

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

September 11, 2021

3:09 p.m.

MEMBERS PRESENT

Representative Liz Snyder, Co-Chair
Representative Tiffany Zulkosky, Co-Chair
Representative Ivy Spohnholz
Representative Zack Fields
Representative Ken McCarty
Representative Mike Prax
Representative Christopher Kurka

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Bryce Edgmon
Representative Geran Tarr
Representative Andy Josephson
Representative Dan Ortiz
Senator Lora Reinbold

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 3006(L&C) AM

"An Act relating to COVID-19 immunization and proof of vaccination; relating to personal objections to the administration of COVID-19 vaccines; relating to COVID-19 immunization rights; relating to utilization review requirements; making temporary changes to state law in response to the novel coronavirus disease; relating to telemedicine and telehealth; relating to background checks; relating to certificates of need; and providing for an effective date."

- MOVED HCS CSSB 3006(HSS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB3006

SHORT TITLE: HEALTH CARE REQS; COVID-19; TELEHEALTH

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

09/02/21 (S) READ THE FIRST TIME - REFERRALS
09/02/21 (S) L&C
09/07/21 (S) L&C AT 1:30 PM BUTROVICH 205
09/07/21 (S) Heard & Held
09/07/21 (S) MINUTE(L&C)
09/08/21 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
09/08/21 (S) Moved CSSB 3006(L&C) Out of Committee
09/08/21 (S) MINUTE(L&C)
09/09/21 (S) L&C RPT CS 2DP 1NR NEW TITLE
09/09/21 (S) NR: COSTELLO
09/09/21 (S) DP: REVAK, MICCICHE
09/09/21 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
09/09/21 (S) -- MEETING CANCELED --
09/10/21 (S) TRANSMITTED TO (H)
09/10/21 (S) VERSION: CSSB 3006(L&C) AM
09/11/21 (H) HSS AT 3:00 PM DAVIS 106

WITNESS REGISTER

ADAM CRUM, Commissioner
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the hearing on CSSB 3006(L&C) am.

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

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, provided a sectional analysis and answered questions.

JARED KOSIN, President & CEO
Alaska State Hospital and Nursing Home Association
Anchorage, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, answered questions and provided testimony in support of the bill as introduced.

STACIE KRALY, Chief Assistant Attorney General
Human Services Section
Civil Division - Juneau
Department of Law
Juneau, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, answered questions.

HEIDI HEDBERG, Director
Division of Public Health
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, answered questions.

ALBERT WALL, Deputy Commissioner, Medicaid & Health Care Policy
Office of the Commissioner
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, answered questions.

ANNE ZINK, MD, Chief Medical Officer
Division of Public Health
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, answered questions.

MICHELE GIRAULT, Executive Director, Hope Community Resources
Board President, Key Coalition of Alaska
Anchorage, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

NICOLE BASS, Co-owner
Tides LLC
Juneau, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

ALBERTA UNOK, President and CEO
Alaska Native Health Board
Anchorage, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, testified in support of the bill's provisions for expanded telehealth and background check flexibilities.

RIC NELSON, Advocacy & Outreach Manager
The Arc of Anchorage
Anchorage, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

AMANDA FAULKNER, President
Alaska Association on Developmental Disabilities
Soldotna, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

ANDREA CONTER, Human Resources Director
The Arc of Anchorage
Anchorage, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, requested that the background check process be expedited, and that a look be taken at providing additional funding.

MELISSA O'BRYAN, Ketchikan Program Director
Southeast Alaska Independent Living
Ketchikan, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

BARBARA RODRIGUEZ-RATH, Chief Executive Officer
The Arc of Anchorage
Anchorage, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

DEAN PAUL
Anchorage, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

HEIDI YOUNG, Care Coordinator
Island Care Services
Ketchikan, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

LIZETTE STIEHR, Executive Director
Alaska Association on Developmental Disabilities
Anchorage, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

TABITHA ALONE, Executive Director
Hearts and Hands of Care
(No address provided)

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

RONALD LITTLE, Co-owner
One Source Homecare Services
Juneau, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

TYLER MCNEIL, Disability Services Program Manager
Community Connections
Ketchikan, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

VICKI HERMAN
Eagle River, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, urged that the bill be amended to allow direct support service agencies to utilize a third-party vendor to do initial background screening.

JACKI CHURCHILL
Chugiak, Alaska

POSITION STATEMENT: During the hearing on CSSB 3006(L&C) am, supported the provision for telehealth.

DEBORAH BROLLINI
Anchorage, Alaska

POSITION STATEMENT: Testified in support of CSSB 3006(L&C) am.

ACTION NARRATIVE

[3:09:43 PM](#)

CO-CHAIR TIFFANY ZULKOSKY called the House Health and Social Services Standing Committee meeting to order at 3:09 p.m. Representatives Kurka, Prax, McCarty, Spohnholz, Fields, Snyder, and Zulkosky were present at the call to order. Also present were Representatives Edgmon, Tarr, and Josephson, and Senator Reinbold.

SB 3006-HEALTH CARE REQS; COVID-19; TELEHEALTH

[3:10:34 PM](#)

CO-CHAIR ZULKOSKY announced that the only order of business would be CS FOR SENATE BILL NO. 3006(L&C) am, "An Act relating to COVID-19 immunization and proof of vaccination; relating to personal objections to the administration of COVID-19 vaccines; relating to COVID-19 immunization rights; relating to utilization review requirements; making temporary changes to state law in response to the novel coronavirus disease; relating to telemedicine and telehealth; relating to background checks; relating to certificates of need; and providing for an effective date."

[3:12:55 PM](#)

ADAM CRUM, Commissioner, Department of Health and Social Services (DHSS), testified that DHSS and the Department of Commerce, Community, and Economic Development (DCCED) appreciate the consideration of SB 3006 [sponsored by Senate Rules by request of the governor]. He stated that "as introduced" the proposed legislation would provide specific tools that have been identified and requested by health care leadership as necessary items needed to support Alaska's health care system and health care workforce. This July, he said, the Delta variant created a new landscape in the pandemic that [the administration] has been responding to since early 2020. The Delta variant is highly infectious with a transmission rate of one infected person to

five-eight people, and over 90 percent of Alaska's COVID-19 cases are the Delta variant. Successful mechanisms such as robust testing programs statewide have continued to be deployed and efforts are continuing to educate, distribute, and administer vaccines for every Alaskan who wants one.

COMMISSIONER CRUM pointed out that the surge caused by the Delta variant has negatively impacted Alaska's already fatigued and stressed health care system and workforce that has been on the frontline of response to COVID-19 for over 19 months. It has created a different kind of public health emergency, one that has more crisis of workforce and requires specific tools to address it. For the past month, the governor, DHSS, and DCCED have been in constant contact with Alaska's healthcare providers and facilities to identify what is needed by Alaska's caregivers and hospitals and the most appropriate mechanisms available to provide them with the tools identified. The state's partners have identified the need to reduce barriers to training, licensing, and employing health care professionals, the need to reduce barriers to the provision of telehealth and telemedicine for Alaskans by providers outside of Alaska, the need for insurers to waive utilization review requirements, and the need to allow patients to be seen in a lower acuity setting rather than emergency department, if appropriate, and with the patient's consent.

[3:15:06 PM](#)

COMMISSIONER CRUM reminded members that several different tools have already been identified and used through the authority granted under the public health emergency passed by the legislature with HB 76. Emergency regulations have implemented other tools, such as the Alaska Board of Nursing's recent adoption of an emergency regulation amending the certified nursing assistant (CNA) program requirements and establishing a CNA emergency courtesy license for these individuals. This change allows for additional human resources to be deployed to strengthen Alaska's health care system safety net.

COMMISSIONER CRUM specified that, as introduced, SB 3006 contains items of limited statutory changes to provide Alaska's health care facilities and workforce the remaining tools they need. He thanked the legislature for being a partner in the state's response to COVID-19 and for being willing to consider legislation that would provide the tools to support Alaska's health care network.

[3:16:13 PM](#)

SARA CHAMBERS, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community, and Economic Development, provided a sectional analysis of CSSB 3006(L&C) am. She explained that Section 1 adds a new section to the uncodified law to state that the purpose of this act is to provide for mitigation measures that will enhance the state's ongoing efforts to reduce the spread of COVID-19.

MS. CHAMBERS stated that Section 2, added on the Senate floor [on 9/10/21], creates five new sections under AS 18.09 relating to COVID-19 immunization rights. The first, AS 18.09.270, proof of vaccination, provides that a person who requires an individual to show proof of vaccination against COVID-19 shall also accept evidence that the individual has antibodies against COVID-19, as a means to satisfy the vaccination requirement. The evidence shall include but is not limited to a documented antibody test or a documented positive COVID-19 test. The second, AS 18.09.280, personal objections to the administration of COVID-19, provides that an individual may object to the administration of a COVID-19 vaccine based on religious, medical, or other grounds, and that a parent or guardian of a minor child may object to the administration of COVID-19 vaccine based on religious, medical, or other grounds. It further stipulates that an individual may not be required to provide justification or documentation to support the individual's decision to decline the COVID-19 vaccine. The third, AS 18.09.290, access to areas and services, provides that a business, state agency, or political subdivision of the state may not require an individual to be vaccinated against COVID-19 for the individual to access an area or service that is open to the public. The fourth, AS 18.09.300, exercise of rights and access to benefits, provides that a state agency or political subdivision of the state may not adopt or issue a regulation, ordinance, order or similar policy that requires an individual to be vaccinated against COVID-19 for the individual to exercise a right or receive a benefit that is available to the public. The fifth, AS 18.09.310, definition, defines "COVID-19" as the novel coronavirus disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

MS. CHAMBERS conveyed that Section 3 amends AS 21.06.080 by adding a new subsection (f) to allow the Division of Insurance (DOI) director to order health care insurers to waive utilization review requirements during a state or federal public

health disaster, thereby allowing for the safe discharge of patients more efficiently to free up needed bed spaces.

3:19:45 PM

MS. CHAMBERS related that Section 4 adds a new section to the uncodified law which temporarily waives licensure requirements for physicians, physician assistants, nurses, and advance practice registered nurses, if licensed, permitted, or certified in good standing in another jurisdiction to provide telehealth and telemedicine services to patients in Alaska without being required to obtain an Alaska license or first conduct an in-person physical exam. She said this does not allow a health care professional not licensed in Alaska to provide in-person treatment in Alaska or to prescribe a controlled substance. Section 4 further provides that a provider practicing under this section must charge a fee that is customary and reasonable. A provider must only practice within their scope allowed in the state in which they are licensed, and which is permitted in this section. If unable to do so, they must recommend the patient seek treatment from an Alaska licensed provider. This section's language is the same language adopted by the legislature in Senate Bill 241 in 2020 and HB 76 earlier this year, except that subsection (c) was removed in the Senate Labor & Commerce Committee; subsection (c) provided the commissioner of DHSS the authority to waive state law or regulation that would prevent or impede the provision of health care services under this telemedicine section.

MS. CHAMBERS specified that Section 5 adds a new section to the uncodified law which provides that a hospital or nursing facility may employ a person without obtaining a background check from DHSS if the hospital or nursing facility provides sufficient information to the department attesting to the hiring process for each person employed at this facility and confirms that a background check has been conducted as part of the hiring process. It also provides that the hospital or nursing facility must receive a background check from DHSS for each person hired between the effective date of this Act and July 1, 2022, no later than July 1, 2022.

MS. CHAMBERS stated that Section 6, added on the Senate floor [on 9/10/21], provides that a person is not required to obtain a certificate of need under AS 18.07 for an expenditure that is made between the effective date of this Act and June 30, 2022.

MS. CHAMBERS said Section 7 provides that Section 4, relating to telehealth and telemedicine, and Section 5, relating to background checks, are repealed on July 1, 2022.

MS. CHAMBERS concluded her sectional analysis by stating that Section 8 provides for an immediate effective date.

[3:22:55 PM](#)

REPRESENTATIVE KURKA stated that the bill appears to be a sunset bill with a short sunset period of not even one year. He asked why the sunset and why not make some of these changes permanent as they would greatly aid the health care market in Alaska.

COMMISSIONER CRUM replied that the short timeframe of the sunset is because this is for the emergency response, it isn't trying to set long-term policy. These are items that would require the legislature's deliberation for long term policy.

REPRESENTATIVE KURKA remarked that the legislature has talked about many of these things for years, such as removing the waiver of the certificate of need. More than 12 months would be needed to see if this works, he continued, and therefore he advocates for a "more reasonable" sunset timeframe.

[3:26:02 PM](#)

REPRESENTATIVE FIELDS asked why eliminating the certificate of need would drive up costs and potentially shut down hospitals, making certain emergency rooms (ERs) uneconomical to operate.

[3:26:23 PM](#)

JARED KOSIN, President and CEO, Alaska State Hospital and Nursing Home Association (ASHNA), concurred with Commissioner Crum on the intent of the bill and said ASHNA [now the Alaska Hospital and Healthcare Association (AHHA)] made many of those requests. This is a pandemic response bill, he stressed, not a health care reform bill. All those provisions would be inappropriate to extend beyond a finite period such as what is in the bill. In particular, the telemedicine portion is a band-aid and to do long term reform, several other aspects would have to be looked at for that to make sense. The certificate of need amendment is unnecessary and ASHNA does not support that. He said his understanding of the intent of the certificate of need amendment is so that alternate care sites could be erected without certificate of need review. While that intent is well

thought, there are no alternate care sites that are being erected for a million and a half dollars and ASHNHA isn't expecting that to happen any time soon; it doesn't make sense to even have that in there. Keeping the program in place and reforming the program through regulations and tweaks makes more sense, and ASHNHA testified to that effect when the bill was up during regular session. Putting it in here to see what happens is bad policy and ASHNHA thinks it would increase the cost of care over time.

[3:28:02 PM](#)

REPRESENTATIVE SPOHNHOLZ asked if Commissioner Crum interprets Section 2, Sec. 18.09.280, as meaning that private employers could not require vaccination as a term of employment for any reason, so hospitals would not be able to require vaccination of their employees.

COMMISSIONER CRUM deferred to Stacy Kraly to provide an answer.

[3:28:59 PM](#)

STACIE KRALY, Chief Assistant Attorney General, Human Services Section, Civil Division - Juneau, Department of Law (DOL), answered that that section, as she reads it, is very broad. She said the limitation for personal objection is based not just on religious or medical grounds, which are currently well established in law, but also "any other grounds". The way that is drafted would allow for an objection for any reason for purposes of avoiding a vaccination. So, yes, as drafted, [private employers could not require vaccination as a term of employment for any reason].

REPRESENTATIVE SPOHNHOLZ concluded that this provision would allow employees of private employers that potentially care for folks who are immunocompromised or medically fragile to say, "I don't want to follow your rules", and employers would have no recourse.

MS. KRALY replied that given the bill was amended yesterday on the Senate floor she hasn't looked at it very closely, but it does appear that that is the intent.

[3:30:25 PM](#)

REPRESENTATIVE SPOHNHOLZ drew attention to Section 2, Sec. 18.09.270, and asked what the standard would be for proving that a person has antibodies.

MS. KRALY deferred to the Division of Public Health to answer the question.

[3:31:20 PM](#)

HEIDI HEDBERG, Director, Division of Public Health, Department of Health and Social Services (DHSS), deferred to Dr. Anne Zink to answer the question.

[Dr. Zink was not present.]

[3:31:44 PM](#)

The committee took an at-ease from 3:31 p.m. to 3:33 p.m.

[3:33:20 PM](#)

REPRESENTATIVE SPOHNHOLZ asked how long it currently takes DHSS to process background checks.

COMMISSIONER CRUM deferred to DHSS Deputy Commissioner Albert Wall to answer the question.

[3:34:15 PM](#)

ALBERT WALL, Deputy Commissioner, Medicaid & Health Care Policy, Office of the Commissioner, Department of Health and Social Services, responded that regulation requires the processing of background checks by fifteen days. Right now, he said, the longest it is taking is fourteen days and most are averaging between seven and fourteen days.

[3:34:36 PM](#)

REPRESENTATIVE FIELDS offered his understanding that given the "anti-vaccination amendments" adopted in the Senate, the bill could increase costs to providers. He requested Mr. Kosin to talk about this.

MR. KOSIN answered that ASHNA does not support the amendments for several reasons, but specifically because they undermine the ability to promote mitigation measures. From a cost standpoint, he continued, the federal administration recently put forward

notice of intent to make rules requiring all Medicare and Medicaid certified healthcare facilities to be compliant with all employees being vaccinated. So, the amendments in the bill were to force Alaska employers and health care facilities to somehow go against federal law, and ASHNA would argue federal law would supersede it. But, even if it were to create that question, it would force [ASHNA's members] not to comply with federal law and [ASHNA's members] would lose their Medicare and Medicaid funding, which would shut down every health care entity in the state.

[3:36:04 PM](#)

REPRESENTATIVE FIELDS recalled that in previous debates on this issue there were proposals that would have prohibited employers from even asking about vaccination status. He asked whether not knowing if employees are vaccinated would exacerbate workforce shortages by forcing quarantines of people because employers would have to assume that they were not vaccinated.

MR. KOSIN replied yes, if [an employer] doesn't have an ability to know whether an employee/health care worker is vaccinated then [the employer] would be forced to pull the employee out of rotation if there is exposure or close contact, thereby exacerbating the workforce shortages already being endured. It would completely impede the ability to provide health care. There are protocols in place to deal with appropriate situations where a vaccine does not make sense for a particular employer. "The way this is spelled out in the legislation undermines our ability to do that," he added, "and thereby undermines our ability to use our workforce to the fullest extent."

[3:37:48 PM](#)

REPRESENTATIVE FIELDS surmised that in calling this bill a band-aid, Mr. Kosin was saying the bill modestly provides workforce flexibility. He noted that a map of the Delta surge across the US shows a strong correlation between areas of the US with low vaccination rates also having overflowing hospitals. He asked whether it is fair to say that unless low vaccination rates are tackled, hospitals will continue to be at or beyond capacity.

MR. KOSIN responded that ASHNA believes in science. He said the Centers for Disease Control and Prevention (CDC) guidelines and mitigation measures are the single best way to get through the latest surge with the Delta variant and any surges in the future. This bill is helpful in the sense that it would provide

a few flexibilities but compared to the grand scheme of how serious this situation is before us, it is more akin to a band-aid. That is not meant to insult the bill because it is useful. But to put it into context, while watching some of yesterday's amendments that I just explained did not make sense from a health care standpoint, I was talking to a critical access hospital that is on the brink of running out of oxygen for its high flow oxygen patients, as well as running against capacity strain to even provide oxygen at the level needed to sustain the lives of its patients. Running out of resources like oxygen shows how big this is. This bill will help, but mitigation measures and everybody doing their part will go a lot longer and farther.

[3:40:27 PM](#)

REPRESENTATIVE SPOHNHOLZ, regarding Sec. 18.09.270 of Section 2, inquired how a person would document or prove that he or she has antibodies against COVID-19.

[3:41:01 PM](#)

ANNE ZINK, MD, Chief Medical Officer, Division of Public Health, Department of Health and Social Services (DHSS), answered that antibody tests are blood tests that look for proteins that were developed in response either to vaccination or to a previous infection. There are many different types of antibody tests. Antibodies last for different periods in the body, they do not last for a super long time for many of the different types of antibody tests, and they wane over time. Unfortunately for COVID-19, there is no perfect correlate for immunity, there is no single blood test that can be done to say that a person has protection from this disease moving forward. There is more and more evidence that memory B cell and T cell may play a larger role than antibodies given antibodies fade over time. She said she doesn't know how that would be documented given that the current language doesn't specify they type of antibodies, or which antibodies, or which period of time, and therefore this would be challenging to implement.

[3:42:07 PM](#)

REPRESENTATIVE SPOHNHOLZ, regarding antibodies waning over time, inquired whether there is a difference in the length of time that a person would have antibodies in response to the vaccine versus in response to COVID-19 infection itself.

DR. ZINK replied that there is a variety of antibodies, such as IgG, IgM, IgA, and more. She said IgM antibodies come up more quickly and then fade more quickly and IgG tend to last longer, but they are only one part of the immune system. They don't represent the larger immune system, including B cells and T cells. The antibodies that are produced from vaccine are against the spike protein. For someone getting infected without being vaccinated, a whole variety of different types of antibodies may or may not be seen against the spike or nucleotides, they can vary. The height of those antibodies as well as the length of the antibodies appears to be variable for both immunized and unimmunized individuals. Increasing data is being seen that antibodies can decrease over time - both in people being infected and acquiring the disease or from the vaccine overall. What is known is that these vaccines were intended to create long-term immunity and better lasting immunity. It is not uncommon to have vaccines that require two or three shots so that the body develops a long-term memory for that infection. Vaccines don't work against the immune system, they teach the immune system how to take down the virus in general, so they work in combination. For example, if someone was vaccinated and then got COVID-19, a variety of antibodies may be seen against nucleotide and against spike that will fade over time. So, there is not a single, simple answer to say that somebody with previous infection is protected from this disease.

[3:44:22 PM](#)

REPRESENTATIVE SPOHNHOLZ asked whether antibodies from a vaccination will tend to be present more robustly and for longer than from infection itself.

DR. ZINK responded that there is still much to learn about this vaccine and this virus, but that it is very common for longer and more robust immunity from vaccination than from natural infection itself. It also looks like natural infection may provide a variety of responses - some people may develop a very robust immune response and some people may develop less of an immune response. Early initial data is showing that people who have had infection and been vaccinated have had even more robust response than either one or the other.

[3:45:34 PM](#)

CO-CHAIR SNYDER drew attention to Sec. 18.09.270 of Section 2 and observed that no date is associated with the evidence. She pointed out that if a documented COVID-19 test is allowed to be

a component of that evidence, in theory someone could show a COVID-positive test from a day or two ago. She noted that the bill's primary purpose is to address workforce needs and inquired whether this section would alleviate or exacerbate the pressures on the state's health care system.

DR. ZINK answered that in her work with companies, communities, Alaskans, and businesses, it has been impressive to see the requirements and the things they need to do to stay open and running. It is very important, she said, to allow them the flexibility to use whatever tools that they need to minimize the impact of this virus on their workforce, including the health care workforce. It is quite common within the health care workforce to require immunization so that a worker is protected and also does not accidentally infect patients and coworkers. This has been a standard within health care for a long time and increasingly used quite successfully within businesses so that they can operate most efficiently.

[3:47:26 PM](#)

CO-CHAIR SNYDER clarified that her question was whether Dr. Zink would interpret the utilization of an antibody test, or a documented COVID-19 test, as an avenue for reducing the pressures on Alaska's workforce in the same way that proof of vaccination would be anticipated to reduce the pressure.

DR. ZINK replied that that would be challenging for numerous reasons. It is currently in place that if someone tests positive within 90 days there is no need for a repeat test, but antibody testing has not been seen as a useful marker for protection to be able to see that that person is protected in a way that would allow safe interaction within a workforce and that would minimize the risk of COVID-19 within that workforce. So, while a recent test within the 90 days can be useful, there is no good way to use antibody testing in the same way for the workforce at this time.

[3:48:38 PM](#)

CO-CHAIR SNYDER stated she is asking the question more in the setting of health care and the crush of patients that is being experienced. She asked whether this would be an avenue for reducing the pressure on Alaska's health care system assisting those who have contracted COVID-19.

DR. ZINK responded she would have to defer to Mr. Kosin. She said there are ways that people who have been previously exposed to COVID-19 can continue to work within the workforce. Someone who is vaccinated can continue to work, particularly within the health care setting, on a regular basis. But when someone is not vaccinated it makes that much more challenging. There is no good way to use antibody testing to keep people in the workforce versus vaccination. For example, if a health care worker's child contracted COVID-19 at school and comes home and exposes the worker, that vaccinated worker does not need to quarantine and can continue to work. It is currently being seen that vaccinated workers can keep working, but there is no great way to use antibody testing on top of that. A previous infection within 90 days can be useful but after those 90 days it starts to wane and as a result the usefulness of a previous infection is significantly reduced compared to vaccination.

3:50:04 PM

REPRESENTATIVE KURKA, regarding Sec. 18.09.270 of Section 2, offered his understanding that late last year Fred Meyer Pharmacy was offering antibody tests. He said he is perplexed by this commentary because his understanding is that the strongest immunity is the natural immunity a person gets from having a sickness. He asked whether Dr. Zink can point to any COVID-19 studies that compare the effectiveness of antibodies versus natural immunity from having had COVID-19.

DR. ZINK answered that she would be happy to provide in writing additional information from immunologists specific to natural infection versus vaccination in general. The immune system is complex in the way that it works, she said, and it is not always the same for every person. For example, young children develop a very robust immune response to viruses, older people develop a much lower response, immunosuppressed individuals develop less of a response, and those who don't get as sick develop less of a response. She concurred that many stores do sell antibody testing and that they can be used, but she cautioned that their usefulness as far as whether a person has protection from the virus has not been determined in the literature. Many studies have been done on antibody tests from vaccine versus natural infection, Dr. Zink continued, and she can provide that information. Many of the initial studies for vaccination as well as for natural infection look at antibody tests and levels. It is a marker but is not a correlate for full protection, so it is important to realize the limitations of those studies. Data from real-world studies in the US and Israel shows that people

who had previous COVID-19 and then were vaccinated are more likely to be protected than if they just had previous infection. People with just previous infection were 2.5 times more likely to get reinfected from COVID-19 than those who had previous infection and got vaccinated. Also, the Delta variant is different in many ways - higher rates of infection are being seen as well as some decreased effectiveness of the vaccination in general.

[3:54:45 PM](#)

REPRESENTATIVE PRAX requested Dr. Zink to point committee members to the most authoritative studies that she is following to arrive at her conclusions.

DR. ZINK replied that her specialty is emergency medicine where she pulls together different specialists to serve the patient she is seeing, and she sees her role as chief medical officer as being similar. There are many studies, she said, and every Thursday the entire week's literature, 20-50 articles, is discussed with other health care providers. Everyone in the team has a different area of the literature that they closely follow and there is also reliance upon the partners across the state. Therefore, a broad look is taken at the literature rather than relying on one study or series of studies. Every study has limitations and looking at the overall evidence rather than just one or two studies helps to better understand where the science is moving in general. She said she would be happy to include committee members on the list of people who receive the list of studies for each week. In further response to Representative Prax, Dr. Zink said she will sign him up for the weekly newsletter and that he can direct the public to the department's weekly [Extension for the Community Healthcare Outcomes (ECHO)] every Wednesday from 12:00-1:00 p.m. at which the whole team is present to take questions from the public.

[3:58:18 PM](#)

REPRESENTATIVE MCCARTY noted that telemedicine and background checks are a premise of the bill to expedite workers into the field. He inquired whether there is a certain standard of background check that is expected so that providers or organizations can go to that source and fulfill the guidelines of that standard and expedite providers into their agencies.

DEPUTY COMMISSIONER WALL responded that there are several types of facilities and several types of providers. Each of those

different types of providers or facilities have their own requirements for how they become licensed professionally in Alaska if they have a professional license, and how the facility becomes certified or licensed to be that type of health care facility in the state.

[3:59:45 PM](#)

REPRESENTATIVE MCCARTY asked whether Deputy Commissioner Wall is stating that any agency or organization that is doing background checks in Alaska is recognized to be able to do those checks in compliance with DHSS.

DEPUTY COMMISSIONER WALL answered no. He said a provider must take several different steps to practice medicine in Alaska. A medical doctor or nurse would get their professional license through the license office and a background check is part of that process. Enrolling as a provider in Medicaid is a separate process done through DHSS and includes a separate background check, and it is for this process of enrollment as a Medicaid provider that the proposed legislation would offer the waiver.

[4:00:58 PM](#)

REPRESENTATIVE MCCARTY related that he is hearing from health care facilities that the DHSS background check for providers who are waiting to be hired is not happening fast enough, so patients are not being seen. The purpose of this bill, he noted, is so that providers are available to help once a background check is done within just days. He asked whether organizations could send providers to organizations that do background checks so the providers could qualify to start providing services.

DEPUTY COMMISSIONER WALL deferred to the Department of Law to provide an answer.

MS. KRALY answered that the background check process is set forth in state law under AS 47.05.300. It requires that every individual who is paid for in whole or in part by the Department of Health and Social Services have a background check, which includes a criminal history check and a civil registry check. Under this DHSS process, a fingerprint-based check must be submitted for every individual who is going to be employed by one of these provider types - a hospital, nursing home, assisted living home, and so forth. The requirements within the statutory framework are robust. A third-party background check

or running some sort of analysis of someone's criminal history through a web-based system is not sufficient. For purposes of this bill, it has been identified that nursing homes and hospitals provide a very robust pre-employment vetting screen system through policies and procedures and third-party fingerprint-based background checks that are sufficient to meet, or are equivalent to, the standards that the state engages in as required by state law. So, if that were to be expanded further, that same level of vetting and review would need to be established and identified by the state in order to feel comfortable that individuals were getting to be hired because ultimately the background check is to ensure the health, safety, and welfare of the individuals being cared for by the providers.

[4:05:06 PM](#)

REPRESENTATIVE MCCARTY said he has talked to organizations that still don't have results from background checks pursued over a month ago, so they cannot hire the people. He interpreted Ms. Kraly to be saying that policymakers set the background check that is expected and therefore policymakers could say that a third-party entity recognized for doing business in Alaska can be used to solve this problem in the immediate.

MS. KRALY replied that it is more complex than that; a third-party provider licensed to do business in Alaska would not be sufficient or meet the same standard that is set forth in state statute. A background check requires a complete application, so individuals experiencing a delay may have not submitted a complete background check, which requires several different pieces of paper. State law requires a background check to be completed within fifteen days, and DHSS is meeting or exceeding that fifteen-day period; most background checks are being turned around in seven to ten days. If this were to be expanded to allow [for third-party background checks], it would need to be very clear about what type of background checks are being authorized and that the health, safety and welfare minimum requirements are being met that are necessary to make sure individuals are safe in Alaska who are providing care.

[4:07:32 PM](#)

REPRESENTATIVE FIELDS recounted that there was discussion in the Senate about robustness of vaccines versus natural immunity, which stemmed from a blog called the "Alaska Watchman". He charged that the blog blatantly misrepresented the statements of the state epidemiologist.

[4:07:59 PM](#)

The committee took an at-ease from 4:08 p.m. to 4:22 p.m.

[4:22:20 PM](#)

CO-CHAIR ZULKOSKY opened public testimony on SB 3006.

[4:23:03 PM](#)

MICHELE GIRAULT, Executive Director, Hope Community Resources; Board President, Key Coalition of Alaska, urged the committee to consider an amendment to SB 3006 to include employers providing supports to seniors and those with disabilities living in Alaska to utilize a third-party vendor to do initial background screening. She pointed out that the May 2021 malware attack [on DHSS] took offline many critical systems, including the background check unit (BCU), which created significant delays in background check clearance and an additional barrier and burden for employers that provide critical health and safety support in the community. Organizations like hers employ direct support professionals who work alongside those with disabilities and have kept them out of hospitals during the pandemic crisis.

MS. GIRAULT noted that currently the competition for employees is enormous. She related that Hope recently lost an employee because her background check had not cleared after 25 days, so she may seek employment elsewhere. [Service organizations] currently cannot compete with the quick onboarding of the retail or hospitality industries. The stakeholders [using service organizations] deserve the protection of a background check process, but during this technology crisis, now four-and-a-half months, community providers must be given an option to seek third party verification to onboard employees while continuing the elongated process to the state background check unit.

MS. GIRAULT shared that she is one of many executive directors around the state who are currently working shifts to relieve frontline workers. She allowed that this proposed amendment would not magically fix the current dynamic but said it would remove one barrier to providing adequate support for stakeholders and current employees.

[4:25:36 PM](#)

NICOLE BASS, Co-owner, Tides LLC, noted that Tides LLC is a home and community-based service (HCBS) Medicaid provider agency with 55 employees that provides direct support to 30 children and adults who experience intellectual and developmental disabilities and complex medical conditions. She said Tides is experiencing a workforce shortage like nothing before. She urged that the bill be amended to include home and community-based Medicaid providers to expedite the background check process by allowing a third-party vendor. While Tides does not operate any assisted living facilities, it does provide essential daily support in the private homes of Medicaid recipients. The current delay in processing background checks is severely impacting the ability of Tides to meet recipient needs. It is currently taking three to four weeks to get provisional clearance even for employees who are already cleared in the same system. This during a time of experiencing a severe staffing shortage, high turnover, and employees having to isolate due to increased COVID-19 exposure with the Delta variant. Caregivers are being lost who have been navigating this pandemic successfully over the past 19 months but are just unable to continue without help.

MS. BASS related that for most of the pandemic Tides was able to obtain provisional clearance within 24-72 hours due to the emergency order, but now because of the cyber-attack Tides is having to tell recipients and families who are potentially in crisis that they may have to wait up to four weeks before Tides can meet their needs. Typically, when hiring an employee who is already cleared in the BCU, Tides can obtain immediate clearance by connecting to their application in the system. However, after over four months the state has been unable to find a way to expedite this process and providers are having to wait a month for this to happen. This doesn't include the time it takes to onboard employees which can extend that time to six to eight weeks. In the past month Tides hired six experienced employees but lost three of them because they could not wait for a month to get paid. She urged that the bill be amended to include home and community-based Medicaid providers and expedite the background check process for direct service professionals.

[4:28:14 PM](#)

ALBERTA UNOK, President and CEO, Alaska Native Health Board (ANHB), stated that ANHB is the statewide voice for the Alaska tribal health system, and has advocated for the health and wellbeing of Alaska Native people for 50 years. She said ANHB supports the two provisions that will allow for the expanded

telehealth and background check flexibilities for health care providers to have tools to respond to the current public health emergency. These provisions will support placing health care providers quickly into the workforce to meet the surge in COVID-19 numbers and the crisis happening in the hospitals. She added that her testimony today mirrors ANHB's written support for expanded telehealth and background check flexibilities.

[4:29:27 PM](#)

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

[4:30:58 PM](#)

CO-CHAIR ZULKOSKY urged witnesses to provide their testimony in writing given the short amount of time for oral testimony.

REPRESENTATIVE PRAX said he would like to know from providers and employers whether their background checks and other screening methods meet the state's standards.

[4:32:23 PM](#)

RIC NELSON, Advocacy & Outreach Manager, Consumer of Services, The Arc of Anchorage, provided testimony via an interpreter, Dean Paul. He stated that because of his disability he receives services through the system. He hires people through a provider agency and sometimes it takes up to three months to get somebody hired because of the background check. He has had to wait up to eight weeks to get somebody trained and hired. People are waiting and unable to get adequate services because of these delays. He asked the committee to amend the bill to include home and community-based service provider agencies to have a way to get the background checks much faster - in three-seven days.

[4:35:11 PM](#)

AMANDA FAULKNER, President, Alaska Association on Developmental Disabilities (AADD), explained that AADD supports providers across Alaska. She noted she is also the executive director of [Frontier Community Services] in the Soldotna area that provides community services to individuals with disabilities. Finding employees has been a struggle, she said, and the past 18 months have proven to be the perfect storm. While COVID-19 had unprecedented challenges, providers stood strong and kept a very vulnerable population safe as they juggled unintended and unfunded mandates. The [May 2021] cyber-attack compounded

employers' recruitment efforts and in particular the background checks have made it very challenging. From May 17-24, providers were allowed to use a third party to expedite background checks but then it was removed. She requested that home and community-based services be added to the bill to allow providers to utilize third-party background checks when the committee votes to authorize this option for hospitals and nursing homes. The people her organizations support meet a level of institutional care, she added, and it has been very challenging. As the executive director she has been working shifts and is proud to do so. A manager she lost this last week said she was leaving because she just couldn't do it anymore. Her organizations are struggling beyond struggling and as stated by Commissioner Crum, it is a workforce crisis and allowing use of this tool will help in the short term.

REPRESENTATIVE PRAX asked whether AADD's background checks and other screening standards compare to or equal the standards set by the state.

MS. FAULKNER answered, "We would be able to meet those standards."

[4:37:53 PM](#)

ANDREA CONTER, Human Resources Director, The Arc of Anchorage, stated that before coming to The Arc in December 2020 she was a retail store manager for 30 years and therefore understands the finances of the for-profit world. She said The Arc's tenuous hiring situation was further devastated by the malware attack that affected the BCU. Before the attack The Arc could get a State of Alaska sanctioned provisional clearance within 1-3 days and she could therefore have a new hire orientation within a week. Once the BCU went down, getting a provisional clearance increased to 15-21 days and actual orientation would not happen until a month after the first interview. It is challenging for people to wait a month for a job that only pays \$16 an hour when they can receive essentially the same pay as a cashier or dishwasher. Since the attack The Arc has lost 17 potential hires due to the delay in starting.

MS. CONTER stated that The Arc currently has over 40 positions that need filling. All these issues are a financial burden, she explained. The Arc's overtime costs have grown to be an average of \$15,000 a week and worker burnout has become another concern. She noted that food prices nationwide have risen close to 10 percent due to businesses having to pay their employees more.

However, she continued, The Arc differentiates from for-profit businesses in that The Arc doesn't have the luxury of raising its prices because the State of Alaska determines how much this industry gets paid through Medicaid. The extra cost that The Arc is now incurring will lead to tough decisions that could dramatically affect the population that The Arc loves and serves. These challenges are further affected by the pandemic.

MS. CONTER shared the human cost element. She said she gets calls weekly from individuals whom The Arc services, adults who experience intellectual and physical disabilities, who call begging her to find someone to work with them and help them. She requested that the background check process be expedited, and that the committee also look at additional funding to help organizations through this process, especially those that cannot raise prices in any manner.

[4:40:14 PM](#)

MELISSA O'BRYAN, Ketchikan Program Director, Southeast Alaska Independent Living (SAIL), stated that SAIL is the front door to those needing home and community-based services. She requested that the committee amend the bill to include all home and community-based service providers so that the health and safety of [Alaska's] senior and disabled populations remain a priority. She noted that a direct support professional (DSP) shortage was being experienced in Alaska before the pandemic. Service provider agencies need to be able to fill these positions quickly, and this is reliant on the timeliness of background checks for employment. Since the May 2021 malware attack, delays in background checks have impacted the ability to receive services that are needed for activities of daily living. Amending this bill to include HCBS providers allows these positions to be filled at a rate that is responsive to the needs. This segment of the workforce provides essential services, and the support is critical for keeping people safe in their communities and out of hospitals and nursing homes when not necessary, especially to not overcrowd health care facilities during this pandemic. [This proposed amendment] would help citizens get the critical care they are entitled to.

[4:41:55 PM](#)

BARBARA RODRIGUEZ-RATH, Chief Executive Officer, The Arc of Anchorage, stated that during its nearly 65 years of providing home and community-based services to individuals who experience intellectual and developmental disabilities, The Arc has never

faced the immensity of the issues that it does today. A drastic workforce shortage has been made much worse by the COVID-19 pandemic and the malware attack on the state BCU. The Arc has had far fewer applications for its entry level direct support professional positions. Staff have left because of the delays caused by the BCU - 14-15 days to get clearance. Between the pandemic, the worker shortage, and the BCU delay, The Arc is stretched thin and is having to pull employees from other programs to cover the shifts at its residential homes that must be staffed 24 hours a day, 7 days a week (24/7). This means that other individuals may go without services. Frontline case managers all the way up to senior leadership, including herself, are on call taking shifts to cover gaps - it is not sustainable. As currently written, SB 3006 does not provide the same access to third-party background checks to home and community-based providers. She asked that the bill be amended to allow the same options to agencies like The Arc as the options to hospitals and nursing homes.

[4:44:16 PM](#)

DEAN PAUL testified that he has worked for a few years as a direct service provider caring for other people, including his aging parents. He related that his daughter-in-law recently moved to Alaska but is unable to work in the nursing industry because her registered nurse (RN) license from another state has not been accepted by the State of Alaska. He further noted that during his 15 years of providing care, there have been challenges with the BCU taking way too long to hire DSPs, which put a further burden on him. He ended up selling his company in September 2014 because he couldn't run a successful company and care for his parents and help Mr. Ric Nelson.

MR. PAUL stated that getting provisional background checks has taken much longer than what the BCU says, and perhaps an inquiry is needed to check the data on how long it really has taken. He said he is nearly 64 and has health issues so will not be able to continue doing these types of services. He is concerned about what will happen to Mr. Nelson if the system is not fixed so that qualified direct service providers can be hired. He said he is in favor of this bill but doesn't understand why HCBS provider agencies have been excluded. He urged that this be included so it is a little easier to get the background checks.

[4:47:14 PM](#)

HEIDI YOUNG, Care Coordinator, Island Care Services, stated she has been a care coordinator serving clients all over Alaska for the past 12 years and she has never seen it this difficult to get providers through the background check unit. She said she has checked with all the providers she does business with and the two-week threshold that was quoted is not being met. She urged the committee to adopt an amendment to add home and community-based waiver services, which were designed to provide services in the community that a person would receive in an institution. These services allow people to go home from the hospitals, and without workers to do so Alaska's already overburdened hospital system is not going to see any relief soon. Alaska's long-term care unit beds are full, hospital capacity is being maxed out. If there is an emergency there is nowhere for people to go. Alaska is in a crisis, and these services are desperately needed to get Alaskans back into their homes and home communities. Agencies have waiting lists for people who are approved for these services, but the agencies cannot provide them.

[4:49:18 PM](#)

LIZETTE STIEHR, Executive Director, Alaska Association on Developmental Disabilities, explained that AADD is an association of 60 large and small providers across Alaska that service individuals with intellectual and developmental disabilities. She said she has been in this field for decades in several different positions and she can attest things have never been this difficult. [The pandemic] has steered people out of jobs where they are face-to-face with COVID-19. One program reported that its typical 35 percent annual turnover rate was 68 percent last year. There are not enough staff in the field right now to offer the services that are needed. An AADD poll found that up to 80 percent of managers are filling shifts because there are not sufficient DSPs to cover. This is not sustainable. Several providers noted that up to 50 percent of their shifts are being covered by supervisors or managers of their organization.

MS. STIEHR stated that compounding this difficulty is the extensive delay in hiring if providers are lucky enough to have applicants that they interview and want to hire. The background check from Alaska's unit has been significantly impacted by the malware attack. The background check unit working manually claims to process complete applications within 15 working days, but she has numerous stories of where that timeline has not been met. One provider turned in five complete background check

applications with a credit card for payment: three were paid with the credit card and two were not processed due to miss on payment. In addition, it is excruciatingly difficult to track whether the background check is being processed. This situation is untenable. She urged that the bill be amended to include home and community-based service providers to allow them to utilize third-party background checks.

[4:52:52 PM](#)

TABITHA ALONE, Executive Director, Hearts and Hands of Care, urged that the bill be amended to include direct care workers. She said her organization provides home and community-based waiver services and personal care services to more than 300 individuals and provides employment to about the same number of employees. Some of the challenges faced with the background check unit is loss of complete application items to include receipts that was provided by the background check unit after payment over the phone with a credit card. Yesterday an email was received about needing an additional two-day wait period beyond the fourteen days for the BCU to even acknowledge receipt of a complete application. Her organization has had instances of background check applications taking up to three months to gain a provisional determination. Even within three to four weeks of waiting for a provisional, her organization has had numerous employees or potential employees find other places of employment. The BCU has also impacted the amount of overtime that is currently being done. At the Medicaid reimbursement rate, this is contributing to provider burnout, shortage of shifts, and ensuring everyone has the services necessary for staying out of the hospitals. She said her organization supports amending the bill to add direct care workers to the background check.

[4:55:23 PM](#)

RONALD LITTLE, Co-owner, One Source Homecare Services, testified that everything the committee has heard from previous witnesses is exactly what is happening to his business. He said he respects the people at the BCU, but [direct care service providers] are not getting the results that they must have to provide the services that they agreed to provide. He said [direct care providers] must be given the ability to hire staff in a timely manner because without that ability he doesn't know how much longer his small company can stay in business.

[4:56:44 PM](#)

TYLER MCNEIL, Disability Services Program Manager, Community Connections, said he echoes many of the sentiments spoken to today regarding the home and community-based service programs and the hardships they have been facing. He explained that to be eligible for many of the services that Community Connections provides, the individuals served must meet nursing facility level of care. So, instead of receiving care in a nursing home these individuals are receiving care in their private homes and communities where they live. It is important to be able to meet the needs of these individuals, but with the delays in background checks for hiring new staff and getting them trained, organizations are functioning understaffed, resulting in burnout of existing staff, and Community Connections is seeing an increase in turnover that is really concerning. Excessive challenges in meeting the level of needs already existed in Alaska prior to COVID-19, and these have been exacerbated by the pandemic and the technological issues and attacks. He said he echoes the importance of flexibility for the background checks to add the home and community-based services.

[4:58:44 PM](#)

VICKI HERMAN urged the committee to vote for the bill with the vaccine amendments. She stated that this crisis with workers will only be made worse come mid-October when one of Alaska's major hospitals requires its nurses and health care providers to be vaccinated. She predicted there will be numerous nurses and health care workers who will be quitting their job because they are being forced to take the vaccine, making the personnel shortage worse. She urged committee members to vote for the bill with the vaccine amendments to save the constitutional right to choose for oneself on the vaccine.

[5:00:00 PM](#)

JACKI CHURCHILL, a registered nurse, shared her personal experience as a caregiver to her husband with cancer. She said cancer not only attacks healthy tissue, but attacks every aspect of life, including relationships and finances. The burden is real, the exhaustion is real, and any reduction in stress from this overwhelming situation is beneficial. If something positive could be said about COVID-19, it would be the suspension of the state law requiring an Alaska license to practice medicine by telehealth. The suspension had an astounding impact in that it instantly removed many of the burdens that come with having to travel out of state for medical

care. Over the past 20 years she and her husband have made three trips to Seattle for the purposes of having a lymphoma specialist recommend treatment options for what has turned out to be an unpredictable span of events. Treating cancer is hard work. For example, there are more than 70 types of lymphoma and each person's response to treatment is variable. Alaskans have great access to medical care locally, but quality care comes from collaboration and she and her husband have personally benefitted with each trip to Seattle.

MS. CHURCHILL related that in October, through a telehealth visit with her husband's specialist in Seattle, she and her husband were able to talk about how he was feeling, his lab results, and most importantly they were able to hear the doctor's opinion regarding the abnormalities on her husband's scan and discuss treatment options moving forward. Unlike the three prior visits when they had to fly Seattle, her husband was able to just slip on his shoes and not have to worry about the cost or time boarding their dog and two cats or parking at the airport or airfare for three people or a roundtrip transportation between the hotel and the airport or hotel fees or eating out or the loss of time from work and school or worrying about our home while away, especially with winter temperatures. Best of all she and her husband didn't have to worry about COVID-19 since her husband is considered immunocompromised. She and her husband are able-bodied so she cannot imagine what it would be like for a person in a wheelchair and using oxygen or a single parent or someone who lives remotely.

MS. CHURCHILL said telehealth should not be looked at as a replacement of the medical care but in conjunction with local medical care. As a nurse she knows that telehealth has been around for more than 24 years. She urged that this tried-and-true technology of telehealth be made more accessible and not be dependent upon where someone lives but what they have access to, and so she is asking for further access to that type of technology.

[5:04:52 PM](#)

DEBORAH BROLLINI testified in support of the bill. She related that she was an employee of "Cross Country Staffing" which had a management service contract with Providence Hospital that covered the traveling nurses and allied staff working temporarily throughout the state. During her tenure, she said, it could take up to six months to onboard travelers at

Providence. The licensing and background check issue is a long-term problem. Keep in mind that there are 49 other states and past employers who must verify employment. As an Alaskan she is not comfortable waiving background checks for hospitals because Alaska's hospitals are serving her family, friends, and neighbors. She said she can appreciate the governor wanting to backfill nursing and allied staff positions within hospitals, and she hopes "the legislature seeks reimbursement for their new HR duties."

[5:05:54 PM](#)

CO-CHAIR ZULKOSKY closed public testimony after ascertaining no one else wished to testify.

[5:06:04 PM](#)

CO-CHAIR ZULKOSKY invited Mr. Kosin to offer ASHNHA's comments on the bill.

MR. KOSIN stated that ASHNHA, which represents all of Alaska's hospitals and nursing homes, does not support the bill in its current form because of the amendments that were added. He said ASHNHA categorizes them as anti-vaccine efforts and things that would impede ASHNHA's effort on mitigation measures. Without those provisions added, ASHNHA does support the bill.

MR. KOSIN said it is important to acknowledge the origin of the bill. He related that ASHNHA has been meeting with the administration and the legislature and the bill has always been designed to be a pandemic response bill; it's about aiding a rapid response. While he appreciates his colleagues that are home and community-based service providers, the bill is not meant to address systematic problems within some of the processes in the department and the state. It is not a bill that is meant to be a health care reform bill, something to test different programs. It is truly meant to be a targeted effort to help hospitals and nursing homes in the field try and respond to what has turned into an increasingly daunting task.

MR. KOSIN pointed out that talk about the pandemic has evolved from case counts and coordination efforts to talking about crisis standards of care and whether there is a plan to ration care as Alaska continues down the road it is headed. This is as serious as it gets. The background check process is a means to get staff on the floor immediately where first responders are needed to respond to this crisis. He specified that the

utilization review piece is one potential tool that will improve throughput to get people out of the hospital into nursing homes and sub-acute care at a faster clip so that each of those hospitals as they were previously occupied can become available. Every bed counts. He stated that telemedicine helps reduce transmission risk and potentially sets a way to stand up more aggressive in-home patient monitoring efforts and things of that nature to keep people out of the acute settings. Members of ASHNHA, he said in conclusion, respectfully request that this bill be adopted as it was originally introduced, or close thereto, and that the committee move on it as quickly as possible.

5:09:46 PM

REPRESENTATIVE KURKA posited that the crisis seems to be more about lack of available health care workers, not the number of beds, although the focus earlier in the pandemic was about beds and equipment. He asked whether Mr. Kosin has tracked the number of health care professionals. He said his understanding is that there have been thousands if not tens of thousands of health care professionals who are leaving the industry and/or leaving their job for a different one in a different location because they are being forced to take the COVID-19 vaccine that they do not want to take.

MR. KOSIN responded that the statement that tens of thousands of health care workers are leaving the market due to mandated vaccines is not correct based on the information he has been shown, especially in Alaska. He said ASHNHA is not collecting that as a datapoint, but ASHNHA is talking to hospital leaders as well as nursing home leaders as these vaccine programs and protocols are being implemented to ask about the effect on the workforce and to date ASHNHA has not received any meaningful concern about a significant exodus of staff. But, he allowed, ASHNHA has not tracked that from a statistical point of view.

REPRESENTATIVE KURKA clarified he was speaking on a national level with that number.

MR. KOSIN replied he was speaking on a national level as well.

5:12:33 PM

REPRESENTATIVE MCCARTY recalled a testifier having stated that third-party entities were allowed to do the background check. He surmised there is a standard that third-party entities must comply with and requested clarification in this regard.

DEPUTY COMMISSIONER WALL deferred to Ms. Kraly to provide an answer.

MS. KRALY responded that she would need to talk with the BCU to learn what was decided in the immediate days following the cyber-attack.

[5:14:21 PM](#)

REPRESENTATIVE PRAX offered his understanding that ASHNHA is opposed to the vaccine provision [in the current bill version]. He requested clarification on whether ASHNHA would object to including the home and community-based providers in this bill.

MR. KOSIN answered that it is a hard thing to do working for hospitals and nursing homes and understanding the continuum of care. He said ASHNHA believes, being on the frontlines on the ground right now, that it is important to prioritize very targeted response efforts and those efforts should be limited to the content in the bill as it was introduced or something very similar to that.

REPRESENTATIVE PRAX stated he isn't seeing a reason why the home and community-based care providers who seem to be having the same challenge shouldn't be offered the same opportunity to expedite their hiring process. He requested Mr. Kosin to explain the objection.

MR. KOSIN replied that the bill, as it was contemplated from the beginning, is about rapid response in responding to the pandemic; it is not a health care reform bill. There could be the same question and answer about ways to approach reforming Medicaid. Right now, the legislature is in special session and the biggest crisis point is about the pandemic and responding on the frontlines, not about the cyber-attack on the department or other things that have affected Alaska's economy or way of life. So, while he supports his colleagues in the home and community-based sector, he must urge the committee, if it is prioritizing a rapid response, that that rapid response occur almost exclusively in hospitals and nursing homes.

[5:17:03 PM](#)

CO-CHAIR ZULKOSKY inquired about the tools, issues, or solutions that DHSS has put forward to address the background check delays beyond SB 3006.

DEPUTY COMMISSIONER WALL responded that this hearing has been about two different provider types - the hospitals and the home and community-based service (HCBS) waivers. The hospitals, he said, have a background check that is built into what they do as an organization and as an institution. They are accredited by an outside third party that also tracks their background checks and the validity of their personnel. There are many checks and balances that ensure providers have had the right types of background checks for their credentials, for their licensure, and for enrollment as a Medicaid provider. Hospitals have the emergency rooms, so from his perspective it is somewhat of life/limb/or eyesight issue specifically for their emergency rooms and their personnel. Hospitals also have a number of applications that come through sometimes in groups. On the other side of that coin, he continued, are the home and community-based service providers that are very much needed, and it isn't being said that DHSS isn't going to do the background checks in an expedited fashion. Home and community-based waiver service providers, he pointed out, do not have the overarching one-size-fits-all-this-is-how-things-are-done in this facility for background checks and for personnel. For that, many HCBS providers rely upon DHSS to process their background checks because they don't have an overarching body like a credentialing unit within a hospital.

DEPUTY COMMISSIONER WALL continued and presented a scenario to explain why the proposed legislation, in its original form, will also speed up the background check process for HCBS providers. He posed a scenario of having a stack of applications on a desk, 50 from a hospital and 50 from health and community-based services providers. Under the proposed legislation, the 50 applications from the hospitals would be taken out of the stack for a short period of time, allowing the department to focus entirely on the other service providers for the exact purpose of processing their applications more quickly. The legislation will speed up the process of processing home and community-based waivers background checks, and other providers, by taking a known block of providers, the hospital facilities, out of that mix for a short period of time until the situation can be addressed for COVID-19.

[5:21:06 PM](#)

CO-CHAIR ZULKOSKY asked whether legislation is the only avenue for hospitals to achieve the flexibilities needed on background checks.

MR. KOSIN answered yes and no. He said ASHNHA is working with DHSS directly to see what unilateral authorities exist to try to secure different processes for its members, which has been a successful process. No, it's not the exclusive route for achieving some of the flexibilities needed, but it is the gold standard for ASHNHA because it sets it in statute and takes away any ambiguity. He stressed that ASHNHA is asking for anything and everything right now and added that the department has been extremely helpful particularly on the background check piece.

[5:22:06 PM](#)

REPRESENTATIVE FIELDS, for the benefit of the witness whose [daughter-in-law] is licensed in another state as a registered nurse, noted that 12 AAC 44.318, Emergency Courtesy Licenses for Nurses, allows the department emergency licensing for nurses. He said his understanding is that DHSS uses this already and the daughter-in-law could work with her prospective employer on getting her license through that existing authority.

[5:22:37 PM](#)

CO-CHAIR SNYDER said it is clear from testimony and e-mails received from stakeholders and constituents that the committee is getting mixed messages on the speed of background checks. She said it would be helpful to get some clarity on that issue from the department. Regarding speeding up the background check or loosening up the requirements temporarily for hospitals and nursing homes, she said she anticipates that that would then free up resources to address the other background checks. She inquired about the real-world percentage distribution of applications between hospitals and HCBS so the committee could get a sense of how much would be freed up in terms of resources.

DEPUTY COMMISSIONER WALL replied he doesn't know the percentage off-hand and will get that information back to the committee.

CO-CHAIR SNYDER stated she would like to receive that information along with the previously requested documentation. She asked whether the deputy commissioner could provide a ballpark percentage.

DEPUTY COMMISSIONER WALL responded that he does not know, and it would be better for him to get back with a correct answer.

[5:24:53 PM](#)

REPRESENTATIVE KURKA drew attention to Section 4(3)(b), on page 3, lines 20-24, which addresses the amount charged by the telehealth provider. He presumed that for telehealth, providers could be used nationwide, and a provider could be a specialist that is very rare in that field. He opined that price controls in this provision muddy the waters and do not seem appropriate.

DEPUTY COMMISSIONER WALL deferred to Ms. Chambers to answer.

MS. CHAMBERS responded that this section has been in the legislation that the legislature has approved in the last two COVID-19 mitigation bills and [DCCED] requested that this be repeated here because more than anything it suggests that telehealth providers should not take advantage of an unusual situation and price gouge or otherwise work outside of what may be customary in their markets. This is a measure that hopes to set a tone more than a particular type of control. For this reason, during the last year or so that this has been in place, there has been no disciplinary type of outcome for a provider.

[5:28:34 PM](#)

REPRESENTATIVE KURKA stated he is thinking of telehealth as being potentially nationwide service and the opportunity for price shopping and comparing providers and their qualifications and their pricing is a good thing. He said he therefore doesn't see the need for this, and it is counterproductive for the purposes of telehealth.

MS. CHAMBERS replied that she understands but reiterated that this is language the legislature has already approved twice, and the hope is to fast-track the legislation to get solutions in place. She said it would be a policy call for the legislature to depart from what it previously approved and remove it in an amendment. That was the intent behind the legislation previously, she added, and this bill is simply to avoid some sort of a price gouging scenario.

[5:30:07 PM](#)

REPRESENTATIVE PRAX asked whether the background check is a search of publicly available databases, and the source would be government databases.

MS. KRALY answered that some civil registry databases are public and available but some of the information is tied to

confidential information, in particular information related to the Office of Children's Services, so not everybody can access that information, nor does everybody have permission to receive that information. The sex offender database and some of the information on the Office of Inspector General database with respect to Medicaid fraud and those sorts of things would be publicly available but some of the information being looked at in terms of substantiated findings of abuse/neglect are not publicly available.

REPRESENTATIVE PRAX said it sounds like the state is providing a service to these home and community-based providers. He asked whether there would be any reason why they could not obtain the same information through a third party.

MS. KRALY answered that some of the information could be provided or identified but some of the information is not publicly available, so it is not an apples-to-apples comparison of the databases that are required to be reviewed. Some of the information with respect to juvenile delinquency findings and Office of Children's Services is confidential as a matter of state law. That information could not be gathered [without] having the proper clearances, so a third-party vendor or even an individual couldn't do those checks on their own.

[5:32:58 PM](#)

The committee took an at-ease from 5:32 p.m. to 5:47 p.m.

[5:47:57 PM](#)

CO-CHAIR ZULKOSKY entertained amendments to the bill.

[5:48:20 PM](#)

CO-CHAIR SNYDER moved to adopt Amendment 1, labeled 32-GS3384\B.A.2, Fisher, 9/11/21, which read:

Page 1, lines 1 - 3:

Delete **"relating to COVID-19 immunization and proof of vaccination; relating to personal objections to the administration of COVID-19 vaccines; relating to COVID-19 immunization rights;"**

Page 1, line 12, through page 2, line 23:

Delete all material.

Renumber the following bill sections accordingly.

Page 4, line 12:

Delete "Sections 4 and 5"

Insert "Sections 3 and 4"

CO-CHAIR ZULKOSKY objected for the purpose of discussion.

CO-CHAIR SNYDER explained Amendment 1 would remove Section 2 in its entirety, which pertains to proof of vaccination, personal objections to the administration of vaccine, access to areas and services, and exercise of rights and access. She recounted that the committee heard from the hospitals today that a clean bill, or a bill as close to its original form as possible, would be the most helpful and best meet their workforce needs. The inclusion of Section 2 introduced new problems that could undo the good that would otherwise be done. Sec. 18.09.270 presents challenges about using a positive antibody test or documented COVID-19 test in lieu of proof of vaccination. As heard from Dr. Zink that there isn't enough information to safely and reliably utilize that method. Sec. 18.09.280 is already covered federally, and the phrase "other grounds" adds uncertainty and vagueness that could cause problems. Sec. 18.09.290 clearly limits what businesses can decide for what they want to do with their employees to meet the needs of their own business and keep their workforce safe so they can keep operating. Sec. 18.09.300 is not good public health policy; it is not for the benefit of the public good.

[5:51:12 PM](#)

CO-CHAIR ZULKOSKY asked whether antibody testing or proof of previous infection is a public health protective measure that protects other individuals from potentially being exposed to COVID-19 in an outbreak scenario.

DR. ZINK replied no, antibody testing is not a useful tool in the setting of an outbreak; it has limited usefulness overall as a public health measure. The CDC has lots of information on this and the use of antibody testing. It can be occasionally useful in clinical decision making, for example when trying to determine the cause of a blood clot, but as a public health tool it is not useful at this time.

DR. HODGES agreed that there is no utility of antibody testing and added that it may harm any efforts.

[5:52:35 PM](#)

REPRESENTATIVE KURKA objected to Amendment 1. He argued that it is always in the best interests of businesses, especially larger businesses, to give them more authority over their workforce and removing these provisions would be an affront to workers' rights to make their own health care decisions. Regarding natural immunity versus vaccine-based or acquired immunity, he said he has yet to hear any solid evidence to contradict thousands of years of medical science, and he awaits to see that from Dr. Zink. The COVID-19 vaccine is so new that there hasn't been time to study it, and the studies he is aware of say that viral shedding is far greater from individuals who have been vaccinated than individuals who have natural immunity.

[5:55:10 PM](#)

REPRESENTATIVE FIELDS stated his support for Amendment 1. He argued that he has clearly heard from providers that if the anti-vaccine language is not removed, this bill would do more harm than good. A low vaccination rate is driving Alaska's overfull emergency rooms. Some people, such as kids under the age of 12, cannot be vaccinated, so anti-vaccine language directly imperils kids like his own.

[5:55:42 PM](#)

CO-CHAIR ZULKOSKY asked whether COVID-19 vaccines are still considered experimental.

DR. HODGES responded no; the Pfizer vaccine has received full U.S. Food and Drug Administration (FDA) approval. The emergency use authorization in the US of Moderna, as well as Johnson & Johnson, does not mean the drug or the vaccine is experimental; it has undergone rigorous simultaneous FDA approval. It just means that the phase IV trials have not been completed.

CO-CHAIR ZULKOSKY said there has been some confusion around how quickly the vaccine came to being and often people say steps were skipped in the process of developing these vaccines. She requested the doctors to speak to why a COVID-19 vaccine was made available so quickly.

DR. ZINK was unavailable.

DR. HODGES was trying to call back online after losing contact.

[5:57:22 PM](#)

REPRESENTATIVE SPOHNHOLZ offered her support for Amendment 1. She argued that the science on this is clear as heard from the medical professionals today. As reported by Dr. Zink, the latest research is presented during the ECHOs with the public, and it has been clear that the vaccine is not experimental and is built on over 150 years of vaccine science. The quick vaccine development was built on over 150 years of vaccine knowledge and science. Scientists across the world set aside everything else to work on developing these vaccines, which have helped to make people much safer. The hospitals clearly stated today that it is critical to have widespread vaccination use for hospitals to be safe and to ensure that those who are cared for in hospitals are safe. The first responsibility of health care providers is to do no harm and that means not bringing a virus into a hospital where medically fragile people are being cared for. Hospitals, as private employers, need to have the tools necessary to ensure that Alaskans are safe.

[5:59:42 PM](#)

CO-CHAIR ZULKOSKY reiterated her question regarding the speed and efficiency with which a COVID-19 vaccine occurred. She requested Dr. Hodges to speak to whether steps were skipped in the vaccine safety process.

DR. HODGES answered that it is important to understand that many steps must be taken to bring a medication like a vaccine to market. The federal government, through Operation Warp Speed, guaranteed a profit to the drug companies that agreed to develop a vaccine so they wouldn't have to take a risk on a medication or vaccine that might not make it or might not be safe or for other reasons would have to be taken off the market. In Operation Warp Speed, all the normal steps to assure that a vaccine is safe were taken, they were just allowed to be taken simultaneously because of the support of the federal government. No steps were skipped. It is a credit to all the scientists who did this round-the-clock work on the research and development of these vaccines, and they have used successfully, safely, and effectively on billions of people worldwide.

[6:01:10 PM](#)

REPRESENTATIVE MCCARTY stated that the premise of the bill is to get health care workers to meet the need that is greatly there. He argued that requiring vaccination means health care workers

who don't want to get vaccinated cannot help with this need, creating an even greater problem with lack of workers. He said he is not against vaccines. As a mental health care person, he has physicians working for him, and when he hears of [problems] or death due to a vaccine or drug it raises a great question. He has heard of people just recently who have been vaccinated and have died from COVID-19 or died from the vaccination. He asked what the doctors are hearing and whether it raises concern when people say they want to wait a little longer to see what is going on because they don't want to be one of those statistics.

DR. HODGES replied she is aware of people who have died after being vaccinated with COVID-19 vaccine. However, she continued, the risk of dying in Alaska is about 7.5 - 8 times higher for an unvaccinated person and an unvaccinated person's risk of getting COVID is much, much higher, although she doesn't have those numbers at hand. The risk of getting and dying of COVID-19 is much, much higher with an unvaccinated population. Everyone in the health care field shares the concern about people dying from the vaccination as none would want to recommend a medication or vaccine that might cause harm to their patients. However, it is important to take to mind that the risks of getting COVID-19 and dying of COVID are much, much higher than the risk of a vaccine. There are some well-done papers comparing some of the various risks of the complications of COVID-19 to the risk of the complications of the vaccination. On a balance, the risk of catching COVID-19 is much higher than the risk of having the vaccination done.

[6:05:53 PM](#)

REPRESENTATIVE MCCARTY asked whether the risk of losing health care workers at this time is acceptable or not acceptable by requiring the standard that they must be vaccinated.

MR. KOSIN responded that he must base his answer on the hospital operators whom he talks to across the state, many of which have mandated or are going to mandate vaccine requirements. On top of that the federal government is doing it as well. He has not heard from any hospital operator a significant concern that there is going to be some meaningful exodus in Alaska's health care workforce from that policy. So, no, ASHNHA is not concerned of it, and, no, ASHNHA does not think the risk is significant enough to not move forward with that policy.

[6:07:15 PM](#)

CO-CHAIR ZULKOSKY inquired about the economic impacts that hospitals might encounter should Section 2 remain unamended and move forward in the bill.

MR. KOSIN answered that if this were to become law and if it were to interfere in any health care facilities that receive Medicare or Medicaid funding or reimbursement, it would interfere in a facility's ability to comply with federal law and then they would lose Medicare and Medicaid funding. There is no hospital or nursing home in the country or Alaska that could remain open and provide health care without Medicare and Medicaid services. So, the economic impact would be a shutdown of hospitals, nursing homes, and beyond, across the state.

[6:08:26 PM](#)

REPRESENTATIVE KURKA referred to the CDC's website that tracks adverse reactions to vaccines. He maintained that it is well known this system is underutilized and underreported, and that more than half of the adverse events on the website are from COVID-19 vaccines in the last year or two. He also maintained that up to 80 percent of pregnant women taking the vaccine lose their child in-utero.

DR. HODGES replied she is aware of the vaccine adverse event reporting system (VAERS). She said she is not sure about the statistics cited by Representative Kurka, but that VAERS is used in the US to track adverse events to vaccinations and is used robustly. For example, she was handed a way of interacting with that system when she got vaccinated. Because of VAERS, a brief pause was placed on the Johnson & Johnson vaccine for the concern of myocarditis, so the system is robust enough to detect adverse events and problems that are associated with vaccines. Regarding up to 80 percent of women having a death in-utero after a vaccination, she said that is not her understanding of the current facts of vaccination. Several observational studies have shown that vaccines are safe and effective in pregnancy and that pregnancy is a risk for severity of COVID-19. Pregnant women have about a 2-3 times higher rate of intensive care unit admission and a 2-3 times higher rate of death when they get infected with COVID-19 than a non-pregnant person would have.

[6:12:03 PM](#)

The committee took an at-ease from 6:12 p.m. to 6:20 p.m.

[6:20:38 PM](#)

CO-CHAIR ZULKOSKY removed her objection to Amendment 1.

[6:20:49 PM](#)

REPRESENTATIVE KURKA maintained his objection to Amendment 1. He asked Dr. Hodges to name the study she was referring to. Regarding the statement that the COVID-19 vaccines were built on 150 years of research, he said his understanding is that these new vaccines are using new technology with mRNA technology that alters human DNA. He asked Dr. Hodges or Dr. Zink to address whether that has been used in other FDA-approved or CDC-approved vaccine for treating other diseases.

CO-CHAIR ZULKOSKY stated that the committee is talking about the merits of Amendment 1 and that contact information for Dr. Hodges could be provided to Representative Kurka.

REPRESENTATIVE KURKA said it is important for the record as Amendment 1 addresses these specific vaccines.

[6:22:06 PM](#)

REPRESENTATIVE PRAX related that there is a video on the National Institute of Health's website that confirms what Co-Chair Zulkosky said about the process involved. However, he continued, he represents the dozens of people who have sent him emails as opposed to the few who have basically said a vaccine is needed. Because he has not found enough documentation to say that vaccines are so proven that his constituents should be "economically coerced" into accepting a vaccination and because someone else in the other body thought it was a good idea, he is hesitant to take this out of the bill.

[6:24:39 PM](#)

CO-CHAIR ZULKOSKY said she finds it problematic for the State of Alaska to tell private employers how they should conduct their businesses and the policies that they should be setting. Under the language of Section 2, the State of Alaska is dictating to private employers, whether Alaska Native corporations or hospitals or private venues, how they should conduct their business. She said she is not in a position of supporting big government in that way and therefore supports Amendment 1.

[6:25:36 PM](#)

A roll call vote was taken. Representatives Spohnholz, Fields, Snyder, and Zulkosky voted in favor of the motion to adopt Amendment 1. Representatives Kurka, McCarty, and Prax voted against it. Therefore, Amendment 1 was adopted by a vote of 4-3.

[6:26:26 PM](#)

REPRESENTATIVE FIELDS moved to adopt Amendment 2, labeled 32-GS3384\B.A.4, Fisher, 9/11/21, which read:

Page 1, lines 5 - 6:

Delete "**relating to certificates of need;**"

Page 4, lines 7 - 11:

Delete all material.

Renumber the following bill sections accordingly.

CO-CHAIR ZULKOSKY objected for the purpose of discussion.

REPRESENTATIVE FIELDS explained that Amendment 2 would clean up language added in the Senate that suspended certificate of need. As heard in testimony, it is unrelated to addressing the workforce issues related to COVID-19. Also, as heard in testimony, suspending certificate of need would ultimately drive up costs for Alaskans and would destabilize facilities that could ultimately lead to emergency rooms shutting down where they are critically needed. He said Amendment 2 is imperative before moving the bill forward.

[6:27:19 PM](#)

REPRESENTATIVE KURKA objected to Amendment 2. He argued that the certificate of need has been a substantial problem for years and is a version of "protection racket" that creates a monopoly and gives a single bureaucrat control over whether someone can set up shop and provide health care in a community, and to the same level, a hospital. What is needed is more providers, more competition, not less. If existing hospitals cannot compete and cannot provide the same level of care for the same price as competitors, then maybe that is a statement about their motives or the way they run their business.

[6:28:48 PM](#)

CO-CHAIR SNYDER cautioned that there is an alternative vantage point when talking about certificate of need and economic drivers. Health care is quite different than going out and shopping for a person's next new car, she argued. Alaskans and Americans cannot shop for health care, usually, in the same way, particularly when talking about emergency services. Someone with a compound fracture is not going to scroll through the Web to find the cheapest price for care. It has been shown that without these certificates of need Alaska stands to see the proliferation of health care facilities that provide unnecessary capacity and then the market is flooded with beds that cannot be filled because there is not the demand. This will then result in a situation where providers must figure out how else they are going to pay for the services and the overhead and that results in increased prices. This would be a very large policy change that can be debated at length another time. She urged members to not go down that road as they try to address these very immediate needs this evening.

[6:30:28 PM](#)

REPRESENTATIVE PRAX said he supports repealing certificate of need requirements but finds Co-Chair Snyder's argument compelling in this case. This is not directly associated with what this bill is trying to accomplish, he argued, and he has not had a lot of calls asking for the certificate of need to be repealed. So, while he thinks it is a good idea and a debate that the legislature needs to have, this probably isn't the right way to make that policy change, and therefore he supports Amendment 2.

[6:31:24 PM](#)

CO-CHAIR ZULKOSKY argued that [the provision in the bill] is not germane with respect to the underlying bill which is looking at addressing capacity and staffing issues for an immediate crisis. She removed her objection to Amendment 2.

[REPRESENTATIVE KURKA maintained his objection to Amendment 2.]

[6:31:50 PM](#)

A roll call vote was taken. Representatives Prax, Spohnholz, Fields, McCarty, Snyder, and Zulkosky voted in favor of the motion to adopt Amendment 2. Representative Kurka voted against it. Therefore, Amendment 2 was adopted by a vote of 6-1.

[6:32:47 PM](#)

REPRESENTATIVE SPOHNHOLZ moved to adopt Amendment 3, labeled 32-GS3384\B.A.5, Fisher, 9/11/21, which read:

Page 3, line 29, following "APPLICABILITY.":
Insert "(a)"

Page 4, following line 6:
Insert a new subsection to read:

"(b) Notwithstanding any other provision of law, a public home care provider described in AS 47.05.017 or a provider of home and community-based waiver services financed under AS 47.07.030(c) may employ a person without obtaining a background check from the Department of Health and Social Services if the provider

- (1) has 200 or more employees;
- (2) obtains approval from the Department of Health and Social Services of the provider's pre-employment vetting system, which must include proof that a valid fingerprint-based background check that is substantially similar to a background check required under 7 AAC 10.910(a) is conducted as part of the hiring process; and
- (3) not later than July 1, 2022, obtains a background check from the Department of Health and Social Services for each person hired by the provider between the effective date of this Act and July 1, 2022."

Page 4, following line 11:
Insert a new bill section to read:

"* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

NOTIFICATION TO REVISOR OF STATUTES. The commissioner of health and social services shall notify the revisor of statutes in writing when the New Alaska Background Check System (NABCS) is online and functional."

Renumber the following bill sections accordingly.

Page 4, line 12:
Delete "5"
Insert "5(a)"

Page 4, following line 12:

Insert a new bill section to read:

"* Sec. 9. Section 5(b) of this Act is repealed on the earlier of

(1) the date the commissioner of health and social services notifies the revisor of statutes in writing under sec. 7 of this Act that the New Alaska Background Check System (NABCS) is online and functional; or

(2) July 1, 2022."

Renumber the following bill section accordingly.

[6:32:49 PM](#)

CO-CHAIR ZULKOSKY objected for the purpose of discussion.

[6:32:53 PM](#)

REPRESENTATIVE SPOHNHOLZ spoke to Amendment 3. She noted that the dozens of home and community-based providers who testified today expressed exasperation at the length of time it is currently taking for background checks to be processed by DHSS. An intersection of two things happened - COVID-19 produced challenging worker shortages in many industries, including health care, and then a cyber-attack on DHSS that forced the department's system to shut down. This perfect storm of events has meant that home and community-based service providers throughout Alaska are struggling to get new employees onboarded in a timely manner. This [amendment] was drafted in partnership with DHSS to come up with a modest solution that would allow employers providing home and community-based waiver services that have 200 or more employees to temporarily implement background checks themselves. The committee heard this evening from a CEO who runs an organization with 600 employees, and this CEO was working a group home last night because her staffing shortage was so bad. She offered her appreciation for the department's willingness to come up with a compromise solution.

[6:35:10 PM](#)

CO-CHAIR SNYDER offered her support for Amendment 3. She recalled the statement of one witness that adopting this amendment would make it possible for individuals who are in the hospital receiving care to go home and thereby opening facilities and resources to meet the crush of demand on Alaska's hospitals. She said she was also moved in hearing that the

solution to background checks for hospitals and nursing homes would alleviate the pressure on DHSS and allow the department to refocus its efforts on the requests from home health care.

[6:36:24 PM](#)

The committee took an at-ease from 6:36 p.m. to 6:38 p.m.

[6:38:26 PM](#)

REPRESENTATIVE MCCARTY moved to adopt Amendment 1 to Amendment 3, [which would, on page 1, line 10, delete "200" and insert "25"].

[6:38:44 PM](#)

REPRESENTATIVE SPOHNHOLZ objected.

REPRESENTATIVE MCCARTY explained that Amendment 1 to Amendment 3 would delete the number "200" and change it to "25" because there are quite a few home-based programs that are smaller in employee number than 200 and they are trying to survive as well. He noted that Amendment 3 and the language in the bill state that all agencies or organizations must be DHSS background checked by July 1, 2022, if the system is working by then. Small business operations of 25 or more employees should receive the same privilege of getting background checks rapidly to sustain their existence and provide services to people who are no longer in the hospital but have come to that business.

[6:40:23 PM](#)

REPRESENTATIVE PRAX said he supports Amendment 1 to Amendment 3 but would go further by just deleting the number of "200". He noted that the committee heard from quite a number of home and community-based [service] providers that are struggling. The providers are not going to just hire anyone off the street. All the providers should be given the same opportunity. Even 25 seems unnecessarily high and the number could just be deleted, he suggested. He requested the department's view.

DEPUTY COMMISSIONER WALL stated that Amendment 3 is asking a threshold of number of employees that an organization would have that would be waived in the same way that hospitals would be waived. A small percentage of the approximately 750 assisted living homes in Alaska have a large number of employees, but as well these homes have a more robust human resources (HR) process

and they have background checks that they do within those, although it is not 100 percent of them. Of the applications coming through from hospitals and nursing homes, about 25 percent are from hospitals, so about 25 percent of the workload would be removed from the background check unit, allowing the unit to focus on the remaining applicants. He said the threshold of the larger organizations makes sense when he looks at the processes their HRs use for clearing their own personnel and for the department's relationship with them as a provider.

6:44:54 PM

REPRESENTATIVE PRAX stated he is trying to get an idea of the scope of the problem that is trying to be addressed.

DEPUTY COMMISSIONER WALL replied that there are about 750 assisted living homes in Alaska, with the majority being smaller organizations. He clarified that the 25 percent of the workload that he was talking about in the background check unit is the volume of applications that come in across the board, it doesn't have anything to do with how many assisted living homes there are or how many hospitals there are - it has to do with the volume of applications and about 25 percent of those are hospital applications. Being looked at in this discussion, he pointed out, is the fine balance between safety and efficiency. The rules around background checks and having a thorough application process are there to protect patients who are in a vulnerable state. So, there must be some checks and balances on the process, some rationale behind how it is done, to provide the best chance of always keeping patients safe and not exposing them to undue harm or personnel that wouldn't be wanted if their background was known. This legislation has attempted to put together the best window possible with what DHSS has to work with, not only the manpower within the background check unit but also the procedures that the various providers go through to get their applicants through this process. He stated he strongly believes that if hospitals are allowed this wiggle room and DHSS can process the applications for the assisted living homes faster because of it during this period of time of waiver, DHSS will be able to meet both needs at the same time.

6:47:50 PM

REPRESENTATIVE PRAX inquired about the percentage of applicants weeded out because of the background check process.

DEPUTY COMMISSIONER WALL replied that he doesn't know the percentage offhand, but that there is a percentage. He said there is also a variance process that people go through if they've had something in their background that would normally make them ineligible to enroll, but because they fulfilled the terms of their court order they can be reinstated. He said he will provide the percentage in writing. In further response, Deputy Commissioner Wall said he doesn't have a rough estimate of the percentage offhand, but he can get that number quickly.

6:49:22 PM

REPRESENTATIVE KURKA inquired about the origin of the number. He said he agrees with Representative Prax because he dislikes giving bigger businesses a competitive advantage, from a regulatory standpoint, over smaller ones.

REPRESENTATIVE SPOHNHOLZ responded that the reason for picking employers of 200 or more was a workload issue for the folks at the DHSS background check unit. Many of the [750] assisted living homes are mom-and-pop shops with essentially 20 employees and no professional HR department and very little capacity to create the rigorous policies that would be necessary. The idea with the threshold of 200 employees or larger was that it would be a small number of employers that would have a large number of employees who would need background checks. Those organizations that meet that threshold will have very professional HR departments that will be able to manage the very serious process of doing background checks. She said she feels strongly about having a rigorous background check process for people who are caring for folks who are physically or intellectually vulnerable and cannot provide care for their own selves and must have people come into their homes to help them with the most intimate of daily functions. In talking with DHSS and DOL, it was thought that this compromise zone would allow for increased efficiency, accelerating the number of background checks that are processed by diverting a portion of those background checks that need to go through the BCU and thereby speeding up the processing time for mom-and-pop shops over the next few months while the department works to get the online system back online. Once the online system is back up, everything can return to when background checks were processed in three to five days, which is good for everybody.

6:52:55 PM

REPRESENTATIVE KURKA asked why background checks need to be run through DHSS.

REPRESENTATIVE SPOHNHOLZ answered that when running a background check, DHSS is checking about seven databases, including the FBI's criminal history, the Department of Public Safety's criminal justice information, sex offender lists, and other databases. Checking these databases is to ensure these folks don't have any background that would indicate they might not be able to keep the people they are charged with safe.

[6:54:24 PM](#)

REPRESENTATIVE KURKA stated his question again for Deputy Commissioner Wall to answer.

DEPUTY COMMISSIONER WALL replied that Representative Spohnholz answered the question spot on. He said there are several different and rigorous checks that the department must make, and that there is a difference between running a third-party background check and running it through DHSS. He deferred to Ms. Kraly to answer further.

MS. KRALY explained that background checks are required by federal law for many of the programs administered through DHSS. All these providers are recipients of federal and state funds and as a matter of federal law they are required to have background checks. A background check is broader than just a criminal history check, it also includes a robust check into other civil matters that may provide an indication that an individual is not appropriate for providing direct service care. Many of those registries are confidential registries that are housed within DHSS, so managing these programs through DHSS makes sense because these are programs that [DHSS] pays for and administers. Also, it is important that DHSS maintain the control over that because of the confidential nature of the databases that are required to be searched both as a matter of state and federal law.

[6:56:58 PM](#)

REPRESENTATIVE PRAX surmised that, given the background check is required by federal law, someone wanting to have their own background check would have to be approved by the state. He further surmised that a mom-and-pop provider would still have to go through a background check of some sort if they were participating in a federally funded program.

MS. KRALY replied correct, the federal requirements are there. She said the state's system mirrors and buttresses the federal requirements and allows the state to provide those services on behalf of the providers that it licenses and pays through the department's programs.

REPRESENTATIVE PRAX commented that from today's testimony he thinks the greater concern, which he hasn't been able to verify, is that having any assistance is more urgent than having a fully background checked [employee]. He offered his presumption that the department is being overly cautious and therefore people who need the care aren't getting it because the people simply aren't available there to provide it and something is better than nothing. He said he therefore supports [Amendment 1 to Amendment 3] to lower the number to 25.

[6:58:59 PM](#)

CO-CHAIR ZULKOSKY stated that the intention of the bill and the underlying bill overall is in very narrow response to hospital capacity for COVID-19. She said she appreciates and understands the perspective shared overwhelmingly in public testimony today. However, she continued, she is struggling with the concern that the [underlying] amendment drops what should be a solution by the department for a separate but somewhat related issue into a bill that seeks to narrowly focus on COVID-19 response.

[7:00:11 PM](#)

REPRESENTATIVE SPOHNHOLZ maintained her objection to Amendment 1 to Amendment 3.

REPRESENTATIVE MCCARTY stated that the amendment to Amendment 3 is not countering the need for background check and verifying that we have vetted people to serve and that is not at all what it's about. This is about is the demand of people in the field and being able to serve the demand that is there, yet people wanting to work cannot be hired fast enough because of the dynamics that are there, no fault of DHSS. As things get fixed, as well as people having to get department authorization by July 1, some businesses may decide to go through DHSS, but others could elect to go elsewhere if given this temporary privilege.

CO-CHAIR SNYDER noted that all seven committee members are concerned about the background check delay and what that means for Alaska's health care system and the Alaskans it serves. She

said she is trying to thread the needle in finding a balance between what she heard in public testimony and the department. She said she therefore may not support Amendment 1 to Amendment 3, but that Amendment 3 feels reasonable, and she will "hang her hat" on the increased capacity that would be opened up by passing the bill.

[7:03:17 PM](#)

A roll call vote was taken. Representatives McCarty, Prax, and Kurka voted in favor of the motion to adopt Amendment 1 to Amendment 3. Representatives Fields, Spohnholz, Snyder, and Zulkosky voted against it. Therefore, Amendment 1 to Amendment 3 failed to be adopted by a vote of 3-4.

[7:04:08 PM](#)

CO-CHAIR ZULKOSKY announced that Amendment 3 is back before the committee. She requested Commissioner Crum to provide DHSS's view on Amendment 3.

COMMISSIONER CRUM replied that Amendment 3 is a good compromise for the overall system and DHSS supports it. He explained that the BCU is not just for health care providers, it also does foster care parents, childcare providers, even taxis for the Medicaid program. So, per the original bill, taking away the facility-based providers would be a 25 percent [reduction in the BCU's] workload and, the 200-plus employee facilities in Amendment 3 would be another large removal from the [BCU] system, thereby increasing the overall bandwidth to address the needs of the other assisted living facilities as well as the home and community-based providers. He further stated that DHSS is considering making a change towards allowing transference of people who pass the background check moving between providers.

CO-CHAIR ZULKOSKY stated that the committee may want to consider a hearing with an update from DHSS regarding ongoing needs of the department after the cyber-attack.

[7:07:07 PM](#)

REPRESENTATIVE MCCARTY drew attention to page 1 of Amendment 3, beginning on line 23, which states, "The commissioner of health and social services shall notify the revisor of statutes in writing when the New Alaska Background Check System (NABCS) is online and functional." He said this leads him to believe that whatever is existing now is not functional. He asked whether

Commissioner Crum is saying that things for the background check are now functional.

COMMISSIONER CRUM responded that the internal background check system is still down from the cyber-attack, so background checks are being done by hand. Once the system is back online, he continued, people will be run through the normal process and hopefully no one will have to be removed.

[7:09:02 PM](#)

CO-CHAIR ZULKOSKY removed her objection to the motion to adopt Amendment 3. There being no further objection, Amendment 3 was adopted.

[7:09:32 PM](#)

CO-CHAIR SNYDER moved to report CSSB 3006(L&C) am, as amended, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, HCS CSSB 3006(HSS) was reported out of the House Health and Social Services Standing Committee.

[7:10:29 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 7:10 p.m.