in the Ombudsman report. He maintained that what increased liability was that the violations were occurring, and the state was not fixing them. He said at some point, the legislature must become aware of the violations as they occurred and take action to correct them.

[4:06:18 PM](#)

REPRESENTATIVE TARR stated she had been provided information from constituents about the rights of mental health patients and deficiencies in the current system. She stated Alaska statutes required a grievance procedure, that patients be notified of the procedure, and that there be an impartial body. She mentioned the governance board procedures and the Ombudsman report. She offered her understanding that information was communicated using inconsistent language and through different avenues; she expressed skepticism that the information gathered through the implementation of Amendment 1 would provide the answers she wanted. She said she was interested in the information but only if coordinated for consistency.

[4:08:11 PM](#)

A roll call vote was taken. Representative Pruitt voted in favor of Amendment 1. Representatives Spohnholz, Tarr, Drummond, Claman, and Zulkosky voted against it. Therefore, Amendment 1 failed to be adopted by a vote of 1-5.

4:08:49 PM

REPRESENTATIVE SPOHNHOLZ moved to adopt Amendment 2, labeled 31-LS1211\M.1, Marx, 3/6/20, which read:

Page 2, lines 21 - 22:

Delete "at least 55 beds in an adult civil unit"

Insert "at least

(A) 60 beds in an adult civil unit; and

(B) 10 beds in a youth civil unit"

CHAIR ZULKOSKY objected for discussion purposes.

REPRESENTATIVE SPOHNHOLZ offered Amendment 2 would call for 60 beds instead of 55 beds. She stated there were 120 young people in facilities outside of Alaska; they required a level of care that could not be provided by the private providers in Alaska. She mentioned the "Bring the Kids Home" initiative, returning 1,100 young people to Alaska, and cited the importance of trauma-informed care and keeping young people close to their families. She stated Amendment 2 would require that API reopen the Chilkat Youth Civil Unit [Haines].

4:09:59 PM

CHAIR ZULKOSKY removed her objection.

4:10:09 PM

REPRESENTATIVE TARR expressed her concern as to whether the 10-bed youth civil unit under Amendment 2 could be achieved. She cited the difficulty in securing professional staff and opening the 10-bed unit from nothing. She asked whether the timeline should be modified.

4:11:03 PM

CHAIR ZULKOSKY maintained her objection.

4:11:17 PM

CLINTON LASLEY, Deputy Commissioner, Department of Health and Social Services (DHSS), responded API was gradually increasing its census; it was currently 50; 80 was optimal. He said the primary challenge was staffing; API competed with other health care organizations vying for a small number of health care

workers. He relayed the Chilkat unit was one of the options DHSS was considering; it must be done safely and with staff "on board."

[4:13:44 PM](#)

REPRESENTATIVE CLAMAN asked how long it would take to achieve the 60-bed requirement.

MR. LASLEY answered he was not comfortable giving a date; it was a matter of safely "getting to the next step." In the past year, API had gone from a low census - in the 20s - to the current census of 50, through incremental increases. Until there was enough staffing, the department was not comfortable moving to the next phase.

[4:14:48 PM](#)

REPRESENTATIVE TARR cited Section 4 of Version S, [page 3, lines 4-6], which read:

APPLICABILITY. AS23.10.055(b), as amended by sec. 2 of this Act, and AS 47.30.660(c)(3), enacted by sec. 3 of this Act, apply to contracts entered into, amended, extended, or renewed on or after the effective date of this Act.

REPRESENTATIVE TARR stated since the proposed legislation did not have an effective date, 90 days after signature was the point at which any contracts entered into would be required to meet the standards under Version S. She asked whether the 10-bed unit could be achieved under the timeline.

[4:15:34 PM](#)

MR. LASLEY replied that as deputy commissioner, he would not tell the hospital what it could safely achieve; the leadership and governing board of API would make the decision on the next step. He reiterated the timeline depended on getting enough qualified trained staff in place. The department evaluated the issue daily.

[4:16:09 PM](#)

REPRESENTATIVE SPOHNHOLZ asked for a description of the efforts being taken by the department to recruit personnel.

MR. LASLEY reviewed a couple efforts: use of Wellpath's consulting service, which worked with the state recruitment office, and internal efforts through publishing positions online. He stated approximately 12 new staff members would be coming onboard in March [2020].

[4:17:23 PM](#)

REPRESENTATIVE SPOHNHOLZ asked whether there had been staff turnover at API in the past nine months.

MR. LASLEY offered to provide the requested information.

REPRESENTATIVE SPOHNHOLZ asked whether the staffing levels were moving in the right direction for a fully operational API. She asked for a rough estimate of the progress.

MR. LASLEY responded API had been able to achieve a census of 50 and maintain that level for about 6 weeks. The next phase looked positive with additional staff. He mentioned the atmosphere at API was much better than previously; there were smiles on people's faces. He maintained he could not give specific dates but attested to the department doing everything it could to recruit staff and move to the next phase - the goal being a census of 80.

[4:19:24 PM](#)

REPRESENTATIVE CLAMAN asked about the current status of the Wellpath contract.

MR. LASLEY answered the Wellpath contract ended March 31 [2020]; the department had looked at options for extending the contract for a short period as it built the leadership team at API. He offered the department would have a final answer in the next few days; it was reviewing its options.

REPRESENTATIVE CLAMAN asked Mr. Lasley to notify the chair of the [HSS] committee as to the decision - whether the contract was extended, for how long, and the cost of the extension.

MR. LASLEY agreed to do so.

[4:20:59 PM](#)

CHAIR ZULKOSKY referred to Section 3 of Version S and mentioned the primary focus of the proposed legislation was providing

resources to promote the recruitment and retention of employees at API in order to meet the standards and care. She asked the sponsor to comment on the intent behind Section 3(c)(1), [page 2, lines 21-22, of Version S].

REPRESENTATIVE FIELDS relayed that when he drafted the proposed legislation, the census at API was in the 30s. He stated that he tried to pick an achievable goal. He mentioned he supported Amendment 2 because it reflected the progress in the interim and a new achievable goal. He stated API employees had indicated to him over the past year staff at API were underpaid relative to similar positions in the Anchorage job market, and Wellpath had not been recruiting as aggressively as necessary. He maintained the intent behind Section 3 was to ensure adequate staffing and capacity through a prevailing wage standard. He maintained the state was familiar with the system of prevailing wages. Given the job market in Anchorage, the system made sense to ensure pay and benefits were adequate to avoid a high rate of turnover of staff.

[4:23:24 PM](#)

REPRESENTATIVE CLAMAN relayed he was broadly supportive of establishing targets in statute but was concerned with the effective date. He mentioned the possibility of a conceptual amendment to establish an effective date of July 1, 2021 - the beginning of fiscal year 2022 (FY 22).

CHAIR ZULKOSKY agreed with the intent of the language as expressed by Representative Fields yet acknowledged the testimony of Mr. Lasley that staffing, recruitment, and retention of employees was dynamic.

[4:24:33 PM](#)

REPRESENTATIVE TARR expressed her concern with building the youth unit from nothing and non-compliance with the law prompting a lawsuit.

REPRESENTATIVE TARR moved to adopt Conceptual Amendment 1 to Amendment 2, adding an effective date of July 1, 2021, under the "APPLICABILITY" section, for the requirement of a 10-bed youth civil unit.

[4:25:55 PM](#)

The committee took an at-ease from 4:25 p.m. to 4:28 p.m.

[4:28:00 PM](#)

REPRESENTATIVE TARR withdrew her motion to adopt Conceptual Amendment 1 to Amendment 2.

[4:28:16 PM](#)

CHAIR ZULKOSKY removed her objection to Amendment 2. There being no further objection, it was so ordered.

[4:28:33 PM](#)

REPRESENTATIVE TARR moved to adopt Conceptual Amendment 3 to include effective dates for the two provisions adopted under Amendment 2. The effective date for subparagraph (A) - "60 beds in an adult civil unit" - would be January 1, 2021; the effective date for subparagraph (B) - "10 beds in a youth civil unit" - would be July 1, 2021. Conceptual Amendment 3 would amend the APPLICABILITY section under Version S to specify that AS 47.30.660(c)(1)(A) would take effect January 1, 2021, and AS 47.30.660(c)(1)(B) would take effect July 1, 2021. There being no objection, Conceptual Amendment 3 was adopted.

[4:29:39 PM](#)

The committee took an at-ease from 4:29 p.m. to 4:30 p.m.

[4:30:51 PM](#)

CHAIR ZULKOSKY opened public testimony on HB 183.

[4:31:06 PM](#)

ANDREE MCLEOD testified as a family member of someone who needed API services. She stated she would have preferred the proposed legislation specify 80 beds, since that was the capacity and there was a need to utilize 80 beds. She expressed her conviction the state should operate API; when the government took away the rights and liberties of a person, that government entity should be held directly accountable, inspected, and regulated. She maintained the state should be directly accountable to the person; the responsibility cannot be ceded to a private enterprise who has alternative objectives - one being profit.

MS. MCLEOD expressed her amazement the legislature must codify the provisions under HB 183; her expectation was that good

government would require all the positions to be filled and the mission of DHSS and API executed. She agreed years of neglect and lack of funding brought API to its low point; she maintained it should be just as easy to "make it right again." She said, "Just do your jobs and listen to the people who complain about what's going on at API and not dismiss them and put the money forward." She relayed a story: When she worked for the Alaska Department of Fish and Game (ADF&G) in the 1980s, the top three jobs were statistician, actuary, and other jobs related to statistics. Statisticians were hard to come by and forecasting fish runs became increasingly difficult. The simple solution was for the Department of Administration (DOA) to reclassify certain positions with appropriate salaries; no statutory changes were needed; the departments worked together. The problem was solved, and the fish forecasts have been excellent. She offered, "We seem to care more about fish than we do people." Even with the Alaska Mental Health Trust (AMHTA), technology, and money, "family members are scared to do what they have to do when they give away the liberties of their family members to the state." She concluded by saying, "Let's care more about people than we do fish."

[4:35:03 PM](#)

CHAIR ZULKOSKY, after ascertaining that there was no one else who wished to testify, closed public testimony.

[4:35:17 PM](#)

REPRESENTATIVE SPOHNHOLZ moved to report CSHB 183, Version 31-LS1211\S, Marx, 3/3/20, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

[4:35:42 PM](#)

REPRESENTATIVE PRUITT objected. He expressed his concern that the proposed legislation was reactionary to a "snapshot" in time. He maintained that whenever the legislature put into statute the mechanism for compensation it made being competitive more difficult for the state. He offered that by the time the state collected the information, did the analysis, and decided on a wage, the private sector, without the same procurement rules, would adjust its wages quickly. He said it would be a never-ending battle in which the state would never be able to compete. He suggested instead of putting such mechanisms in statute, the legislature should be eliminating provisions that limited the state's ability to manage and attract people; in the

attempt to remain competitive, "we bind our hands so that we can't." He maintained his objection.

[4:38:00 PM](#)

REPRESENTATIVE SPOHNHOLZ expressed her appreciation for the proposed legislation; for increasing the standard; and for the prevailing wage provision that required wages at API be competitive. She stated the legislature had worked hard to fund additional staffing positions, to fund salary increases, and to give the department the tools to increase salaries. She maintained the prevailing wage provision gave the department the structure by which to ensure people at API were appropriately compensated for what was arguably the toughest job in the State of Alaska. She offered work at API represented public service at its absolute finest and deserves appropriate compensation.

[4:39:46 PM](#)

A roll call vote was taken. Representatives Spohnholz, Tarr, Claman, Drummond, and Zulkosky voted in favor of reporting CSHB 183, Version 31-LS1211\S, Marx, 3/3/20, as amended, out of committee with individual recommendations and the accompanying fiscal notes. Representative Pruitt voted against it. Therefore, CSHB 183(HSS) was moved from the House Health and Social Services Standing Committee by a vote of 5-1.

[4:40:48 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 4:40 p.m.