

HB

312

<TARGET><BILL>HB 312</BILL><SUBJECT>HB
312</SUBJECT><COMM>HJUD30</COMM></TARGET>



Alaska State Legislature

Representative Matt Claman

Session: State Capitol, Rm 118 Juneau, AK 99801 Phone: 465-4919
Interim: 1500 W. Benson Blvd., Anch, AK 99503 Phone: 269-0130

House Bill 312 Sponsor Statement

"An Act relating to arrest without a warrant for assault in the fourth degree at a health care facility; and relating to an aggravating factor at sentencing for a felony offense against a medical professional at a health care facility."

Alaska hospitals have reported an increase in workplace violence over the past year, including assaults with physical injury against caregivers, such as being kicked, punched, spit on or verbally threatened. This violence can vary, including patient-on-caregiver violence, and visitor-on-caregiver violence.

Hospitals have reported that if staff contact the police to report an assault, law enforcement is often only able to cite the perpetrator and leave them at the hospital. Police often do not make an arrest because many of these offenses fall into the category of fourth degree assault, in which an officer must have a warrant to arrest an individual.

House Bill 312 addresses this issue by allowing for arrest without a warrant for a fourth degree assault in a health care facility. By removing the barrier of obtaining a warrant, perpetrators can be removed from health care facilities and hard-working medical professionals will be safe to continue their work. Additionally, House Bill 312 adds an aggravator to Alaska's felony assault statute when that assault is knowingly perpetrated against a medical professional in the performance of their duties.

Hospitals, emergency rooms, and other health care facilities are meant to be places where medical professionals can safely administer care. If this issue is left unaddressed, it could impact the well-being and quality of care for all patients. House Bill 312 supports hard-working nurses, doctors, and other medical professionals throughout Alaska.

Staff Contact: Lizzie Kubitz
Lizzie.Kubitz@akleg.gov



Alaska State Legislature

Representative Matt Claman

Session: State Capitol, Rm 118 Juneau, AK 99801 Phone: 465-4919
Interim: 1500 W. Benson Blvd., Anch, AK 99503 Phone: 269-0130

House Bill 312 Sectional Analysis —Version O

Section 1

AS 12.25.030(b) - Grounds for arrest by private person or peace officer without a warrant.

Establishes that a peace officer may arrest a person without a warrant when the peace officer has probable cause for believing that the person has committed an assault in the fourth degree at a health care facility and the person was not seeking medical treatment at the facility or was stable for discharge.

The term “stable for discharge” comes from the federal Emergency Medical Treatment and Labor Act, also known as EMTALA. EMTALA requires anyone coming to an emergency department be stabilized and treated, regardless of their insurance status or ability to pay. The federal government has published guidelines that describes the responsibilities of hospitals in emergency cases.

The guidelines provide: “a patient is considered stable for discharge...when, within reasonable clinical confidence, it is determined that the patient has reached the point where his/her continued care, including diagnostic work-up and/or treatment, could be reasonably performed as an outpatient or later as an inpatient, provided the patient is given a plan for appropriate follow-up care with the discharge instructions.” In addition, “... ‘Stable for discharge’ does not require the final resolution of the emergency medical condition.”

Section 2

AS 12.25.030 - Grounds for arrest by private person or peace officer without a warrant.

Establishes that the definition for “health care facility” has the meaning given in AS 18.07.111.

Section 3

AS 12.55.155(c) - Factors in aggravation and mitigation.

Adds an aggravator to Alaska’s felony assault statute when a defendant committed the offense at a health care facility and knowingly directed the conduct constituting the offense at a medical professional during or because of the medical professional's exercise of professional duties.

Section 4

Uncodified law

This section contains applicability provisions.

INTERPRETIVE GUIDELINES - RESPONSIBILITIES OF MEDICARE PARTICIPATING HOSPITALS IN EMERGENCY CASES

<p>A407 (Cont.)</p>	<p>for FURTHER MEDICAL EXAMINATION AND TREATMENT as required to stabilize the medical condition; or</p> <p>(ii) For transfer of the individual to another medical facility in accordance with paragraph (d) of this section.</p>	<p>If a physician is not physically present at the time of transfer, then qualified personnel (as determined by hospital bylaws or other board-approved documents) in consultation with a physician can determine if a patient is stable for transfer.</p> <p>The failure of a receiving facility to provide the care it maintained it could provide to the patient when the transfer was arranged, should not be construed to mean the patient's condition worsened as a result of the transfer.</p> <p>A patient is considered stable for discharge (vs. for transfer from one facility to a second facility) when, within reasonable clinical confidence, it is determined that the patient has reached the point where his/her continued care, including diagnostic work-up and/or treatment, could be reasonable performed as an outpatient or later as an inpatient, provided the patient is given a plan for appropriate follow-up care with the discharge instructions.</p> <p>For purposes of transferring a patient from one facility to a second facility, <u>for psychiatric conditions</u>, the patient is considered to be stable when he/she is protected and prevented from injuring himself/herself or others. For purposes of discharging a patient (other than for the purpose of transfer from one facility to a second facility), for psychiatric conditions, the patient is considered to be stable when he/she is no longer considered to be a threat to him/herself or to others.</p> <p>"Stable for transfer" or "Stable for discharge" does not require the final resolution of the emergency medical condition.</p> <p>Hospitals may not circumvent the requirements in §489.24 by admitting individuals with emergency medical conditions to other departments of the hospital and then discharging them prior to stabilization. These requirements apply to <u>all</u> areas of the hospital.</p> <p>"Transfer" as defined in paragraph (b) of this section, means the movement (including the discharge) of an individual outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such a movement of an individual who has been declared dead or leaves the facility without the permission of any such person. If discharge would result in the reasonable medical probability of material deterioration of the patient, the emergency medical condition should not be considered to have been stabilized.</p> <p>When a hospital has exhausted all of its capabilities in attempting to remove the emergency medical condition, it must effect an appropriate transfer of the individual. (See Tag A409)</p>
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January 29, 2018

Representative Matt Claman and Representative Chuck Kopp
State Capitol Room 118
Juneau, AK 99801

Dear Representatives Claman and Kopp:

We are writing to thank you for sponsoring HB 312, "an act relating to arrest without a warrant for assault in the fourth degree at a health care facility; and relating to an aggravating factor at sentencing for a felon offense against a medical professional at a health care facility."

Alaska hospitals have reported an increase in workplace violence over the past year, including assaults with physical injury against caregivers. Staff report feeling unsafe in the workplace. They experience being kicked, punched, spit on or verbally threatened all too often. This should not be an acceptable workplace hazard. Unfortunately, for many nurses, physicians, and other caregivers, this has become the new normal.

Many assaults fall into the category of fourth degree assault in which an officer must have a warrant to arrest an individual. We have learned that this process may be part of the reason that police often cite and leave an individual on scene rather than arresting them. We support making it easier for law enforcement to remove perpetrators of assault by eliminating the need for a warrant when an assault has occurred at our health care facility. All patients deserve to have access to care without fear of assault from other patients/visitors.

We also support allowing sentences to be imposed above the presumptive range for felony offenses against a medical professional at a health care facility. This sends a clear message to our health care providers that they are supported and valued.

We recognize legislation is only one potential solution to the complex problem. To successfully address this issue, our facility has a comprehensive strategy using evidence-based practices. At North Star Behavioral Health System we have implemented many strategies to help keep our employees safe, such as training all clinical staff in de-escalating physical and verbal aggression, additional staff as circumstances require, preemptive assessment of risk factors, code training for all staff, etc.

Please let us know if there is anything we can do to support this moving forward. Thank you very much for your advocacy on this important issue.

Sincerely,



Dr. Andrew Mayo, PhD
CEO North Star Behavioral Health System

Mission:

To enhance the quality of
life for all we serve

Vision:

Honor our heritage and be
the pride of the community

Values:

Integrity
Compassion and Caring
Trust
Transparency
Loyalty
Honoring our Heritage
Quality
Fiscal Responsibility

January 29, 2018

Representative Matt Claman and Representative Chuck Kopp
State Capitol Room 118
Juneau, AK 99801

Dear Representatives Claman and Kopp:

We are writing to thank you for sponsoring HB 312. "an act relating to arrest without a warrant for assault in the fourth degree at a health care facility; and relating to an aggravating factor at sentencing for a felon offense against a medical professional at a health care facility."

Alaska hospitals have reported an increase in workplace violence in recent years, including assaults with injury against caregivers. Staff report feeling unsafe in the workplace. They experience being kicked, punched, spit on or verbally threatened all too often. This should not be an acceptable workplace hazard. Unfortunately, for many nurses, physicians, and other caregivers, this has become the new normal.

During the 2 year period, January 2016 thru December 2017, Wrangell Medical Center has documented 24 Incident Reports involving aggression or aggressive actions. Of these Incident Reports; 16 of the 24 resulted in completion of "OSHA Form 07-6100 Employee Report of Occupational Injury or Illness to Employer". The majority of these reports were minimal injury and more for informational purposes. However, the sheer number averaging one aggressive episode per month is alarming, given the size of our small facility.

We recognize legislation is only one potential solution to the problem. To successfully address this issue, each facility needs to implement a comprehensive strategy using evidence-based practices. At Wrangell Medical Center, we have implemented the following strategies to keep our employees safe. Our staff training includes: *Workplace Violence Prevention* and *NCI – Non-Violent Crisis Intervention*. Both of these classes focus on ways to avoid or minimize aggressive episodes. Staff members learn how to identify potential aggression, de-escalation methods, and safe body mechanics to get release from or block aggressive actions from others.

There is the potential for future assaults falling into the category of fourth degree assault in which an officer must have a warrant to arrest an individual. We have learned that this process may be part of the reason that police often cite and leave an individual on scene rather than arresting them. We support making it easier for law enforcement to remove perpetrators of assault by eliminating the need for a warrant when an assault has occurred at our health care facility.

We also support allowing sentences to be imposed above the presumptive range for felon offenses against a medical professional at a health care facility. This sends a clear message to our health care providers that they are supported and valued.

Please let us know if there is anything we can do to support this moving forward. Thank you very much for your advocacy on this important issue.

Sincerely,



Robert Rang, CEO

Caring for
Southeast



ALASKA STATE HOSPITAL &
NURSING HOME ASSOCIATION

January 30, 2018

Representative Matt Claman and Representative Chuck Kopp
State Capitol Room 118 and State Capitol Room 13
Juneau, AK 99801

Dear Representatives Claman and Kopp:

The Alaska State Hospital and Nursing Home Association (ASHNHA) is writing in support of HB 312, which addresses violence against health care workers.

ASHNHA is the membership organization representing Alaska's hospitals and skilled nursing facilities. Our members provide critical health care services in their communities, including inpatient acute care, emergency services, primary care and behavioral health. For over 60 years, ASHNHA members have worked to improve health care in Alaska.

Alaska hospitals have reported an increase in workplace violence over the past year, including assaults with physical injury against caregivers. Staff report feeling unsafe in the workplace. They are kicked, punched, spit on or verbally threatened all too often. Violence should not be an acceptable workplace hazard, but unfortunately for many caregivers, this has become the new normal.

This bill supports our physicians, nurses, CNAs and other staff who devote their careers to caring for Alaskans. We strongly support the ability of police officers to arrest without a warrant for fourth degree assault in a health care facility, and the addition of an aggravator in the felony assault statute when that assault is perpetrated against a medical professional in the performance of their duties. Both provisions send the message that as a state, we do not tolerate violence against health care workers. Hospitals should be safe and healing places, free of violence, where all in need can seek care. This bill helps to ensure that they remain those safe and sacred places.

Please let us know if there is anything we can do to support this important legislation moving forward. Thank you very much for your advocacy on this important issue.

Sincerely,

Becky Hultberg, President/CEO

Providence Alaska Medical Center
3200 Providence Drive
P.O. Box 196604
Anchorage, AK 99519-6604
† 907 562 2211
alaska.providence.org



January 31, 2018

**Representative Matt Claman and Representative Chuck Kopp
State Capitol Room 118
Juneau, AK 99801**

Dear Representatives Claman and Kopp:

We are writing to thank you for sponsoring HB 312, "an act relating to arrest without a warrant for assault in the fourth degree at a health care facility; and relating to an aggravating factor at sentencing for a felon offense against a medical professional at a health care facility."

Alaska hospitals have reported an increase in workplace violence over the past year, including assaults with physical injury against caregivers. Staff report feeling unsafe in the workplace. They experience being kicked, punched, spit on or verbally threatened all too often. This should not be an acceptable workplace hazard. Unfortunately, for many nurses, physicians, and other caregivers, this has become the new normal.

In a three hundred day period of 2017 Providence Alaska Medical Center experienced 181 reported assaults per the Alaska Statute definition of assault. Many medical professionals feel that being assaulted is a part of the profession and do not report the incidents. Other well qualified medical professionals seek employment in areas where there is less risk of being assaulted. This takes away from our community, and the people we are responsible to care for. As part of our mission we will always take care of the poor and vulnerable, but our medical professionals must feel safe in doing so. They must not, and should not feel that being assaulted is just a part of their jobs.

Many assaults fall into the category of fourth degree assault in which an officer must have a warrant to arrest an individual. We have learned that this process may be part of the reason that police often cite and leave an individual on scene rather than arresting them. We support making it easier for law enforcement to remove perpetrators of assault by eliminating the need for a warrant when an assault has occurred at our health care facility.

We also support allowing sentences to be imposed above the presumptive range for felony offenses against a medical professional at a health care facility. This sends a clear message to our health care providers that they are supported and valued.

We recognize legislation is only one potential solution to the complex problem. To successfully address

this issue, each facility needs to implement a comprehensive strategy using evidence-based practices. At Providence Alaska Medical Center we have implemented the following strategies to keep our employees safe.

- We have created a De-escalation Committee tasked with creating and revamping policies and procedures to better protect our medical professionals.
- We have more than doubled the amount of surveillance cameras throughout the facility.
- We have added de-escalation K9s to our security team.
- De-escalation classes are offered and are now mandatory for all employees.

Please let us know if there is anything we can do to support this moving forward. Thank you very much for your advocacy on this important issue.

Sincerely,



Richard Mandsager MD
Chief Executive, PAMC

February 6, 2018

Representative Matt Claman and Representative Chuck Kopp
State Capitol Room 118
Juneau, AK 99801

Dear Representatives Claman and Kopp:

We are writing to thank you for sponsoring HB 312, "an act relating to arrest without a warrant for assault in the fourth degree at a health care facility; and relating to an aggravating factor at sentencing for a felony offense against a medical professional at a health care facility."

Alaska hospitals have reported an increase in workplace violence over the past year, including assaults with physical injury against caregivers. Staff report feeling unsafe in the workplace. They experience being kicked, punched, spit on or verbally threatened all too often. This should not be an acceptable workplace hazard. Unfortunately, for many nurses, physicians, and other caregivers, this has become the new normal.

Along with other Alaska hospitals, SEARHC has experienced this same increase in incidents between healthcare workers and disgruntled patients. Employees in high risk areas, such as Registration, Travel, Emergency Department and Pharmacy, repeatedly report aggressive confrontations and direct threats to their safety. Employees have received threats of gun attacks, physical violence and have witnessed as patients destroyed treatment rooms while in a violent state of mind. SEARHC has been fortunate to have experienced only a handful of assaults and very few injuries; however the impact on overall employee morale is detrimental to our mission as a healthcare organization.

Many assaults fall into the category of fourth degree assault in which an officer must have a warrant to arrest an individual. We have learned that this process may be part of the reason that police often cite and leave an individual on scene rather than arresting them. We support making it easier for law enforcement to remove perpetrators of assault by eliminating the need for a warrant when an assault has occurred at our health care facility.

We also support allowing sentences to be imposed above the presumptive range for felony offenses against a medical professional at a health care facility. This sends a clear message to our health care providers that they are supported and valued.

We recognize legislation is only one potential solution to the complex problem. To successfully address this issue, each facility needs to implement a comprehensive strategy using evidence-based practices. At the Southeast Regional Healthcare Consortium we have implemented the following strategies to help keep our employees safe.

In 2016, SEARHC leadership initiated a comprehensive security assessment with the goal of evaluating our organization's approach to workplace security and to identify areas to focus improvement activities. The

assessment focused on the following four main areas of security management; effective security technologies, professional development of security staff, security training programs, and policies.

As a result of the assessment, SEARHC has invested significant resources into improving our physical security by installing electronic access control systems and video monitoring, as well as considering security improvements during design/construction projects. In addition to physical security improvements, SEARHC has also invested resources into training our healthcare workers and support staff in de-escalation techniques. These skills provide our staff with a base understanding of how to react to aggressive patient behavior and reduce the risk of injury to themselves and others.

While all SEARHC employees are encouraged to be aware of their physical security and participate in de-escalation training, we have also established a security team at our two largest facilities, Mt Edgecumbe Hospital in Sitka and the Juneau based Ethel Lund Medical Center. As part of our professional development for our security leadership and officers, SEARHC is a member of the International Association of Healthcare Security and Safety (IAHSS). All officers are expected to complete the Certified Healthcare Security Officer training and progress through additional certifications as they advance in their career with SEARHC.

The work SEARHC has completed over the last few years has provided a safer working environment for our staff and we are committed to continued improvements. Additional support in the form of this bill will aid in our efforts.

Please let us know if there is anything we can do to support this moving forward. Thank you very much for your advocacy on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Neumeister". The signature is fluid and cursive, with a large, stylized initial "D" and "N".

Dan Neumeister
Executive Senior VP
SouthEast Alaska Regional Health Consortium
Direct: 907.364.4577 | Mobile: 530.680.5752
3100 Channel Drive, Ste. 300, Juneau, AK 99801 | searhc.org



**Danny Robinette, MD, FACS
Testimony, HB 312
House Judiciary Committtee, Feb. 5, 2018**

For the record, my name is Danny Robinette and I am the Chief Medical Officer of Foundation Health Partners. Our organization represents Fairbanks Memorial Hospital, Denali Center, and Tanana Valley Clinic and includes over 1600 health care employees.

- I write today to support HB 312, which helps to address the serious concern of workplace violence in health care facilities. Alaska hospitals are experiencing an increase in workplace violence over the past year, including assaults with physical injury against caregivers. In the past 18 months, we have had over 182 incidents with either violence or a threat of violence to health care staff in our hospital alone. On average only about 35% of incidences are actually reported, which makes the potential of over 500 events with either violence or a significant threat of violence to our staff.
- Violence should not be an acceptable workplace hazard. Unfortunately, for many nurses, physicians, and other caregivers, this has become the new normal.
- Many assaults fall into the category of fourth degree assault in which an officer must have a warrant to arrest an individual. We have learned that this process may be part of the reason that police often cite and leave an individual on scene rather than arresting them. We support making it easier for law enforcement to remove perpetrators of assault by eliminating the need for a warrant when an assault has occurred at our health care facility.
- We also support allowing sentences to be imposed above the presumptive range for felony assaults against a medical professional at a healthcare facility. This sends a clear message to our health care providers that they are supported and valued.



- We recognize legislation is only one potential solution to the complex problem. To successfully address this issue, each facility needs to implement a comprehensive strategy using evidence-based practices. At Foundation Health Partners we have implemented the following strategies to keep our employees safe: Non-Violent Crisis Intervention Training (de-escalation techniques) for all nursing staff, security staff, and environmental services staff; increased presence of security in high risk areas with additional training for our security staff; processes to identify patients with a high risk of violence so staff can be aware and not interact with the patient alone.
- We urge you to pass this legislation and send a strong message to nurses, physicians and other caregivers that Alaska takes this issue seriously.

A handwritten signature in black ink, appearing to read "Banny Robinette", is written over a faint, larger version of the same signature.

Banny Robinette, MD, FACS
Chief Medical Officer
Foundation Health Partners



**GENERAL
TEAMSTERS
LOCAL 959
STATE OF ALASKA**

Affiliated with the International Brotherhood of Teamsters
Rick Boyles, Secretary-Treasurer
520 E. 34th Ave., Suite 102, Anchorage, Alaska 99503
Phone (907) 751-8501 • Fax (907) 751-8599

February 2, 2018

Honorable Matt Claman and Chuck Kopp
Alaska House of Representatives
State Capitol Room 118
Juneau, AK 99801

Re: HB 312 – Workplace Violence in Health Care Facilities

Dear Representatives Claman and Kopp:

On behalf of the Teamster members we represent at South Peninsula Hospital, Inc. and Kodiak Island, we want to thank both of you for introducing HB 312 – Workplace Violence in Health care Facilities; specifically relating to arrest without a warrant for assault in the fourth degree at a health care facility.

Workplace violence is a serious problem. In hospitals, and other healthcare facilities, possible sources of violence include patients, visitors, intruders and even coworkers. Health care professionals including Doctors, Nurses, Emergency Room Technicians, and CNA's experience verbal threats and physical attacks by patients (usually drug and or alcohol related).

On average, incidents of workplace violence are more common in healthcare than in private industry. Many of the assaults fall in the category of fourth degree, requiring the officer to have a warrant in order to arrest. Most of these assaults occur in the late night hours, making it difficult at best, for an officer to attain a warrant. Eliminating the need for a warrant allows the offending individual to be removed from the healthcare facility quicker.

The bill also allows sentencing that could be considered above the presumptive range for a felony offense. We believe this sends a strong message not only to our Teamster Health Care professionals, but all health care professionals around the state.

Workplace violence has impacted many of our members over the years, requiring not only medical treatment, lost time from the job, but also serious stress and fatigue issue. As such, this creates an additional burden on Worker Compensation cost.

HB 312 may not end violence in healthcare facilities but can be one of many tools that healthcare facilities can utilize as they strive to create a more effective and comprehensive workplace violence plan. On behalf of our Teamster Healthcare professionals, we thank you and ask the members of the Judiciary committee to support the bill as well.

Sincerely,
TEAMSTERS LOCAL 959

Barbara Huff Tuckness
Director Government and Legislative Affairs

BHT:jk

**Jim Lynch
Testimony, HB 312
House Judiciary Committee, Feb. 5, 2018**

For the record, my name is Jim Lynch and I am the Chief Executive Officer of Fairbanks Memorial Hospital and Denali Center. Our community owned hospital and long term care facility provides care for a primary service area of more than 7000 miles.

Last year we delivered more than 1000 babies, had more than 40,000 patient days and treated close to 40,000 patients in our Emergency Department. We also experienced almost 100 documented instances of workplace violence, and many occurrences don't get reported because they've become so commonplace. Work place violence is not rare. We care for many of the community's most challenged members and with this comes its own unique set of challenges. Unfortunately biting, kicking, spitting, and hitting have become regular occurrences.

These situations occur in all areas of the hospital. Staff throughout our facility are routinely subjected to verbal and physical abuse while at the same time providing critical patient care.

- I am in support of HB 312, which helps to address the serious concern of workplace violence in health care facilities. Alaska hospitals are experiencing an increase in workplace violence over the past year, including assaults with physical injury against caregivers. At Fairbanks Memorial Hospital and Denali Center;
 - Our nurses, physicians, and care providers are routinely punched, kicked, scratched, spit on and have things thrown at them.
 - Several staff members have required medical care as a result of the abuse.
- Violence should not be an acceptable workplace hazard, but unfortunately, for many nurses, physicians, and other caregivers, this has become the new norm. At Fairbanks Memorial Hospital, we're feeling the impact:
 - Employees quit to pursue job opportunities in less volatile environments. Some of the positions are hard to recruit for and are in high demand.
 - The relationship between a care provider and a patient is important – violence creates tension and stress in the relationship.
 - Nurses and Physicians who sustain injury at the hand of a patient often require medical care - this can create a delay of important care to the patient while the injured physician or nurse is replaced by another care provider. If this happens in the Emergency Department, it can create a shortage of physicians – making it more difficult to provide care to other patients.



- Increased workman's comp claims.
- Increased operational expenses – security, equipment, staffing, etc.

- Many assaults fall into the category of fourth degree assault in which an officer must have a warrant to arrest an individual. We have learned that this process may be part of the reason that police often cite and leave an individual on scene rather than arresting them. We support making it easier for law enforcement to remove perpetrators of assault by eliminating the need for a warrant when an assault has occurred at our health care facility.

- We support allowing sentences to be imposed above the presumptive range for felony assaults against a medical professional at a health care facility. This sends a clear message to our health care providers that they are supported and valued.

- We recognize legislation is only one potential solution to the complex problem. To successfully address this issue, each facility needs to implement a comprehensive strategy using evidence-based practices. At Fairbanks Memorial Hospital and Denali Center we've implemented the following strategies to keep our employees safe:
 - Increased staffing
 - Provided additional training and education
 - Security scheduled 24/7
 - Implemented a "threat alert" program

- We urge you to please pass this legislation and send a strong message to nurses, physicians and other caregivers that Alaska takes this issue seriously.

Respectfully submitted,

Jim Lynch
Chief Executive Officer
Fairbanks Memorial Hospital & Denali Center

February 5, 2018

Representative Matt Claman and Representative Chuck Kopp
State Capitol Room 118
Juneau, AK 99801

Dear Representatives Claman and Kopp:

We are writing to thank you for sponsoring HB 312, "an act relating to arrest without a warrant for assault in the fourth degree at a health care facility; and relating to an aggravating factor at sentencing for a felon offense against a medical professional at a health care facility."

Alaska hospitals have reported an increase in workplace violence over the past year, including assaults with physical injury against caregivers. Staff report feeling unsafe in the workplace. They experience being kicked, punched, spit on or verbally threatened all too often. This should not be an acceptable workplace hazard. Unfortunately, for many nurses, physicians, and other caregivers, this has become the new normal.

The escalating concern at the staff level also has implications for other patients as resources are redeployed to address escalations. We have added security and implemented behavioral contracts for those with a history of violence, which has helped to some extent. We are in the process of training our employees on management and response strategies and have expanded our list of "risk factors" to increase our awareness of potential concerns.

Many assaults fall into the category of fourth degree assault in which an officer must have a warrant to arrest an individual. We have learned that this process may be part of the reason that police often cite and leave an individual on scene rather than arresting them. We support making it easier for law enforcement to remove perpetrators of assault by eliminating the need for a warrant when an assault has occurred at our health care facility.

We also support allowing sentences to be imposed above the presumptive range for felon offenses against a medical professional at a health care facility. This sends a clear message to our health care providers that they are supported and valued.

We recognize legislation is only one potential solution to the complex problem. To successfully address this issue, each facility needs to implement a comprehensive strategy using evidence-based practices – which we have done. At the end of the day we are still behind the eight ball if limits and consequences do not exist so we greatly appreciate your willingness to be a champion for our caregivers and be their voice for the safety of everyone.



Please let us know if there is anything we can do to support this moving forward. Thank you very much for your advocacy on this important issue.

Sincerely,

A handwritten signature in black ink that reads "Julie Taylor".

Julie Taylor, CEO
Alaska Regional Hospital

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version: HB 312
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB312-LAW-CRIM-02-02-18
Title: CRIMES AGAINST MEDICAL PROFESSIONALS
Sponsor: CLAMAN
Requester: House Judiciary

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES	FY 2019	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

Not applicable, initial version.

Prepared By: <u>Valerie Rose, Budget Analyst</u>	Phone: <u>(907)465-3674</u>
Division: <u>Administrative Services Division</u>	Date: <u>02/02/2018 09:16 AM</u>
Approved By: <u>Jahna Lindemuth, Attorney General</u>	Date: <u>02/02/18</u>
Agency: <u>Department of Law</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

BILL NO. HB 312

Analysis

This legislation would allow a peace officer to arrest a person without a warrant if that person has committed a misdemeanor assault at a health care facility and was not seeking medical treatment at the time of the assault or was stable for discharge. The legislation also establishes an aggravator at sentencing if the person committed a felony at a health care facility and knowingly directed their conduct at a medical professional or because of the medical professional's exercise of professional duties.

The Department of Law does not anticipate a fiscal impact.

1/31/2018

Dear Representative Claman,

Thank you for your support of HB 312. As a health care profession who has been assaulted multiple times while on duty I feel it is imperative for the police to have a more aggressive law regarding assaults against health care professionals. The current laws do not allow police to take patients who have been assaultive to the appropriate place, which I believe is a jail cell. More often than not a patient who has committed assault against health care worker will be cited and released. Even for the most serious and repetitive offenders. Please continue to support the safety of our Alaskan health care workers.

Sincerely,

Ed Czech RN

Anchorage, AK

Lizzie Kubitz

From: Gena Deck <radeck@alaska.edu>
Sent: Friday, February 02, 2018 9:27 AM
To: Rep. Chuck Kopp; Rep. Matt Claman; Lizzie Kubitz
Subject: House Bill 312

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning. Thank you for introducing House Bill 312 that will be up for public hearings on Monday, February 5th.

This bill is meaningful to me in that I am the person working in the Emergency Department in Juneau strangled by a patient. I have strong feelings about the bill, and will hopefully have an opportunity to voice support on Monday during the public hearings.

The impact of violence in the workplace extends far beyond the day of the event. The judicial process is difficult, and often nurses and others in the health care environment do not speak up because it is so torturous, and often will little justice for the perpetrator. In Alaska's small towns, including Juneau, the issue is complicated further by lack of other health care alternatives. Therefore the interactions at the hospital and in the community are not single events.

Thank you again for promoting the bill. I would welcome the opportunity to discuss my experience and those of my peers in person.

Gena Deck, MSN, RN
Assistant Professor, Nursing
University of Alaska Anchorage
907-796-6372

House Judiciary 2/7/18
Written Testimony

February 1, 2018

Dianne Dalen
314 Slater Drive
Fairbanks, AK 99701

Dear Members of the Alaska State Legislature,

I am writing to you to ask your support for House Bill 312, an act relating to arrest without a warrant for assault in the fourth degree at a health care facility; and relating to an aggravating factor a sentencing for a felony offense against a medical professional at a healthcare facility.

I have been a nurse for 41 years with over half that time spent working as an Emergency Room nurse at Fairbanks Memorial Hospital. Over the years I've watched health care delivery improve while treatment of medical professions deteriorate. While I love serving my community I am sad to say that during my career I've been physically and verbally assaulted on numerous occasions by patients including being spit on, yelled at, receiving verbal threats of harm, scratched and hit. The latest attack occurred in October 2017 when I was physically assaulted by a young male.

This young man was brought to Fairbanks Memorial Hospital Emergency Room by law enforcement after he had been using methamphetamines for approximately four days. The intention of law enforcement was to have this man placed in protective custody in the ER where he can be observed in a safe environment until he was able to metabolize the drug. The man was agitated and provided medication to calm him. When a member of our security staff stepped away to retrieve a warm blanket to provide to him, the man bolted out of his room and punched me in the jaw. The strength behind the punch immediately knocked me to the ground furthering injuring my arm during the fall. Although a police report was filed, the man was not arrested for the assault.

I returned to work on my next scheduled shift with a large fist size purple bruise on my jaw and continued to provide medical treatment to the members of my community that I love dearly. While the bruise eventually healed, the emotional scars of the incident will never leave my mind and the minds of my coworkers. Healthcare providers took an oath to do no harm and in the process risk their lives trying to save the lives of others. Sadly, my story is not unique. It's estimated that between 8% and 38% of healthcare workers suffer physical violence at some point in their careers and by showing your support for HB 312 you are showing your support for the health and safety of our healthcare workers.

Thank you,



Dianne Dalen

458-5556

Lizzie Kubitz

From: House Judiciary
Sent: Tuesday, February 06, 2018 8:50 AM
To: House Judiciary
Subject: FW: You got a message "Testimony for SB 312"

From: WordPress [mailto:wordpress@akhouse.org]
Sent: Monday, February 05, 2018 3:09 PM
To: Rep. Matt Claman <Rep.Matt.Claman@akleg.gov>
Subject: You got a message "Testimony for SB 312"

From: David Scordino
Subject: Testimony for SB 312

Message Body:

I apologize for the broken connection of my cell phone. I did not write my testimony but I have attempted to summarize it as best as possible.

My name is Dr. David Scordino and I am an Emergency Physician at Alaska Regional Hospital. I write in strong support of SB 312 and use this testimony to provide an additional story of support as well as to answer some of the questions raised by the Representatives during the prior testimonies. A few months ago, I had a patient present to my Emergency Department complaining of acute abdominal pain. Their behavior was unruly and they struck out at myself, the nurses and security officers attempting to help get the patient in the bed, assess and treat them. During the deluge of verbal and physical assault, the patient threatened to kill every person in that room in turn, as well as, kill our children, spouses and pets. This patient was not intoxicated nor experiencing an acute mental health emergency. However, according to EMTALA and liability obligations, I could not discharge this patient despite the patient's behavior nor the acts of violence. If the patient had a surgical emergency in their abdomen then I would be liable for this missed diagnosis and the patient would suffer potential harm. Similarly, for the person who may be intoxicated, their confusion may also be an indication of an intracranial hemorrhage, which is a life threatening condition where blood is surrounding or in the brain. A misdiagnosis in this scenario is dangerous to that patient, since a delay can result in death and it is dangerous to the provider as they have medical liability for this patient. Even if the person punches me in the face, my medical liability does not go away. In smaller hospitals and rural hospitals, there may not be another provider to assume care and thus, even after they are abused by this person; they may need to go back in the room and try to care for them.

I have heard concerns regarding alcohol, drugs and mental health. I agree that these issues exacerbate the problem however, multiple of the individuals that have either assaulted myself or some of my co-workers did not have any of these. I do however, agree that the states mental health and substance abuse capabilities is greatly lacking and that additional funding and resources for these would be a welcome improvement. These do not however, negate the need for this bill to help to deter this form of workplace violence. Do you know any other workplace where almost every employee can describe, often in detail, a time when they were assaulted or they felt their life was in danger? I can think of very few and this is why healthcare workers are being singled out in this bill because we have been singled out as a workplace with increasing violence.

Additionally, unlikely other workplaces, we can not stop someone from coming back to our hospital and can not simply remove them if they have not been medically stabilized under EMTALA and under medical liability as I previously described. This makes the healthcare setting unique.

I thank you for your time and for the introduction of SB 312. I apologize again for my technical difficulties. I am open to questions at anytime.

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This e-mail was sent from a contact form on Representative MATT CLAMAN's legislative website
(http://akhouse.org/rep_claman/contact-me/)

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version: HB 312
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB312-DHSS-API-2-2-18
Title: CRIMES AGAINST MEDICAL PROFESSIONALS
Sponsor: CLAMAN
Requester: House JUD

Department: Department of Health and Social Services
Appropriation: Behavioral Health
Allocation: Alaska Psychiatric Institute
OMB Component Number: 311

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019 Appropriation Requested	Included in Governor's FY2019 Request	Out-Year Cost Estimates				
			FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	***	0.0	***	***	***	***	***
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

Why this fiscal note differs from previous version/comments:

Not applicable; initial version.

Prepared By: <u>Randall Burns</u>	Phone: <u>(907)269-5948</u>
Division: <u>Behavioral Health</u>	Date: <u>02/02/2018</u>
Approved By: <u>Shawnda O'Brien, Assistant Commissioner</u>	Date: <u>02/02/18</u>
Agency: <u>Health and Social Services</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

BILL NO. HB312

Analysis

HB 312, version O, as written may present an unintended consequence. It raises a concern that arrests based on probable cause without a warrant for Assault in the 4th degree in a healthcare facility by someone not seeking medical treatment or stable for discharge will generate questions regarding the competency of the individuals subject to arrest. This may lead to more requests for competency evaluations and the potential need for additional court-ordered restorations.

The Alaska Psychiatric Institute's forensic staff and its 10 bed forensic unit are already under a great deal of pressure handling both the waitlists for necessary competency determinations and the need for beds on the forensic unit for persons found incompetent to stand trial and referred to the Alaska Psychiatric Institute for restoration to competency.

Indeterminate costs:

While unable to evaluate the potential demand this new category of arrest may create, the Division raises it as a serious concern for an already inadequately staffed program dealing with the existing forensic population.

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version: HB 312
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB312-DHSS-API-2-6-18
Title: CRIMES AGAINST MEDICAL PROFESSIONALS
Sponsor: CLAMAN
Requester: House JUD

Department: Department of Health and Social Services
Appropriation: Behavioral Health
Allocation: Alaska Psychiatric Institute
OMB Component Number: 311

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019 Appropriation Requested	Included in Governor's FY2019 Request	Out-Year Cost Estimates					
			FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

Why this fiscal note differs from previous version/comments:

Replaced at request of the committee.

Prepared By:	Randall Burns, Director	Phone:	(907)269-5948
Division:	Behavioral Health	Date:	02/06/2018 08:50 AM
Approved By:	Shawnda O'Brien, Asst. Commissioner	Date:	02/06/18
Agency:	Health and Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

BILL NO. HB312

Analysis

HB 312, version O, as written, may present the department with an unintended consequence. It raises concerns that arrests based on probable cause without a warrant for Assault in the 4th degree in a healthcare facility by someone not seeking medical treatment or stable for discharge will generate questions regarding the competency of the individuals subject to arrest. This may lead to more requests for competency evaluations and the potential need for additional court-ordered restorations.

The Alaska Psychiatric Institute's (API's) forensic staff and its 10 bed forensic unit are already under a great deal of pressure handling existing waitlists for competency determinations for criminal defendants, and the need for beds on the forensic unit for persons found incompetent to stand trial and referred to API for restoration to competency.

Presently, a lack of data exists around the number of arrests for assault in the 4th degree that involved persons for whom competency to stand trial was at issue. Without such data, it is not possible to accurately determine whether the proposed statute change will result in a significant increase in either requests for competency assessments or the numbers of persons court-ordered to API for restoration. While the Division of Behavioral Health is concerned that this bill could impact the work of API's limited professional forensic staff, without more history as to the actual impact, the division is submitting a zero fiscal note at this time. If, after a year of experience, this specific statute change results in an additional, noticeable increase in court-orders for evaluations and restorations, the division may need to seek a budget increment to fund the additional API staffing necessary to meet this increased impact on an already burdened forensic unit staff.