

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 5, 2021

3:19 p.m.

MEMBERS PRESENT

Representative Zack Fields, Co-Chair (via teleconference)
Representative Ivy Spohnholz, Co-Chair
Representative Calvin Schrage (via teleconference)
Representative Liz Snyder (via teleconference)
Representative James Kaufman
Representative Ken McCarty

MEMBERS ABSENT

Representative David Nelson

COMMITTEE CALENDAR

HOUSE BILL NO. 99

"An Act relating to the State Physical Therapy and Occupational Therapy Board; relating to the practice of physical therapy; and relating to the practice of occupational therapy."

- HEARD AND HELD

HOUSE BILL NO. 45

"An Act relating to presumption of compensability for workers' compensation claims related to contagious diseases; and providing for an effective date."

- HEARD AND HELD

CONFIRMATION HEARING(S):

Marijuana Control Board

Nicholas Miller - Anchorage

- HEARD AND HELD

Occupational Safety and Health Review Board

Thomas Trosvig - Kodiak

- HEARD AND HELD

State Board of Physical and Occupational Therapy

Enlow Walker - North Pole

- HEARD AND HELD

Board of Registration for Architects, Engineers & Land Surveyors

Elizabeth Johnston - Fairbanks

- HEARD AND HELD

Workers' Compensation Appeals Commission.

James Rhodes - Ketchikan

- HEARD AND HELD

Board of Dental Examiners

Kelly Lucas - Dillingham

- CONFIRMATION(S) ADVANCED

Board of Massage Therapists

Julie Endle - Palmer

- CONFIRMATION(S) ADVANCED

Board of Pharmacy

James Hendersen - Soldotna
Tammy Lindemuth - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Psychologist & Assoc. Examiners

Christina Durham - Anchorage

- CONFIRMATION(S) SCHEDULED BUT NOT HEARD

Board of Social Work Examiners

Mindy Swisher - Fairbanks

- CONFIRMATION(S) SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 99

SHORT TITLE: PHYSICAL/OCCUPATIONAL THERAPY BD/PRACTICE

SPONSOR(S): REPRESENTATIVE(S) CLAMAN

02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	HSS, L&C
02/19/21	(H)	HSS REFERRAL REMOVED
02/19/21	(H)	FIN REFERRAL ADDED AFTER L&C
02/19/21	(H)	BILL REPRINTED
03/05/21	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 45

SHORT TITLE: WORKERS' COMP. AND CONTAGIOUS DISEASES

SPONSOR(S): REPRESENTATIVE(S) JOSEPHSON

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	L&C, FIN
03/05/21	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MATT CLAMAN

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Introduced HB 99 as prime sponsor.

JOEY BOSWORTH, Staff

Representative Matt Claman

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented the Sectional Analysis on HB 99 on behalf of Representative Claman, prime sponsor.

ALEC KAY, President

Alaska Chapter

American Physical Therapy Association (APTA)

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 99.

NICHOLAS MILLER, Appointee

Anchorage, Alaska

POSITION STATEMENT: Spoke as an appointee to the Marijuana Control Board.

LACY WILCOX, President
Alaska Marijuana Industry Association (AMIA)
Juneau, Alaska

POSITION STATEMENT: Testified in support of the appointment of Nicholas Miller to the Marijuana Control Board.

REPRESENTATIVE ANDY JOSEPHSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 45 as prime sponsor.

ELISE SORUM-BIRK, Staff
Representative Andy Josephson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered a PowerPoint Presentation on HB 45 entitled, "House Bill 45; Frontline Worker Presumption of Compensability," on behalf of Representative Josephson, prime sponsor.

CHARLES COLLINS, Director
Workers' Compensation Division
Department of Labor and Workforce Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 45.

THOMAS TROSVIG, Appointee
Kodiak, Alaska

POSITION STATEMENT: Spoke as an appointee to the Occupational Safety and Health Review Board.

ENLOW WALKER, Appointee
North Pole, Alaska

POSITION STATEMENT: Spoke as an appointee to the State Board of Physical and Occupational Therapy.

ELIZABETH JOHNSTON, Appointee
Fairbanks, Alaska

POSITION STATEMENT: Spoke as an appointee to the Board of Registration for Architects, Engineers & Land Surveyors.

JAMES RHODES, Appointee
Ketchikan, Alaska

POSITION STATEMENT: Spoke as an appointee to the Workers' Compensation Appeals Commission.

ACTION NARRATIVE

[3:19:41 PM](#)

CO-CHAIR IVY SPOHNHOLZ called the House Labor and Commerce Standing Committee meeting to order at 3:19 p.m. Representatives Spohnholz, Schrage (via teleconference), Kaufman, and McCarty were present at the call to order. Representative Snyder (via teleconference) and Representative Fields (via teleconference) arrived as the meeting was in progress.

HB 99-PHYSICAL/OCCUPATIONAL THERAPY BD/PRACTICE

[3:20:47 PM](#)

CO-CHAIR SPOHNHOLZ announced that the first order of business would be HOUSE BILL NO. 99, "An Act relating to the State Physical Therapy and Occupational Therapy Board; relating to the practice of physical therapy; and relating to the practice of occupational therapy."

[3:22:29 PM](#)

REPRESENTATIVE MATT CLAMAN, Alaska State Legislature, presented HB 99 as prime sponsor. He paraphrased the Sponsor Statement [included in the committee packet], which read as follows [original punctuation provided]:

House Bill 99 amends the governing statutes for physical therapists, physical therapy assistants, occupational therapists and occupational therapy assistants practicing in Alaska. The changes are designed to bring Alaska statutes in line with national standards and terminology, and overall make the administrative experience of these professionals up to date. This bill is supported by the State Physical Therapy and Occupational Therapy Board, which believes HB99 will help the Board in its work to protect the public.

In an effort to place public interest first and foremost, the Physical Therapy and Occupational Therapy Associations support a more balanced

representation on its Board and proposes to replace the seat for a physician with an occupational therapist or occupational therapy assistant.

When the membership of the board's guiding statute was first enacted, physicians supervised physical and occupational therapists. Physician supervision is no longer required since PT/OT are independent professions with the entry level degree for Physical and Occupational Therapy being at the doctoral level. This change would bring improved representation from both professions to the board.

REPRESENTATIVE CLAMAN added that HB 99 also would enable the State Physical Therapy and Occupational Therapy Board to discipline a therapist who commits infractions under AS 08.84.120, such as gross negligence, conviction of a felony, or abuse of alcohol. He shared that the board currently has the ability to revoke or deny licenses based on infractions, but has no ability to discipline. He continued that it would also add language to ensure that therapists educated outside of the U.S. have training that is equivalent to that of therapists educated in the U.S. It would also except therapists trained in an English language program from having to take an English proficiency test. He continued that it would update language in statute that references an accrediting entity that no longer exists, and makes the language more general. He concluded that HB 99 would not require a restructuring of statute, but it contains a number of "long awaited changes."

[3:25:19 PM](#)

JOEY BOSWORTH, Staff, Representative Matt Claman, Alaska State Legislature, on behalf of Representative Claman, prime sponsor, presented the Sectional Analysis for HB 99. He paraphrased the Sectional Analysis, which read as follows [original punctuation provided]:

Section 1

AS 08.84.010. Creation and membership of the board.
Removes the seat for a physician and balances out the board with 3 physical therapists or physical therapy assistants and 3 occupational therapists or occupational therapy assistants along with one public member, to make up the 7-member board. It also changes the term "physical therapy assistant" to "physical therapist assistant" in this section and

throughout the entire statute. This change is to conform to the industry title used nationally.

Section 2

AS 08.84.030. Qualifications for licensing.

Allows the board to have broader authority over what entities will have accreditation oversight over physical therapy & occupational therapy education programs. Some of the accrediting entities listed in statute are now either renamed or no longer exist, making that statute obsolete.

Section 2 removes language from the statute relating to additional supervised field work that occupational therapists must complete as these requirements are covered by the accrediting bodies.

Section 3

AS 08.84.032. Foreign-educated applicants.

Changes the section headline from "trained" to "educated." New language is added that requires foreign-educated physical therapist or physical therapy assistant students to have attended a "substantially" equivalent educational program that is accredited by a U.S. accreditation entity that has been approved by the board. Outdated and obsolete language is removed that can be found on page 4, lines 3-9 of this bill.

Added to subsection (3) of this section is language that would require that a physical therapist or physical therapist assistant pass a test demonstrating competency of the English language only if their program was taught in a foreign language. Subsection (4) requires that a foreign-educated applicant is a legal alien or a U.S citizen. Subsection (7) requires them to pay the required fee and meet any other qualifications for licensure set by the board under 08.84.010(b).

All the above changes in Section 3 are replicated for occupational therapists or occupational therapy assistants on page 4, lines 27-31 and over to page 5, lines 1-22.

[3:27:25 PM](#)

MR. BOSWORTH continued paraphrasing from the Sectional Analysis for HB 99, which read as follows [original punctuation provided]:

Section 4

AS 08.84.060. Licensure by acceptance of credentials.
Makes conforming terminology changes.

Section 5

AS 08.84.065(c). Temporary changes.
Makes conforming terminology changes.

Section 6

AS 08.84.075(b). Limited permit.
Makes conforming terminology changes.

Section 7

AS 08.84.075(c). Limited permit.
Changes language that would now require that a limited permit is valid for 120 consecutive days

Section 8

AS 08.84.075(d). Limited permit.
Allows only one limited permit per 12-month period.

Section 9

AS 08.84.090. Licensure.
Updates licensure terminology.

Section 10

AS 08.84.120(a). *Refusal, revocation, and suspension of license.*
Adds disciplinary action as a possibility to actions a board might consider for an infraction of their licensure and updates terminology in item (7) and states in (9) that failure to comply with the law or regulations or order of the board might result in disciplinary action or suspension of a license.

[3:28:15 PM](#)

MR. BOSWORTH continued paraphrasing from the Sectional Analysis for HB 99, which continued as follows [original punctuation provided]:

Section 11

AS 08.04.130(a). False claim of license prohibited.

Adds updated credentialing and terminology.

Section 12

AS 08.84.130(b). False claim of license prohibited.
Updates terminology.

Section 13

AS 08.84.190. Definitions.
Adds a new paragraph defining the updated term
"physical therapist assistant."

Section 14

AS 11.41.470(1). Definitions.
Updates definitions in criminal law/sexual assault
statute.

Section 15

AS 47.17.290(14). Definitions.
Updates terminology under definitions in child
protection statute.

Section 16

AS 08.84.190(7). Definitions
Repeals subsection (7), which is the definition using
outdated term of physical therapy assistant; according
to Leg. Legal, when the actual "term" used for the
definition is being changed, the
entire citing must be repealed. The new definition is
set out on page 8, Section 13, lines 11-14.

Section 17

Applicability
Sets out the applicability clauses for licensure for
sections 2 and 3 of this Act and
for sections 7 and 8.

Section 18

Uncodified law
Transition language for the board vacancy and
appointments for the PT/OT board, and states that the
changes do not apply to current licensees until it is
time for their licensure renewal and then all changes
to the law will apply.

[3:30:17 PM](#)

ALEC KAY, President, Alaska Chapter, American Physical Therapy Association (APTA), shared that the Alaska Chapter of the APTA represents over 450 physical therapists and physical therapist assistants. He stated that HB 99 would modernize language and eliminate antiquated language. He shared that the concept behind the bill came from the State Licensing Board and would help the board protect the public better. He reiterated his support of the passage of the bill.

[3:32:05 PM](#)

REPRESENTATIVE MCCARTY asked Mr. Kay whether APTA supports the bill.

MR. KAY replied yes, and he restated that the idea came from the State Licensing Board.

[3:33:09 PM](#)

REPRESENTATIVE KAUFMAN asked Mr. Kay whether there is any risk in removing the physician from the board. He asked whether there is a benefit to having a physician on the board, and asked if it is typical in other states to have a physician on the board.

MR. KAY responded that the presence of the physician is a remnant of an older time when physical therapists were functioning under the American Medical Association (AMA). He shared that it is not typical to have a physician on other professional health boards. He noted that he served on the board in the mid-2000s and that it was very rare for the physician seat to be filled, and when it was, the member rarely attended meetings and did not add much to the process. He mentioned that members have a letter in the committee packets from a physician acknowledging that it is not necessary.

[3:35:24 PM](#)

REPRESENTATIVE CLAMAN shared the example of the State Board of Optometry as a professional health board that doesn't have a physician seat either.

[3:35:37 PM](#)

CO-CHAIR SPOHNHOLZ shared that historically, many health care boards had physicians on the board, but the practice has been to move away from this requirement as the health care boards have

diversified and professionalized. She explained that patients no longer need a physician's referral to see a physical therapist and opined that it makes sense to make this modernization.

[3:37:10 PM](#)

CO-CHAIR SPOHNHOLZ announced that HB 99 was held over.

HB 45-WORKERS' COMP. AND CONTAGIOUS DISEASES

[3:37:28 PM](#)

CO-CHAIR SPOHNHOLZ announced that the next order of business would be HOUSE BILL NO. 45, "An Act relating to presumption of compensability for workers' compensation claims related to contagious diseases; and providing for an effective date."

[HB 45 was held for discussion later in the meeting.]

[3:38:06 PM](#)

The committee took an at-ease from 3:38 p.m. to 3:42 p.m.

CONFIRMATION HEARING(S):Marijuana Control Board

[3:42:15 PM](#)

CO-CHAIR SPOHNHOLZ announced that the next order of business would be a confirmation hearing in consideration of the governor's appointee to the Marijuana Control Board.

[3:42:37 PM](#)

NICHOLAS MILLER, Appointee, shared that he would like to continue to serve on the board as there is still work to be done regarding marijuana regulations. He explained that his past experiences have allowed him to provide meaningful input during his time serving on the board. He said that he worked in the telecommunications field for over twenty years and presented at hundreds of community council, planning, and zoning meetings, which gave him experience within the public process. He stated that he has a marijuana business that has been open for three years and that he and his wife have several licenses.

[3:44:36 PM](#)

REPRESENTATIVE MCCARTY asked Mr. Miller how long he has served on the board.

MR. MILLER responded that he was appointed in 2016.

REPRESENTATIVE MCCARTY asked what the current needs of the industry are in Mr. Miller's opinion.

MR. MILLER responded that there are several processes in transportation that could be adjusted to better serve the industry and the public. He stated that these processes take up time and add unnecessary expenses to businesses.

REPRESENTATIVE MCCARTY asked if there are any others.

MR. MILLER responded that there are others, but that transportation regulations are his main concern.

[3:45:57 PM](#)

CO-CHAIR SPOHNHOLZ asked Mr. Miller what kind of transportation related regulations he thinks are burdensome.

MR. MILLER replied that if an individual is traveling from Fairbanks, Alaska, to Kenai, Alaska, for example, it would usually have to be done as a direct trip. This would mean that the driver would have to leave Fairbanks and make all deliveries along the way in Anchorage, Alaska, and then drive straight through to Kenai without any overnight stops. He explained that this becomes a safety issue and a burden because drivers can't stay in a hotel overnight. He said that these issues are being addressed, but that there is still room for improvement.

CO-CHAIR SPOHNHOLZ agreed that that sounds problematic. She asked if Mr. Miller could describe the thinking behind the decision regarding amounts of THC allowed in edibles.

MR. MILLER responded that the consumers are asking for higher levels of THC in edibles. He clarified that an increased level of allowable THC in edibles wouldn't increase the amount of THC an individual could purchase at a time, but would just adjust the amount in a particular package.

[3:48:10 PM](#)

CO-CHAIR SPOHNHOLZ asked if the amount of THC in each "dose" of an edible is being increased. She asked if a consumer couldn't simply take double the amount to ingest the same amount of THC.

MR. MILLER responded that yes, a consumer could just double the dose, but that the amount of THC that a consumer can purchase each day is not increasing.

CO-CHAIR SPOHNHOLZ asked if there have been concerns in other states about overconsumption of edibles.

MR. MILLER responded that the Anchorage Health Department has released statistics from other states such as Michigan, but THC limits in Michigan are ten times the current limit in Alaska and would be five times the limit that the board is proposing. He said he thinks there was a 10 percent increase in overconsumption with this limit, but that he doesn't think it was accidental overconsumption.

CO-CHAIR SPOHNHOLZ asked for clarification that an individual could buy an edible with 50mg of THC in Michigan.

MR. MILLER responded yes.

CO-CHAIR SPOHNHOLZ expressed hope that Alaska doesn't go that far.

MR. MILLER responded that he does not disagree.

[3:50:27 PM](#)

REPRESENTATIVE MCCARTY asked Mr. Miller how he sees the taxes imposed upon the marijuana industry as a benefit to individuals who abuse or are dependent upon marijuana.

MR. MILLER responded that he personally hasn't seen a benefit and doesn't think the state does a good job of informing the public about the allocation of those tax dollars.

CO-CHAIR SPOHNHOLZ offered clarification that marijuana tax funds are not used for addiction treatment in Alaska. She stated that half of the tax funds go into the general fund and the other half go into prevention efforts. In turn, half of the prevention funds go into evidence-based after school programs for at-risk youth.

[3:51:51 PM](#)

REPRESENTATIVE MCCARTY asked Mr. Miller if there is anything the board is doing to educate or promote awareness.

MR. MILLER responded that the board typically receives a report from the Department of Health and Social Services (DHSS) that details the programs that are being funded for kids, and that the board supplies that information to the public.

[3:52:32 PM](#)

REPRESENTATIVE SNYDER asked Mr. Miller about his opinion on on-site consumption.

MR. MILLER replied that he doesn't personally have much experience with on-site consumption. He shared that there was an establishment in Anchorage, Alaska, that had it available. He doesn't have strong feelings one way or the other, but does have strong feelings that local communities should be able to choose to allow or disallow on-site consumption.

[3:53:55 PM](#)

REPRESENTATIVE SCHRAGE asked Mr. Miller if he could share any thoughts on the issue of a limited-entry system for marijuana retailers.

MR. MILLER responded that the board has discussed this issue. He said that the board asked the industry association to do a survey of current licensees to get the industry's opinion on it, but they have not provided the report yet. He expects to receive the report soon.

REPRESENTATIVE SCHRAGE asked if Mr. Miller's preference would be to listen to the results of the survey, or if he has personal opinions on the matter that might impact a decision.

MR. MILLER responded that personally, he thinks that businesses should be able to do what is necessary to remain competitive. He emphasized that any action would be dependent upon the industry survey and public input.

[3:56:03 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony on the appointment of Nicholas Miller to the Marijuana Control Board.

[3:56:16 PM](#)

LACY WILCOX, President, Alaska Marijuana Industry Association (AMIA), explained that the AMIA is the only statewide cannabis-industry trade group, and it aims to promote for a vibrant but reasonably regulated Alaska marijuana industry. She stated that the organization is pleased to support the reappointment of Mr. Miller to the board. She said that AIMA considers Mr. Miller clearly qualified. She shared that Mr. Miller serves as the president of the Anchorage Cannabis Business Association which makes him familiar with the issues around the Anchorage market. She expressed that Mr. Miller has been an affable peer in the industry and his work has led to some "common sense" regulations and that he is a valuable figure.

[3:59:44 PM](#)

CO-CHAIR SPOHNHOLZ closed public testimony on the appointment of Nicholas Miller to the Marijuana Control Board.

[The confirmation hearing for Nicholas Miller, appointee to the Marijuana Control Board, was held over.]

HB 45-WORKERS' COMP. AND CONTAGIOUS DISEASES

[3:59:47 PM](#)

CO-CHAIR SPOHNHOLZ announced that the next order of business would be a return to HOUSE BILL NO. 45, "An Act relating to presumption of compensability for workers' compensation claims related to contagious diseases; and providing for an effective date."

[4:00:01 PM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, explained that the idea behind HB 45 came from seeing Michigan and Minnesota lead the nation in March and April 2020 in offering protections to first responders in the form of workers' compensation in the instance of a disaster declaration. During the thirtieth Alaska State Legislature, in 2020, the legislature passed Senate Bill 241 in late March, which stood as the emergency declaration until November 15, 2020. He stated that this bill provided support for Alaskans in a variety of ways, such as mandating a moratorium on rent. In that bill, he shared that the House adopted Amendment 5, which offered workers' compensation protection for first responders who had suffered

some exposure to COVID-19. He said that municipalities are litigating what the legislature meant in that bill, and are asking for proof beyond what was intended that the exposure occurred at work. He shared that HB 45 acknowledges that there will be future pandemics and intends to show first responders and other essential workers that the government "has their backs." It creates a presumption that only exists during a time that an emergency declaration has been declared and would provide workers' compensation to individuals that contract a pandemic disease. He explained that these individuals would have to prove that the disease was contracted due to exposure at the workplace. He opined that Alaska has fortunately done "quite well" during the COVID-19 pandemic, although Alaska has tragically lost "over 100 people" and many others have gotten sick, he said that many people recover relatively quickly and so the burden imposed by the bill would not be enormous.

[4:04:33 PM](#)

CHAIR SPOHNHOLZ offered clarification that Alaska has lost over 300 lives to COVID-19.

[4:05:19 PM](#)

ELISE SORUM-BIRK, Staff, Representative Andy Josephson, Alaska State Legislature, on behalf of Representative Josephson, prime sponsor, offered a PowerPoint presentation entitled, "House Bill 45; Frontline Worker Presumption of Compensability," [hard copy included in the committee packet], and began on slide 2, "Background: COVID-19 and SB 241," which read as follows [original punctuation provided]:

- In the spring of 2020, the Legislature came together quickly to pass SB 241, an omnibus emergency response bill.
- Amended into bill on the House Floor was a workers' compensation presumption of compensability for first responders and medical professionals.
- Amendment 5 offered by Rep. Josephson and Rep. Kopp became section 15 Chapter 10 of Session Law. This provision expired [15 November] 2020 and the Governor opted to exclude this protection from his newly declared disaster declaration leaving these individuals unprotected.

MS. SORUM-BRIK moved to slide 3, "What is a 'presumption of compensability'?" and paraphrased the slide, which read as follows [original punctuation provided]:

- Certain occupational groups are more likely to contract certain illnesses
- It is difficult to track where certain illnesses come from or to link an illness directly to a workplace
- "Presumptive compensability" law allows an assumption to be made that an illness is linked to the nature of an individual's work
- Can be "rebuttable" or "non rebuttable"
- If a presumption exists, an impacted employee may receive workers' compensation benefits unless their employer successfully rebuts the claim

MS. SORUM-BIRK moved to slide 4, "SB 241 provision vs. HB 45," and paraphrased from the slide, which read as follows [original punctuation provided]:

SB 241

- Covered: firefighters, peace officers, EMTs, paramedics, health care workers
- Non rebuttable
- Requires the individual to have been "exposed" at work
- COVID 19 specific

HB 45

- Covers groups previously included in SB 241
- Adds grocery clerks, teachers, childcare workers
- Allows other similar professions to be added by DOLWD Commissioner
- Rebuttable with "clear and convincing evidence"
- Requires that an individual work outside the home within 2 weeks of diagnosis and have direct contact with members of the public
- Applicable during all public health emergencies (declared under the Alaska Disaster Act) caused by contagious disease

[4:09:12 PM](#)

MS. SORUM-BIRK advanced to slide 5, "Sectional Analysis," and paraphrased from the slide, which read as follows [original punctuation provided]:

Section 1 - Establishes a presumption for frontline workers who are actively working with the public during a declared public health emergency cause by a contagious disease

Subsection (a) - Outlines metric for establishing presumption

Subsection (b) - Outlines how presumption may be rebutted and gives DOLWD Commissioner the authority to add more occupational groups if needed

Subsection (c) - Provides definitions

Section 2 - Makes coverage retroactive to Nov 15th, 2020 (date at which SB 241 provision expired) for first responders and health care workers

Section 3 - Provides for an immediate effective date for newly covered occupations

MS. SORUM-BIRK proceeded to slide 6, "First Responders," and explained that first responders would be addressed specifically by the bill because COVID-19 has been the biggest cause of police officer deaths in the past year. Firefighters were found to be 15 percent more likely to be infected by COVID-19 in New York City, she said.

[4:13:13 PM](#)

MS. SORUM-BIRK proceeded to slide 7, "Health Care Workers," and explained that these workers often have the most direct-contact with COVID-19 positive patients. In Alaska, medical workers claims made up the majority of time lost claims for workers' compensation, meaning that individuals working in the medical field were being required to go home and quarantine due to exposure to COVID-19.

MS. SORUM-BIRK moved to slide 8, "Teachers and Child Care Workers," and explained that although there was a belief earlier in the pandemic that children may not be as susceptible to the virus, it has now been found that children do play a role in transmission of COVID-19. She noted that the Kaiser Family

Foundation did a study that found that a majority of teachers are in a high-risk category either due to age or medical condition and may feel nervous about returning to the classroom. She stated that child care centers often employ low-wage workers and do not offer benefits, and all public health restrictions on child care facilities were lifted "pretty early" in the pandemic.

MS. SORUM-BIRK proceeded to slide 9, "Grocery Store Workers," and explained that these are also often low-wage jobs and that there are studies "out there" that show that there are high infection rates among grocery store workers.

MS. SORUM-BIRK advanced to slide 10, "Status of COVID-19 Presumptions in the U.S." which depicted a map of the U.S. that she explained was put together using data from the National Conference of State Legislatures (NCSL) [included in committee packets]. She noted that the blue colored states on the map are places where executive orders have been put into place; states in green are places where state legislatures have put COVID-19 presumptions in place. She said that some states have broad presumptions that would apply to all essential workers, like California, and others have narrow presumptions.

[4:17:35 PM](#)

MS. SORUM-BIRK explained that there was a National Council on Compensation Insurance (NCCI) cost study [included in the committee packet] that was done and noted that she looked into what COVID-19 has looked like in the workplace in Alaska. She said that the infection rate overall in Alaska in December 2020 was 5.9 percent, and the lowest scenario analyzed in the NCCI study was 5 percent, meaning that Alaska was close to the lowest scenario. The 5.9 percent number refers to the lowest population, she noted, and the Department of Labor & Workforce Development estimated by using workers' compensation claims that only 1 in 12 COVID-19 cases in Alaska in 2020 were work related. In 2020, only 3 percent of COVID-19 cases have resulted in workers' compensation claims, she continued.

[4:19:17 PM](#)

CO-CHAIR SPOHNHOLZ invited questions from the committee.

[4:19:29 PM](#)

REPRESENTATIVE SNYDER asked Representative Josephson about the definition of "grocery store" in AS 44.25.048, noting that the definition is fairly brief. She stated that she wants to ensure that it applies to all varieties of food retail stores in Alaska.

REPRESENTATIVE JOSEPHSON responded that he had not considered whether the definition would be expansive enough to cover all of the varieties of food dispensers that exist in Alaska.

[4:20:53 PM](#)

MS. SORUM-BIRK provided clarification that that is the only statutory definition that exists for grocery stores.

REPRESENTATIVE SNYDER commented that she would hate to see smaller stores excluded due to an issue of interpretation.

[4:21:55 PM](#)

REPRESENTATIVE MCCARTY asked Ms. Sorum-Birk if the required emergency declaration that would trigger HB 45 could apply to a portion of Alaska or would need to apply to the entire state.

MS. SORUM-BIRK responded that there could be a regional or localized pandemic and the governor could declare an emergency for particular municipalities if it were related to a contagious disease.

REPRESENTATIVE MCCARTY asked, if there was an outbreak of influenza, whether the employers in that community be required to pay workers' compensation benefits.

MS. SORUM-BIRK responded that the governor has to have declared an emergency. She said that if there was an outbreak so severe that the governor had declared that an emergency had occurred, then it could be a possibility, but for the common cold or seasonal flu it would be unlikely for a governor to declare a disaster emergency.

REPRESENTATIVE MCCARTY asked if there is a definition of "disaster emergency."

MS. SORUM-BIRK responded the bill sponsor is using the disaster emergency definition found in the Alaska Disaster Act, located in AS 26.23.020(c).

[4:25:12 PM](#)

CO-CHAIR SPOHNHOLZ asked Ms. Sorum-Birk if she could supply that definition to the committee. She agreed that it is unlikely that a governor would declare an emergency for the flu, but that it could potentially happen in the case of a disease like tuberculosis.

[4:26:09 PM](#)

REPRESENTATIVE KAUFMAN asked Representative Josephson about the possibility of the bill requiring employers to be "proving a negative." He said he is concerned about setting a precedent and opening the employers to liability and the possibility of discrimination against employees that are already high-risk.

REPRESENTATIVE JOSEPHSON responded that in around 2008, the legislature and the governor at the time passed a bill which said that firefighters and related professionals who had exposure to carcinogenic material could receive workers' compensation upon sufficient evidence that the workplace is where the exposure occurred. He opined that it is not fantastic coverage because it is a sixty-month bill and it not overly generous. The point, he said, is that there is some history for covering something that is unseen. He stated that the failure to cover these sorts of exposures may cause people to not want to enter certain professions, such as grocery store positions that pay minimum-wage. He restated that more police officers have died from COVID-19 exposure in the last year than from anything else. He said that he understands Representative Kaufman's point but does not think it would be likely to be an issue.

[4:31:27 PM](#)

CO-CHAIR SPOHNHOLZ noted that it could be helpful to have Lori Wing-Heier, Director of the Division of Insurance, speak to the committee and answer questions and share her perspective.

[4:32:25 PM](#)

REPRESENTATIVE MCCARTY asked for definitive numbers of workers that may have been impacted in the last year by COVID-19.

MS. SORUM-BIRK responded that the Department of Labor & Workforce Development would be best suited to answer this question. She shared that the department released a thorough

report [included in committee packets] detailing the number of people impacted by COVID-19.

[4:33:48 PM](#)

CHARLES COLLINS, Director, Workers' Compensation Division, Department of Labor and Workforce Development, responded that the department has tracked claims throughout the pandemic, and as of last week there were 2,386 claims reported. He shared that just about 10 percent of claims were denied. Of the claims that were approved, the department categorized the claims by occupation. He said that he would be glad to use this information to glean any specific data the committee would like to see.

REPRESENTATIVE MCCARTY responded that he would be interested in seeing numbers to see how much of an impact this bill would have. He asked how individuals who go home sick from work [from a common sickness] are differentiated from individuals who have to go to the hospital.

MR. COLLINS responded that of the claims the department received this year, only 694 of the claims were paid some type of benefit. In situations where there may have been exposure, Alaska employers might shut down business and send every employee to be tested, which could result in a high number of claims, but he shared that most of those situations resulted in a "zero bill." He explained that that is why there were 2,386 claims but only 694 claims that were paid. He shared that even so, this number is quite high, and resulted in a payout of \$850,000 in benefits. The majority of this cost comes from cases where medical transfers were necessary, he said, particularly if the individual requiring care was in a remote location.

[4:38:11 PM](#)

CO-CHAIR SPOHNHOLZ announced that HB 45 was held over.

Occupational Safety and Health Review Board

[4:38:38 PM](#)

CO-CHAIR SPOHNHOLZ announced that the next order of business would be a confirmation hearing in consideration of the governor's appointee to the Occupational Safety and Health Review Board.

[4:40:16 PM](#)

THOMAS TROSVIG, Appointee, explained that his background includes 30 years of service in the U.S. Coast Guard and 12 years of those years consisted of "sea duty." He shared that after retiring, he and his wife owned a business in Kodiak, Alaska, and for the past sixteen years, he has been employed as a Safety Security Manager where he deals with Occupational Safety and Health Administration (OSHA) regulations on a daily basis. He has served on the board for twelve years already and said that he has a great amount of experience in the safety field. He explained that in the Coast Guard, he filed and approved casualty investigations for four major offices. He said that he wants to serve to contribute to the health and safety of the workforce.

[4:42:32 PM](#)

REPRESENTATIVE MCCARTY thanked Mr. Trosvig for his service in the Coast Guard.

[4:43:07 PM](#)

REPRESENTATIVE SNYDER asked if Mr. Trosvig could speak about some of the lessons he has learned about workplace safety during the COVID-19 pandemic.

MR. TROSVIG responded that it has been a "horror show" due to COVID-19. He shared that it has been a horror show for him at work every day because he has to ensure that all practices remain COVID-19 compliant.

REPRESENTATIVE SNYDER asked Mr. Trosvig if he has been following the investigation regarding Copper River Seafoods.

MR. TROSVIG responded that he has not been following it. He said that the board doesn't get "any inkling" until it sees a case; therefore, he is unable to comment on that.

[4:44:58 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony on the appointment of Thomas Trosvig to the Occupational Safety and Health Review Board. After ascertaining that no one else wished to testify, she closed public testimony.

[The confirmation hearing for Thomas Trosvig, appointee to the Occupational Safety and Health Review Board, was held over.]

Board of Physical and Occupational Therapy

[4:45:19 PM](#)

CO-CHAIR SPOHNHOLZ announced that the next order of business would be a confirmation hearing in consideration of the governor's appointee to the State Board of Physical and Occupational Therapy.

[4:45:21 PM](#)

ENLOW WALKER, Appointee, State Board of Physical and Occupational Therapy, shared that he is a retired family practice physician and that this would be a reappointment to the board. He shared that his medical training was financed by a U.S. Air Force scholarship program, and he was required to serve on active duty after his schooling, which brought him to Alaska. He worked for a clinic in Fairbanks from 1988 through 2016 when he retired from active practice. He shared that he was initially appointed to the board in 2018 and is currently serving as the secretary of the board. He said that throughout his career, he interacted with physical and occupational therapists frequently, including supervising the physical therapy department. He added that he also has served on the Advisory Board on Alcoholism and Drug Abuse (ABADA) since 2011 and on the Fairbanks North Star Borough Health and Social Services Commission since 2018.

[4:48:19 PM](#)

CO-CHAIR SPOHNHOLZ thanked Dr. Walker for his service on ABADA and said that it is a big issue in Alaska which costs the state billions of dollars in terms of economic loss and causes a lot of hardship for Alaska families.

[4:48:45 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony on the appointment of Enlow Walker to the State Board of Physical and Occupational Therapy. After ascertaining that no one else wished to testify, she closed public testimony.

[The confirmation hearing for Enlow Walker, appointee to the State Board of Physical and Occupational Therapy, was held over.]

Board of Registration for Architects, Engineers & Land Surveyors

[4:49:06 PM](#)

CO-CHAIR SPOHNHOLZ announced that the next order of business would be a confirmation hearing in consideration of the governor's appointee to the Board of Registration for Architects, Engineers & Land Surveyors.

[4:49:18 PM](#)

ELIZABETH JOHNSTON, Appointee, shared that she has been a registered electrical engineer since 2011 and has served on the board since 2017. She is currently the chair of the committee and said that she is eager to continue her service. She explained that the board is working on several initiatives relating to continuing education, military spousal licensure, and public outreach that she would like to see completed during her term as chair over the next year.

CO-CHAIR SPOHNHOLZ asked Ms. Johnston if she could explain the initiatives she mentioned in more detail.

MS. JOHNSTON responded that the first major project is related to continuing education. Architects, engineers, and land surveyors have to complete a certain amount of continuing education, she explained, and particularly with the difficulties of COVID-19, it has been a goal of the board to figure out better ways to reach out to licensees to remind them of the continuing education requirements and help licensees submit the required documentation in a way that can be efficiently reviewed. Another project is related to military spouse licensure, and the board intends to find a way to make this process more efficient, she said. She explained that the board only meets four times a year, which means that military spouses sometimes have to wait for three to four months for the license application to be reviewed by the board. The final project she mentioned is finding ways to reach out to the public and licensees. Additionally, the board is considering how to incorporate interior designers into the board if interior designer becomes a licensed profession.

[4:52:39 PM](#)

CO-CHAIR SPOHNHOLZ noted that Ms. Johnston is a two-time graduate of the University of Alaska, Fairbanks.

MS. JOHNSTON responded that that is correct. She shared that she has a Master of Engineering Management as well as an engineering degree.

CO-CHAIR SPOHNHOLZ expressed that it's great to see individuals who graduated from the university system go on to serve the community in important ways.

[4:53:04 PM](#)

REPRESENTATIVE MCCARTY asked Ms. Johnston what she is experiencing on the board regarding reciprocity of licenses.

MS. JOHNSTON responded that there are several national organizations that the board contributes to that work to facilitate licensure. She mentioned the board is looking at ways to have license application reviewed prior to the meetings to expedite the process, which would include the board only looking at the requirements specific to Alaska, and allowing other entities to check the national requirements.

REPRESENTATIVE MCCARTY asked Ms. Johnston that process is being challenged because of statutes that don't recognize other entities.

MS. JOHNSTON responded that the board believes it is within the regulations that already exist; however, the board is working on adding language that makes it more explicit that the board can accept records prior to the meetings.

REPRESENTATIVE MCCARTY expressed that Ms. Johnston is well-informed regarding matters of the board.

[4:55:21 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony on the appointment of Elizabeth Johnston to the Board of Registration for Architects, Engineers & Land Surveyors. After ascertaining that no one else wished to testify, she closed public testimony.

[The confirmation hearing for Elizabeth Johnston, appointee to the Board of Registration for Architects, Engineers & Land Surveyors, was held over.]

Workers' Compensation Appeals Commission

[4:55:25 PM](#)

CO-CHAIR SPOHNHOLZ announced that the next order of business would be a confirmation hearing in consideration of the governor's appointee to the Workers' Compensation Appeals Commission.

[4:55:40 PM](#)

JAMES RHODES, Appointee, Workers' Compensation Appeals Commission, explained that he has been serving on the Workers' Compensation Appeals Commission since 2012. He shared that one of the requirements to serve on the commission is to first serve on the Workers' Compensation Board, which he has done. He said it has been both challenging and rewarding to serve, and that it is his way to "give back to the system."

[4:57:07 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony on the appointment of James Rhodes to the Workers' Compensation Appeals Commission. After ascertaining that no one else wished to testify, she closed public testimony.

[The confirmation hearing for James Rhodes, appointee to the Workers' Compensation Appeals Commission, was held over.]

[4:57:30 PM](#)

The committee took a brief at-ease.

Board of Dental Examiners
Board of Massage Therapists
Board of Pharmacy

[4:58:00 PM](#)

CO-CHAIR SPOHNHOLZ announced that the final order of business would be confirmation hearings in consideration of the governor's appointees to the Board of Dental Examiners, the Board of Massage Therapists, and the Board of Pharmacy.

CO-CHAIR SPOHNHOLZ stated that the House Labor and Commerce Standing Committee had, [during the House Labor and Commerce

Standing Committee meeting on March 3, 2020,] reviewed the qualifications of the following governor's appointees for consideration: Kelly Lucas to the Board of Dental Examiners; Julie Endle to the Board of Massage Therapists; and James Henderson and Tammy Lindemuth to the Board of Pharmacy [and would advance the confirmations to the joint session for consideration]. She further stated that each member's signature on the committee report in no way reflects the member's vote during the joint floor session. [The confirmations were advanced.]

[4:58:47 PM](#)

CO-CHAIR SPOHNHOLZ next requested a motion to allow the co-chairs of the House Labor and Commerce Standing Committee to draft legislation on behalf of the committee.

[4:59:36 PM](#)

REPRESENTATIVE SCHRAGE moved that Representatives Spohnholz and Fields be delegated the duties and responsibilities in AS 24.08.060(a) during regular and special sessions of the 32nd Alaska State Legislature. This delegation remains in effect until withdrawn by the committee.

[5:00:13 PM](#)

REPRESENTATIVE MCCARTY objected for the purpose of discussion. He commented that he has not read the statute and would like to read it.

[5:00:48 PM](#)

The committee took an at-ease from 5:00 p.m. to 5:06 p.m.

[5:06:40 PM](#)

REPRESENTATIVE MCCARTY withdrew his objection. There being no further objection, the motion passed.

[5:07:42 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:08 p.m.