

**ALASKA STATE LEGISLATURE**  
**SENATE LABOR AND COMMERCE STANDING COMMITTEE**

September 8, 2021

1:33 p.m.

**MEMBERS PRESENT**

Senator Mia Costello, Chair  
Senator Joshua Revak, Vice Chair  
Senator Peter Micciche  
Senator Gary Stevens (via Teams)  
Senator Elvi Gray-Jackson (via Teams)

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 3006

"An Act relating to utilization review requirements; making temporary changes to state law in response to the novel coronavirus disease (COVID-19); relating to telemedicine and telehealth; relating to background checks; and providing for an effective date."

- MOVED CSSB 3006(L&C) 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)

**WITNESS REGISTER**

ADAM CRUM, Commissioner  
Department of Health and Social Services (DHSS)

Anchorage, Alaska

**POSITION STATEMENT:** Provided opening comments during the second hearing on SB 3006.

JARED KOSIN, President and CEO

Alaska State Hospital and Nursing Home Association (ASHNHA)

Anchorage, Alaska

**POSITION STATEMENT:** Answered questions and provided information related to SB 3006.

RENEE GAYHART, Director

Division of Health Care Services

Department of Health and Social Services (DHSS)

Juneau, Alaska

**POSITION STATEMENT:** Commented on Amendment 2 and reviewed the DHSS fiscal note for SB 3006.

SARA CHAMBERS, Director

Division of Corporations, Business, and Professional Licensing

Department of Commerce, Community and Economic Development

Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to SB 3006.

KATHRYN MONFREDA, Director

Division of Statewide Services

Department Public Safety

Anchorage, Alaska

**POSITION STATEMENT:** Discussed the DPS fiscal note for SB 3006.

#### **ACTION NARRATIVE**

[1:33:28 PM](#)

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Micciche, Stevens (via Teams), Revak, Gray-Jackson (via Teams) and Chair Costello.

#### **SB3006-HEALTH CARE REQS; COVID-19; TELEHEALTH**

[1:34:20 PM](#)

CHAIR COSTELLO announced the consideration of SENATE BILL NO. 3006 "An Act relating to utilization review requirements; making temporary changes to state law in response to the novel coronavirus disease (COVID-19); relating to telemedicine and telehealth; relating to background checks; and providing for an effective date."

CHAIR COSTELLO listed the individuals who would provide testimony or were available to answer questions, and asked Commissioner Crum to offer any additional comments on SB 3006.

[1:36:27 PM](#)

ADAM CRUM, Commissioner, Department of Health and Social Services (DHSS), Anchorage, Alaska, expressed appreciation for the hearing and said he looked forward to the conversation about the bill and the amendments, which he and the chair had discussed earlier.

CHAIR COSTELLO asked Jared Kosin to provide information that would set the stage and provide context for the legislation.

[1:37:25 PM](#)

JARED KOSIN, President and CEO, Alaska State Hospital and Nursing Home Association (ASHNHA), Anchorage, Alaska, advised that he would start by responding to the questions that were asked yesterday. After that he would make observations about COVID-19 hospital volumes compared to the December 2020 peak, and conclude by addressing why SB 3006 will help.

MR. KOSIN addressed the four questions the committee asked during the previous hearing.

**1. How many hospitals are in Alaska?**

Alaska has 26 hospitals: 13 critical access hospitals, 5 sole community hospitals, 3 general acute care hospitals, and 5 specialty hospitals, 2 of which are military hospitals. He said it should be noted that 8 of these hospitals are run by a robust tribal health system.

**2. How many hospital beds are in Alaska?**

Alaska hospitals have 1,500 acute care beds, including about 160 intensive care unit (ICU) beds. Due to Alaska's unique geography, approximately 21 percent of the acute care beds are not accessible from the road system. To provide context for this figure, he said the national average is 2.5 acute care beds per 1,000 people. If military hospitals, psychiatric hospitals, and specialty hospitals are not counted, Alaska has about 2.0 acute care beds per 1,000 Alaskans.

**3. Are people currently being turned away from hospitals?**

No; hospitals are subject to federal Emergency Medical Treatment and Labor Act (EMTALA), which means they have a

legal duty to treat all individuals who present at a hospital emergency room. No patients have been turned away but there is the possibility that care could be rationed, as is happening in northern Idaho hospitals.

#### **4. What is staffing capacity?**

Staff capacity reflects the number of beds that can be filled at any one time. A hospital could have 500 beds, but if there is only enough staff to care for 50 patients, the capacity of the facility at that point is 50 beds. Throughout the pandemic, staffing has been the limiting factor on hospital capacity, not the physical number of beds.

MR. KOSIN asked if there were any questions.

1:41:31 PM

SENATOR MICCICHE asked for the current magnitude of staffing shortages and how much is related to COVID-19.

MR. KOSIN replied staffing is the largest issue inside these facilities. For example, two weeks ago ASHNHA issued an emergent request for staffing from member facilities to share with DHSS to support efforts to get help from the federal government. A mix of 17 hospitals and nursing homes responded and requested support to fill approximately 450 positions, most of which were for nurses and certified nursing assistants. He said testimony from hospital operators over the last few months also demonstrates the critical nature of staffing shortages. They have repeatedly highlighted that strain on staff and shortages is the number one issue right now.

MR. KOSIN said some of the current COVID statistics provide even more clarity. On September 6, 182 Alaskans were in the hospital with COVID-19. This is 52 percent more than a month ago and 21 percent higher than the hospitalizations during the December 5, 2020 peak. As the COVID-19 population increases, staff must focus on fewer patients because COVID-19 patients are much more complex. When these patients end up on ventilators, staffing capacity is further reduced. According to clinical staff at some facilities, a patient who ends up on a ventilator and does not pass away within the first seven days, may be in that bed in the ICU for 21-28 days. Not only is there a surge in the number of COVID-19 patients, COVID-19 patients also stay longer and tie up the hospital's assets and staffing.

MR. KOSIN recounted that one month ago, 14 percent of the adults in a hospital had a COVID-19 diagnosis. During the December 2020 peak, that number was 18 percent. Today, 22 percent of the hospital population has COVID-19, and half of the 182 COVID-19 hospitalizations are in Anchorage. During the December 2020 peak, 61 percent of the COVID-19 patients were in Anchorage. This means there are a significant number of complex COVID-19 patients in outlier facilities, primarily MatSu Regional, Fairbanks Memorial, and Central Peninsula Hospital. Those facilities account for close to 40 percent of hospitalizations statewide.

[1:49:02 PM](#)

MR. KOSIN said his last observation is about the meaning of staffing capacity. On September 6 occupancy at Anchorage hospitals was about 91 percent with two of the three hospitals showing no beds available. The ICU occupancy was 95 percent, but that did not include the 12-18 patients in the emergency room waiting for a bed on the hospital floor. Practically speaking, he said these hospitals have been running at or above 100 percent occupancy for some time. He said Central Peninsula Hospital put out a graphic last week showing it was running at 120 percent occupancy when all the people in the emergency room waiting for a bed were factored.

MR. KOSIN said staff cannot keep up at these levels and this does not consider days off, vacation, burnout, and people exiting markets for other reasons. The fact that about half the ASHNSHA facilities have requested help to fill more than 400 positions to support the current surge, and occupancy levels are what they are, staffing is unquestionably the largest problem.

He asked if there were questions before he briefly discussed SB 3006.

CHAIR COSTELLO determined there were no questions and asked him to continue.

[1:51:28 PM](#)

MR. KOSIN shared that a director of an emergency department cries on the way to and from work to be able to be strong for the staff during the workday. In another facility, the ICU directors are all in counseling because they have witnessed the deaths of so many young, health, vibrant people. He said the obvious answer going forward is to hit the peak, but nobody knows when that will be. Some hospital operators feel this will be around at significant levels for a month or two, particularly

in the hospital environment. He said the second thing that can help is any and all resources around staffing. He thanked Commissioner Crum and his team for trying to procure staff from federal contracting agencies; it means a lot to his facilities.

[1:54:00 PM](#)

MR. KOSIN said he views SB 3006 as a series of one-off tools that can make the current situation a little easier. He described the background check provision as the most important tool in the bill because the 10-15 business days to turn around a background check is not feasible when facilities have such a need for clinical and non-clinical staff. He pointed out that if there is a shortage of environmental service workers to clean a room after somebody is discharged, that bed is not available. The longer it takes to make that bed available, the bigger the bottleneck. He said eliminating the duplicative processes for background checks will save time.

[1:57:04 PM](#)

MR. KOSIN said SB 3006 also reinstates telehealth and that is a win-win from the standpoint of preventing spread of the virus. It also potentially paves the way to restart in-home patient monitoring, which is a program Providence Alaska Medical Center ran. It saves beds when patients do not have to enter the acute care setting.

MR. KOSIN said SB 3006 also suspends the utilization review. This has to do with prior authorization before a service is provided to a patient, and it can be a real barrier. He opined that waiving this requirement provides an opportunity for more efficient patient throughput. For example, it can take days to get authorization for a patient to be discharged from the hospital into a nursing home. He said this provision provides a tool that will help the department and the Division of Insurance speed the process along and free up the acute care bed.

MR. KOSIN concluded that SB 3006 provides a practical toolkit that ASHNHA believes will be very helpful.

[1:59:03 PM](#)

CHAIR COSTELLO thanked him for connecting the dots as to how SB 3006 will help. She described the comments about the background checks as helpful and expressed appreciation that he clarified that the telemedicine provisions in the bill are a very small slice of the topic of telemedicine. Alaska already has telemedicine statutes in place and the telehealth provisions in this legislation relate specifically to health care providers

who are not in this jurisdiction. These provisions accommodate Alaskans who do not want to have to travel to receive care from their health care providers who reside outside the state.

[2:00:32 PM](#)

SENATOR STEVENS said it is tangential but he would like Mr. Kosin to comment on mandatory vaccinations to work in hospitals because he is hearing from constituents who are very upset and threatening to leave.

CHAIR COSTELLO responded that is not addressed in SB 3006, but she too has constituents who have expressed concern about mandatory vaccinations to keep a job. She asked Mr. Kosin if he was aware of the issue.

[2:01:28 PM](#)

MR. KOSIN replied the federal government currently requires health care workers in nursing homes to be vaccinated, and that order is in the process of being implemented. He noted that some facilities are also taking independent steps to align their vaccine protocols with measures like the flu vaccine. He acknowledged that it is a tense issue, but said ASHNHA members have not expressed concern to date about potentially losing staff because of a vaccination mandate.

SENATOR STEVENS thanked the chair for allowing the discussion.

CHAIR COSTELLO said she was not sure this was the legislation to address the issue but she would be happy to look at it together if he wanted to move forward.

[2:03:56 PM](#)

At ease to distribute amendments.

[2:06:26 PM](#)

CHAIR COSTELLO reconvened the meeting and advised that she had four amendments for the committee to consider.

[2:07:02 PM](#)

SENATOR MICCICHE moved Amendment 1, work order 32-GS3384\A.2.

32-GS3384\A.2  
Fisher  
9/8/21

### **AMENDMENT 1**

OFFERED IN THE SENATE  
TO: SB 3006

BY SENATOR COSTELLO

Page 2, line 28, through page 3, line 2:  
Delete all material.

Reletter the following subsection accordingly.

SENATOR REVAK objected for discussion purposes.

2:07:24 PM

CHAIR COSTELLO advised that Amendment 1 deletes subsection (c) in bill Section 3. She said it gives the commissioner the broad authority to "waive any state law or regulation if compliance would substantially prevent or impede the provision of health care services under this section." yet it was not even mentioned in the sectional analysis the committee heard yesterday and it is not in the title.

She asked Commissioner Crum to tell the committee whether he supports Amendment 1, what powers and authorities he has now, and how it will affect his ability to address COVID-19 if it were removed from the bill.

COMMISSIONER CRUM stated support for Amendment 1, saying it gets rid of superfluous language that does not affect the intent of the section.

SENATOR MICCICHE asked if he already has some ability to waive certain regulations if they are impeding the delivery of health care.

COMMISSIONER CRUM answered that HB 76 granted the commissioner public health emergency powers and he has used but at this point he wanted to make sure that the state powers align with the federal standard under Appendix K of the Centers for Medicare and Medicaid Services (CMS) 1135 Waiver. He said inserting the suspension of statute seemed like the easiest way to do that.

2:10:43 PM

SENATOR REVAK withdrew his objection.

2:11:26 PM

CHAIR COSTELLO found no further objection and Amendment 1 passed.

[2:11:43 PM](#)

SENATOR MICCICHE moved Amendment 2, work order 32-GS3384\A.5.

32-GS3384\A.5

Fisher

9/8/21

**AMENDMENT 2**

OFFERED IN THE SENATE

BY SENATOR COSTELLO

TO: SB 3006

Page 2, line 7:

Delete "beginning from the effective date of this Act and until July 1, 2022,"

Page 2, lines 28 - 29:

Delete "beginning from the effective date of this Act and until July 1, 2022,"

Page 3, lines 7 - 12:

Delete all material and insert:

"BACKGROUND CHECKS; APPLICABILITY.

Notwithstanding any other provision of law, a hospital or nursing facility may employ a person without obtaining a background check from the Department of Health and Social Services if the hospital or nursing facility

(1) provides sufficient information to the department attesting to the hiring process for each person employed at the facility and confirms that a background check has been conducted as part of the hiring process; and

(2) not later than July 1, 2022, obtains a background check from the Department of Health and Social Services for each person hired by the hospital or nursing facility between the effective date of this Act and July 1, 2022.

\* **Sec. 5.** Sections 3 and 4 of this Act are repealed July 1, 2022."

Renumber the following bill section accordingly.

[2:11:55 PM](#)

SENATOR REVAK objected for discussion purposes.

[2:12:03 PM](#)

CHAIR COSTELLO explained that Amendment 2 clarifies that a hospital or nursing facility initially may employ a person without obtaining a background check from DHSS, but the department must come back and process a full background check for those individuals by July 1, 2022.

She asked Renee Gayhart to comment on the intent of Amendment 1.

[2:14:13 PM](#)

At ease

[2:16:13 PM](#)

CHAIR COSTELLO reconvened the meeting.

[2:16:54 PM](#)

RENEE GAYHART, Director, Division of Health Care Services, Department of Health and Social Services (DHSS), Juneau, Alaska, stated support for Amendment 2. She confirmed that the department would process the full background check for individuals hired during this time and have those completed by July 1, 2022.

CHAIR COSTELLO restated what Amendment 2 would do.

[2:17:57 PM](#)

SENATOR REVAK removed his objection.

[2:18:07 PM](#)

CHAIR COSTELLO found no further objection and Amendment 2 passed.

[2:18:13 PM](#)

SENATOR MICCICHE moved Amendment 3, work order 32-GS3384\A.4.

32-GS3384\A.4  
Fisher  
9/8/21

**AMENDMENT 3**

OFFERED IN THE SENATE  
TO: SB 3006

BY SENATOR COSTELLO

Page 2, following line 14:

Insert a new paragraph to read:

"(2) the health care provider or the employer of the health care provider obtains a business license under AS 43.70.020 and pays the required fee under AS 43.70.030;"

Renumber the following paragraphs accordingly.

Page 2, line 26:

Delete "(a)(3)"

Insert "(a)(4)"

SENATOR REVAK objected for discussion purposes.

CHAIR COSTELLO explained that Amendment 4 requires out-of-state telehealth providers who are not licensed in Alaska to obtain a business license. She asked Ms. Chambers if this requirement would be cumbersome for the telehealth providers.

[2:19:19 PM](#)

SARA CHAMBERS, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska, advised that existing state law requires health care providers to have a business license and register with the Telemedicine Business Registry. Amendment 3 would not change the existing requirement.

[2:19:55 PM](#)

CHAIR COSTELLO withdrew Amendment 3.

[2:20:03 PM](#)

At ease

[2:20:08 PM](#)

CHAIR COSTELLO reconvened the meeting and solicited a motion.

[2:21:17 PM](#)

SENATOR MICCICHE moved to report SB 3006, work order 32-GS3384\A as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO asked if there was objection to moving the bill.

[2:21:50 PM](#)

SENATOR GRAY-JACKSON asked what happened to the last amendment.

CHAIR COSTELLO replied it was not offered.

[2:22:03 PM](#)

SENATOR STEVENS said he had questions about the fiscal notes that he would like to be addressed before the bill moves.

CHAIR COSTELLO asked Renee Gayhart to speak to the DHSS fiscal note.

[2:22:52 PM](#)

MS. GAYHART advised that the DHSS fiscal note reflects delayed revenue based on projections from previous fiscal years. On average, 4,800 applications come through the system for hospitals and nursing homes and each applicant is charged \$88.25 for the background check. DHSS takes \$40.00 as a processing fee, which amounts to \$192,000 for the department. The remaining \$48.25 per application goes to the Department of Public Safety (DPS).

SENATOR STEVENS asked if the revenue would be delayed to 2023.

MS. GAYHART said she should back up and clarify that it is a zero fiscal note. The numbers are an estimate based on previous fiscal years and the delayed revenue will start to come in once the department restarts the background check process.

[2:26:16 PM](#)

SENATOR MICCICHE observed that the delayed revenue could be either higher or lower than the \$192,000 projection depending on how many applications actually come in.

MS. GAYHART agreed that the revenue would depend on the number of applications that come through. She reiterated that 4,800 applications was an estimate based on previous fiscal years. She described the figure as well within the mark.

CHAIR COSTELLO asked Kathryn Monfreda to talk about the Department of Public Safety (DPS) fiscal note.

[2:27:01 PM](#)

KATHRYN MONFREDA, Director, Division of Statewide Services, Department Public Safety, Anchorage, Alaska, stated that the DPS fiscal note is based on the DHSS estimated numbers. However, passage of Amendment 2 [A.5] means the background checks will be completed before the end of the fiscal year so the delayed revenue will be realized in FY2022. She opined that the fiscal note should be revised to make it truly zero and remove the

discussion about it being indeterminate with \$177,600 in delayed revenue.

2:28:23 PM

CHAIR COSTELLO found no further objection and CSSB 3006(L&C) was reported from the Senate Labor and Commerce Standing Committee

2:29:27 PM

There being no further business to come before the committee, Senator Costello adjourned the Senate Labor and Commerce Committee meeting at 2:29 p.m.