

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

March 29, 2022

3:07 p.m.

**MEMBERS PRESENT**

Representative Liz Snyder, Co-Chair  
Representative Tiffany Zulkosky, Co-Chair (via teleconference)  
Representative Ivy Spohnholz (via teleconference)  
Representative Zack Fields  
Representative Ken McCarty  
Representative Christopher Kurka (via teleconference)

**MEMBERS ABSENT**

Representative Mike Prax

**COMMITTEE CALENDAR**

HOUSE BILL NO. 392

"An Act relating to advanced practice registered nurses; and relating to death certificates, do not resuscitate orders, and life sustaining treatment."

- HEARD & HELD

HOUSE BILL NO. 292

"An Act relating to home and community-based services; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 392

SHORT TITLE: EXPAND ADV. PRAC. REG. NURSE AUTHORITY

SPONSOR(S): REPRESENTATIVE(S) SNYDER

|          |     |                                 |
|----------|-----|---------------------------------|
| 02/22/22 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/22/22 | (H) | HSS, L&C                        |
| 03/24/22 | (H) | HSS AT 3:00 PM DAVIS 106        |
| 03/24/22 | (H) | -- MEETING CANCELED --          |
| 03/29/22 | (H) | HSS AT 3:00 PM DAVIS 106        |

BILL: HB 292

SHORT TITLE: HOME AND COMMUNITY-BASED WAIVER SERVICES

SPONSOR (s) : REPRESENTATIVE (s) SNYDER

|          |     |                                 |
|----------|-----|---------------------------------|
| 01/27/22 | (H) | READ THE FIRST TIME - REFERRALS |
| 01/27/22 | (H) | HSS, FIN                        |
| 02/24/22 | (H) | HSS AT 3:00 PM DAVIS 106        |
| 02/24/22 | (H) | <Bill Hearing Canceled>         |
| 03/03/22 | (H) | HSS AT 3:00 PM DAVIS 106        |
| 03/03/22 | (H) | Heard & Held                    |
| 03/03/22 | (H) | MINUTE (HSS)                    |
| 03/10/22 | (H) | HSS AT 3:00 PM DAVIS 106        |
| 03/10/22 | (H) | Heard & Held                    |
| 03/10/22 | (H) | MINUTE (HSS)                    |
| 03/17/22 | (H) | HSS AT 3:00 PM DAVIS 106        |
| 03/17/22 | (H) | <Bill Hearing Canceled>         |
| 03/22/22 | (H) | HSS AT 3:00 PM DAVIS 106        |
| 03/22/22 | (H) | Scheduled but Not Heard         |
| 03/29/22 | (H) | HSS AT 3:00 PM DAVIS 106        |

**WITNESS REGISTER**

ALLIANA SALANGUIT, Staff  
Representative Liz Snyder  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for HB 392, on behalf of Representative Snyder, prime sponsor.

MARIANNE JOHNSTONE-PETTY  
Alaska Advance Practice Registered Nurses (APRN) Alliance  
Anchorage, Alaska

**POSITION STATEMENT:** Offered invited testimony during the hearing on HB 392.

STEPHANIE BIRCH  
Anchorage, Alaska

**POSITION STATEMENT:** Offered invited testimony during the hearing on HB 392.

SHANNON HILTON  
American Association of Nurse Practitioners  
Anchorage, Alaska

**POSITION STATEMENT:** Offered invited testimony during the hearing on HB 392.

PRIYA KEANE, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Offered invited testimony during the hearing on HB 392.

CHRISTINE KRAMER, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 392.

JOHN LEE, Director  
Division of Senior and Disabilities Services  
Department of Health and Social Services  
Palmer, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 292.

### **ACTION NARRATIVE**

[3:07:25 PM](#)

**CO-CHAIR LIZ SNYDER** called the House Health and Social Services Standing Committee meeting to order at 3:07 p.m. Representatives Fields, Zulkosky (via teleconference), Spohnholz (via teleconference), Kurka (via teleconference), and Snyder were present at the call to order. Representative McCarty arrived as the meeting was in progress.

### **HB 392-EXPAND ADV. PRAC. REG. NURSE AUTHORITY**

[3:09:23 PM](#)

CO-CHAIR SNYDER announced that the first order of business would be HOUSE BILL NO. 392, "An Act relating to advanced practice registered nurses; and relating to death certificates, do not resuscitate orders, and life sustaining treatment."

[3:10:51 PM](#)

CO-CHAIR SNYDER, as prime sponsor of HB 392, began by providing the motivation behind HB 392. She explained that there have been concerns over delays in government benefits that require death certificates, as well as an increased cost of those services to families. She mentioned further concern for obstruction of care for the seriously ill and patient harm resulting from inadequate documentation of care preferences. She described the purpose of the bill as expanding the signature authority for death certificates, do not resuscitate (DNR) orders, and physician orders for life-sustaining treatment (POLST) to advance practice registered nurses (APRNs). She

explained that APRNs are registered nurses with additional, specialized training that have been able to practice independently as primary care practitioners in Alaska since 1984. She highlighted that although APRNs regularly oversee end of life care and help families make important care decisions, they cannot sign any of the documents finalizing those choices. In current statute, only licensed physicians were able to sign this paperwork, which she reported has caused administrative delays and undue stress for the families. She emphasized that HB 392 will simply allow APRNs to sign off on a type of care that they have provided for years.

[3:14:41 PM](#)

ALLIANA SALANGUIT, Staff, Representative Liz Snyder, Alaska State Legislature, on behalf of Representative Snyder, prime sponsor, gave the sectional analysis for HB 392 [included in the committee packet], which read as follows [original punctuation provided]:

**Sec. 1:** Amends AS 08.68.700(a) Determination of death by registered nurse by allowing a Registered Nurse (RN) to pronounce or determine a death of a person if a physician or advanced practice registered nurse (APRN) has documented in the person's medical or clinical record that the person's death is anticipated.

**Sec. 2:** Amends AS 08.68.700(b) by allowing an RN to sign a determination of death if a physician or APRN has previously documented the person's condition.

**Sec. 3:** Amends AS 08.68.700(c) by allowing an APRN to certify a death determined by an RN within 24 hours of the determination of death.

**Sec. 4:** Amends to 08.68.700(d) by adding "an advanced practice registered nurse" as a conforming change to statute regarding health care facilities' policies and procedures for determination and pronouncement of death by a registered nurse.

**Sec. 5:** Amends AS 13.62.065 Do not resuscitate protocol and identification requirements (a) by allowing APRNs to issue a do not resuscitate order.

**Sec. 6 & 7:** Adds conforming language to AS 13.62.065 Do not resuscitate protocol and identification requirements to ensure APRNs are subject to the same rules and protocols as physicians.

**Sec. 8:** Adds language to AS 13.62.065(f) Do not resuscitate protocol and identification requirements allowing APRNS to revoke a do not resuscitate order.

**Sec. 9:** Adds "or an advanced practice registered nurse" to 13.52.080(a)(5) Immunities as a conforming change.

**Sec. 10:** Amends AS 13.52.100(c) Capacity by adding "an advanced practice registered nurse" to language regarding protocols and how do not resuscitate orders govern decisions regarding cardiopulmonary resuscitation and other life-sustaining procedures.

**Sec. 11:** Amends AS 13.52.300 Optional Form by adding "an advanced practice registered nurse" to the Advanced Health Care Directive Form.

**Sec. 12:** Amends AS 13.52.390(12) Definitions by adding "an advanced practice registered nurse" to language defining "do not resuscitate order."

**Sec. 13:** Amends AS 13.52.390(23) Definitions by adding "an advanced practice registered nurse" to language defining "life-sustaining procedures."

**Sec. 14:** Adds a new paragraph to AS 13.52.390(38) defining an "advanced practice registered nurse" by referring to the definition in AS 08.68 Nursing.

**Sec. 15:** Amends AS 18.15.230(c) by adding an "advanced practice registered nurse" to the instructions for completing a death certificate.

[3:16:28 PM](#)

CO-CHAIR SNYDER proceeded with invited testimony.

[3:17:02 PM](#)

MARIANNE JOHNSTONE-PETTY, Alaska Advance Practice Registered Nurses (APRN) Alliance, explained that "APRN" was an umbrella

term for a variety of practitioners, including certified nurse practitioners (CNPs), adding that all APRN's must have a master's or doctorate degree and additional specialty training. She mentioned that the bill focuses on CNPs in their role as independent practitioners. As independent practitioners in the state, she explained that CNPs were able to give diagnoses, initiate and manage treatment plans, and prescribe medication, all under their own license without need for supervision or a collaborative agreement. She listed the many places throughout the state's medical system where APRNs practice, including the many practitioners who own their own clinics as trusted primary care providers. However, she reported that APRNs with clients facing severe illness were unable to sign off on DNRs, POLST, or death certificates, and must instead coordinate with a physician to do so for them. She stated that out of the 24 states that license APRNs as independent practitioners, Alaska was the only one without signature authority for those three documents. She explained that a POLST was a medical order that requires emergency care providers be informed of DNR orders, and that it was a new program for Alaska that has been worked on by many members of the state's medical community to incorporate it into the national POLST program. She said that national POLST policy actively encourages APRNs to have the ability to sign POLST orders to increase patient access. She voiced her belief that the bill would align APRN signature authority with already existing licensure and statute, which she opined would decrease costs and reduce other barriers to proper health care, including untimely processing of death certificates, obstruction of serious illness care for those living rurally, and inadequate document completion. She emphasized her support for HB 329 and the importance of correcting statute so that APRNs have the appropriate signing authority to care for their patients with serious illnesses.

[3:22:26 PM](#)

STEPHANIE BIRCH, as a practicing APRN, explained that the primary care clinic she works for has a focus on adults with chronic illness, many of whom are elderly and relying on Medicaid or Medicare. She shared that Alaskans facing chronic illness have to navigate a complex healthcare system and often struggle to get appropriate care. She explained that because her clinic is run entirely by APRNs, when a patient passes away, the APRNs are unable to sign the necessary documents, even though they may have been that person's primary provider for many years. She noted that there is reluctance from consulting physicians to sign death certificates due to their limited

involvement with the patient, which forces the APRN to pay out of pocket for a physician to sign the certificate. She described the extra time and cost this takes as a burden on both the families and the practitioners. She urged the committee to pass HB 392 out of committee to allow APRNs to provide the care that Alaska families deserve.

[3:26:11 PM](#)

SHANNON HILTON, American Association of Nurse Practitioners, stated that APRNs served a critical role in providing high quality care across the state and that outdated statutes preventing signing authority on end-of-life documents impeded the work APRN's already do. She described the importance of these documents in providing care that aligned with the patient's wishes and emphasized that the lack of signing authority for nurse practitioners (NPs) created undue stress and delay of process. She opined that the disconnect between the statute-given ability to treat patients and inability to sign these important documents meant that her extensive knowledge and advanced care planning expertise was unrecognized by the law. She emphasized her belief that passing HB 392 would honor the autonomy of Alaskans and respect patient choice. She reiterated that other states have seen great success in giving APRNs the additional signing authority and urged the State of Alaska to do the same.

[3:29:26 PM](#)

PRIYA KEANE, Doctor of Nursing Practice, informed the committee that she is a CRN that specializes in hospice and palliative care in a hospital setting. She explained that in this setting, she cares for patients and their families who are either newly receiving serious diagnoses or dealing with an exacerbation of an existing illness, and that her team often liaisons with primary care physicians to navigate the difficult discussions around patients' goals of care, including DNRs and POLST. She described these conversations as "nuanced and understandably emotional" and expressed her firm belief that as the participant in these conversations, she should also be the one responsible for signing and preparing the orders. She said that there is an undue burden of wasted time and rehashing emotional conversations placed on physicians and families by this outdated law. She voiced her belief that the bill would streamline care for all Alaskans and asked for an expeditious passing of HB 392.

[3:31:38 PM](#)

CO-CHAIR SNYDER opened public testimony on HB 392.

[3:32:04 PM](#)

CHRISTINE KRAMER, representing self, testified in support of HB 392, as an ARPN working in an intensive care unit. She explained that part of her role is to converse with patients and their families upon admission to determine their preferred "code status," which includes DNR orders. She reported that NPs are a critical part of a patient's care team and are usually the ones who care for a patient if their condition worsens and document their passing with a "death summary" report. She stated that passing HB 392 would allow the person responsible for documenting a patient's death to sign the death certificate. She restated her support for the proposed bill.

[3:33:33 PM](#)

CO-CHAIR SNYDER, after ascertaining that there were no one else who wished to testify, closed public testimony on HB 392.

[HB 392 was held over.]

[3:35:32 PM](#)

The committee took a brief at-ease.

**HB 292-HOME AND COMMUNITY-BASED WAIVER SERVICES**

[3:35:38 PM](#)

CO-CHAIR SNYDER announced that the final order of business would be HOUSE BILL NO. 292, "An Act relating to home and community-based services; and providing for an effective date."

CO-CHAIR SNYDER provided a quick recap of HB 292. She explained that the bill would help the state meet the growing need for home and community-based care within Alaska by addressing some of the challenges the Department of Health and Social Services (DHSS) is facing and aiding the department in providing these required services. She listed the three main components of the bill: increasing the threshold for reducing services, providing a pathway for restoring previously cut hours and services, and allowing family members to be compensated for providing care. She highlighted those available online to answer questions and proceeded to the consideration of amendments.

[3:38:31 PM](#)

The committee took a brief at-ease.

[3:38:37 PM](#)

CO-CHAIR SNYDER noted that Amendment 1 would not be offered.

[3:39:05 PM](#)

CO-CHAIR SNYDER moved to adopt Amendment 2 to HB 292, labeled 32-LS1344\B.4, Foote, 3/19/22, which read:

Page 1, line 14, through page 2, line 1:  
Delete ", reduce payment for services,"

Page 2, lines 23 - 31:  
Delete all material and insert:  
" (3) for purposes of a reduction in the level of personal care and chore services under 42 U.S.C. 1396n(k) or Medicaid personal care services under 42 U.S.C. 1396 - 1396p (Title XIX, Social Security Act), the annual assessment must find that the recipient's condition has materially improved since the previous assessment; in [FOR PURPOSES OF] this paragraph, "materially improved" means that a recipient who has previously qualified for services is able to function in a home setting with the reduced level of services;  
(4) for purposes of a termination of payment for services, the annual assessment must find that the recipient's condition has materially improved since the previous assessment; in this paragraph, "materially improved" means that a recipient who has previously qualified for a service [A WAIVER] for"

Page 3, line 8:  
Delete "and live independently"  
Delete "waiver"  
Insert "[WAIVER]"

Page 3, line 13:  
Delete "and live independently"  
Delete "waiver"  
Insert "[WAIVER]"

Page 3, line 15:  
Delete "(4)"  
Insert "(5)"

Page 3, lines 25 - 27:  
Delete "a person who is qualified to provide personal care services under the 1915(k) state plan option under 42 U.S.C. 1396n or"

Page 4, line 19:  
Delete "payment for services or"

Page 4, line 23:  
Delete "a reduction in payment for services or"

REPRESENTATIVE ZULKOSKY objected for the purpose of discussion.

[3:39:12 PM](#)

CO-CHAIR SNYDER listed the changes proposed in the amendment, which reflected requests from the department and stakeholders. First, she explained that the amendment would remove language concerning payment for services that requires the department to do [time consuming] individual evaluations and does not align with the current structure for payment rate. She stated that a forthcoming amendment may give the committee the opportunity to address the rate setting process. She continued to the next change in Amendment 2 which would replace language around service level reductions to narrow the scope of the bill to only personal care services, as these were the services most used by stakeholders. She referred to conversations with the department that support the change as it would lessen the administrative cost associated with implementation. She moved on to the next component of the amendment which would remove the language "live independently" from the section of the bill describing the services to be provided by the state. She explained that while it is the intent of her office as the bill's sponsor to support Alaskans' access to services that allow them to live independently, she had received feedback from the department and other stakeholders that more research into assessment and the development of an inclusive definition of "living independently" would be prudent before including that language in statute. Last, she explained that the amendment would clarify language defining "independent healthcare providers" to remove the "certified" requirement, since registered nurses and APRNs are qualified to provide independent assessments.

[3:44:02 PM](#)

REPRESENTATIVE ZULKOSKY removed her objection. There being no further objection, Amendment 2 was adopted.

[3:44:21 PM](#)

REPRESENTATIVE SPOHNHOLZ moved to adopt Amendment 3 to HB 292, labeled 32-LS1344\B.5, Foote, 3/16/22, which read:

Page 4, following line 15:

Insert a new bill section to read:

"\* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REPORT TO THE LEGISLATURE. Not later than one year after the effective date of secs. 1 - 4 this Act, the Department of Health and Social Services shall submit a report to the senate secretary and chief clerk of the house of representatives and notify the legislature that the report is available. The report must

(1) include an assessment of the payment rates for home and community-based services in the state under a waiver or 1915(k) state plan option under 42 U.S.C. 1396n(k); the assessment must address the adequacy of those rates to ensure sufficient workforce needs for independent qualified health care professionals; and

(2) assess and identify the adequacy of services under AS 47.07.045(a); this analysis shall include the number of individuals eligible for services, the number of individuals receiving services, the average length of time for which an individual is placed on a waitlist for services, and the average hours of service each recipient receives annually, monthly, and weekly; and

(3) assess and recommend additional changes to state statute, regulations, and payment for services to enhance the delivery of services under AS 47.07.045(a) to individuals eligible to receive care, particularly changes involving decreasing waitlists, reducing services, and addressing workforce shortages."

Renumber the following bill sections accordingly.

Page 5, line 3:

Delete "Section 5"  
Insert "Section 6"

Page 5, line 12:  
Delete "sec. 6"  
Insert "sec. 7"

Page 5, line 17:  
Delete "sec. 8"  
Insert "sec. 9"

Page 5, line 18:  
Delete "Sections 5 and 7"  
Insert "Sections 6 and 8"

CO-CHAIR SNYDER objected for the purpose of discussion.

[3:44:26 PM](#)

REPRESENTATIVE SPOHNHOLZ explained that Amendment 3 would require the department to create a one-time report on the payment rates for home- and community-based services. She referred to testimony from the public that low wages for caregivers may be contributing to the lack of access to needed services. She stated that Alaska is facing a crisis in elderly care that will only get worse as the population ages, and the proposed report would provide the legislature with visibility into the issue and recommendations on how to improve service availability.

CO-CHAIR SNYDER removed her objection. There being no further objection, Amendment 3 was adopted.

[3:46:16 PM](#)

The committee took an at-ease from 3:46 p.m. to 3:56 p.m.

[3:56:05 PM](#)

CO-CHAIR SNYDER asked Representative McCarty to confirm whether the adopted Amendment 2 accurately reflected the proposed changes in Amendments 4 and 6. She mentioned her understanding that Amendment 4 mirrored changes already occurring in Amendment 2, but that it included the removal of additional language about reducing service levels.

[3:58:29 PM](#)

The committee took an at-ease from 3:58 p.m. to 4:03 p.m.

[4:04:06 PM](#)

REPRESENTATIVE MCCARTY moved to adopt Amendment 4 to HB 292, labeled 32-LS1344\B.6, Foote, 3/17/22, which read:

Page 1, line 14, through page 2, line 1:

Delete ", reduce payment for services, or reduce the level of services"

Page 2, lines 23 - 31:

Delete all material and insert:

"(3) the annual assessment must find that the recipient's condition has materially improved since the previous assessment; for purposes of this paragraph, "materially improved" means that a recipient who has previously qualified for a waiver for"

Page 4, lines 16 - 25:

Delete all material.

Renumber the following bill sections accordingly.

Page 5, lines 1 - 3:

Delete all material.

Renumber the following bill sections accordingly.

Page 5, line 12:

Delete "sec. 6"

Insert "sec. 5"

Page 5, line 17:

Delete "sec. 8"

Insert "sec. 6"

Page 5, line 18:

Delete all material.

CO-CHAIR SNYDER objected for the purpose of discussion.

[4:04:11 PM](#)

REPRESENTATIVE MCCARTY confirmed that Amendment 2 addressed most of Amendment 4, aside from the removal of the language regarding reducing of the level of service. He shared that leaving this language in the bill may prohibit a reduction of service level if the "medical necessity" of the patient were to decrease or the patient were to request a service level reduction. He offered his understanding that removing the language would increase flexibility.

CO-CHAIR SNYDER voiced her belief that protecting the ability to appeal a reduction of services was a key component of the bill and opined that the amendment would "gut" that component. She mentioned that another section of the amendment would prevent retroactive assistance for people who have had their services reduced in the recent past. She stated that she could not support the proposed amendment.

REPRESENTATIVE MCCARTY reiterated his concern that by not removing the language about the level of service from the bill, those receiving care could not receive less service if their needs lessened.

CO-CHAIR SNYDER maintained her objection.

A roll call vote was taken. Representative McCarty voted in favor of Amendment 4 to HB 292. Representatives Snyder, Zulkosky, Sponholz, and Fields voted against it. Therefore, Amendment 4 failed by a vote of 1-4.

[4:10:06 PM](#)

REPRESENTATIVE MCCARTY moved to adopt Amendment 5 to HB 292, labeled 32-LS1344\B.7, Foote, 3/17/22, which read:

Page 2, lines 3 - 4:

Delete "an annual"

Insert "**a biennial** [AN ANNUAL]"

Page 2, line 7:

Delete "**annual**"

Insert "**biennial**"

Page 2, line 24:

Delete "annual"

Insert "**biennial** [ANNUAL]"

Page 2, line 30:

Delete "annual"  
Insert "biennial"

CO-CHAIR SNYDER objected for the purpose of discussion.

REPRESENTATIVE MCCARTY shared his understanding that to continue to qualify for care services through DHSS, recipients must provide an annual assessment through an independent practitioner. He referred to testimony that had revealed service recipients were struggling to find practitioners who could provide these assessments. He asked for a statement from DHSS about its reaction to the proposed amendment.

[4:11:24 PM](#)

JOHN LEE, Director, Division of Senior and Disabilities Services, Department of Health and Social Services, introduced himself for the record.

REPRESENTATIVE MCCARTY asked whether changing from an annual to a biennial assessment would be helpful for the department.

MR. LEE explained that there was a classification of people who receive personal care services that require facility level treatment, and annual assessments for this population helps reduce the risk of institutionalization. Comparatively, he explained that people who are being served using Personal Care Attendants (PCAs) are at a lower risk for institutionalization, so rather than assessing all recipients annually, the department does an assessment on 10 percent of requests for renewal of services. A drastic change in a person's condition may also trigger an assessment, but he reported that there is no statutory requirement for DHSS to assess annually, and it would be a labor-intensive process to change from assessing 10 percent of recipients to testing all recipients biennially.

REPRESENTATIVE MCCARTY withdrew Amendment 5.

[4:14:19 PM](#)

REPRESENTATIVE MCCARTY moved to adopt Amendment 6 to HB 292 labeled, 32-LS1344\B.8, Foote, 3/17/22, which read:

Page 2, line 26:

Delete "and live independently"

Page 3, line 8:

Delete "and live independently"

Page 3, line 13:

Delete "and live independently"

CO-CHAIR SNYDER objected for the purpose of discussion.

REPRESENTATIVE MCCARTY explained that Amendment 6 would remove an occurrence of the "or live independently" language that Amendment 2 had missed. He confirmed that the rest of Amendment 6 was covered by Amendment 2.

[4:15:15 PM](#)

The committee took a brief at-ease.

[4:15:20 PM](#)

REPRESENTATIVE MCCARTY clarified that the necessary language was included in Amendment 2 and withdrew Amendment 6.

[HB 292 was held over.]

[4:19:09 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 4:19 p.m.