



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

BOARD OF PHARMACY
P.O. Box 110806
Juneau, AK 99811-0806
Main: 907.465.2589
Fax: 907.465.2974

May 9, 2017

The Honorable David Guttenberg
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Re: HB240: Pharmacy Benefit Managers and Auditing of Pharmacy Records

The Alaska Board of Pharmacy at its March meeting via teleconference, voted unanimously in favor of supporting House Bill 240 (An act establishing oversight for pharmacy benefits managers (PBM) including procedures and guidelines for auditing pharmacy records transparency of reimbursement/pricing methodology, and providing for an effective date). The Board feels that with 34 other states having established some form of oversight regarding PBM's, auditing practices, and pricing transparency, it is time Alaska follows through and adopts similar practice standards to help protect not only our pharmacies in the state, but the patients they serve. We ask this bill enacted in its current form and without delay.

Sincerely,
Leif Holm, PharmD.
Chair, Alaska Board of Pharmacy

p.p.
Donna Bellino
Licensing Examiner

Db:lh

May 8, 2017

Representative David Guttenberg
Alaska State Senate
Juneau, Alaska

RE: HB 240: An act relating to the registration and duties of pharmacy benefit managers...pharmacy audits...

Dear Representative Guttenberg;

I came to Fairbanks 46 years ago and worked in community pharmacies until I retired a couple of years ago. In the early days, most of our patients paid cash for their prescriptions. Today, the majority of prescriptions are billed to 3rd parties, and along with the 3rd party billing, has come Pharmacy Benefits Managers (PBM's) and audits of prescription records.

Like a similar bill that passed in the Alaska State Senate in 2012, **HB 240** will require that PBM's doing business in Alaska register with the state. The 25 or 30 other states that have passed similar bills have found that a \$300-\$500 registration fee will cover most of the administrative costs.

Audits of prescription records can be a useful tool to detect fraud and abuse, but, they should not be used as a method of generating additional income for the PBM or the auditing company. **HB 240** will bring fairness and standardization to the audit process by establishing parameters for auditing pharmacy records. The bill sets out procedures regarding notification of an audit by the PBM, what records need to be available to the auditor, and how overpayments, underpayments, and appeals will be handled.

In my long career I have experienced a number of audits from both DEA and insurance company auditors or their agents. They are never pleasant experiences, but, with proper notification and conduct, they can be done in such a way that they cause the least disruption to the patient care we provide in our pharmacies.

Thank you for your support of **HB 240**.

Margaret D. Soden, RPh
PO Box 61328 (mailing), 3222 Anella Avenue (home)
Fairbanks AK 99706-1328
(907) 479-6793
margaretodsoden@gmail.com

Ron's Apothecary Inc.

9101 Mendenhall Mall Rd.

Juneau, AK 99801

(907)789-0458 voice (907)789-1356

Foodland Pharmacy

615 W. Willoughby Ave.

Juneau, AK 99801

(907) 796-2280 voice (907) 586-2280

May 8, 2017

Representative David Guttenberg
Room 501 Capital Bldg.
Juneau, AK 99801-1182

Re: HB 240: Pharmacy Benefit Managers and Auditing of Pharmacy Records

I am writing in full support of HB 240 and hope that Alaska can join the 34 other states that have established guidelines for the oversight of PBM's and their auditing practices and pricing transparency. This bill is needed to create a fair relationship between providers and the PBM's so that health care members can continue to receive services in the state at their pharmacy of choice.

This bill will not prevent the detection for any fraud, waste, or abuse and will not prevent the recoupment of the PBM's from the pharmacy providers if such occurs. If fraud is alleged by a pharmacy or pharmacy employee the PBM's have full access to audit and recoup.

We are continually, read daily, dispensing medications below our cost due to the drug pricing list of PBM's (also called MAC lists-maximum allowable cost). These lists are set by the PBM, and change without notice. Currently there is no appeal process with the PBM's, most do not even have a phone number for these departments and we are left in a phone tree maze of wasted time and effort. While these lists are one mechanism to keep drug costs down, it is unfair if PBM's do not adequately update these lists to reflect increases in cost and to provide an adequate appeals process.

In providing pharmacy services to Southeast Alaska Residents in communities with no retail pharmacy we occasionally mail their prescriptions to their home in addition to the prescriptions they pick up in store while in town. According to many PBM's this is a breach of contract and those prescriptions need to come from the PBM's mail order pharmacy. During an audit the PBM could recoup the entire amount of these prescriptions.

If a PBM is truly interested in cost savings for health plans, the transparency required will not be an issue. It is stated from some PBM's that we are not to disclose the payment to a pharmacy from the PBM, this is confidential information. Why they expect this is one of the many reasons I hope this bill can be passed with undue delay.

Sincerely,
Scott Watts R.Ph



Julie McDonald
Whale Tail Pharmacy
Pharmacist in Charge
PO Box 709
333 Cold Storage Road
Craig, AK 99921

Monday, May 8, 2017

Representative David Guttenberg
State Capitol Room 501
Juneau, AK 99801-1182

Honorable Representative Guttenberg,

I would like to express my **strong support for HB 240**, Pharmacy Business Managers (Audit Bill) due to the absence of regulation for large corporation PBMs.

As a small business owner on remote Prince of Wales Island I quite often am paid under cost and ignored by PBMs. Maximum Allowable Cost (MAC) pricing causes our pharmacy to be paid below purchase cost several times daily and our appeals for MAC pricing are rarely responded to or are completely disregarded. At any point a PBM can change their MAC pricing and they can have multiple MAC price list leaving essentially no transparency. When trying to address these issues during contracting, I am presented with "take or leave it" contracts. However, since we are the only retail pharmacy for the island, if we are not contracted our patients will not have local access to pharmacy services.

I appreciate all of the time and work that you have put into State House Bill 240: Pharmacy Business Managers (Audit Bill).

Sincerely,

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

Julie McDonald, Pharm.D.

**Island Pharmacy
3526 Tongass Ave.
Ketchikan, AK 99901
907-225-6186
e-mail: island.pharm@juno.com**

January 18, 2017

Representative David Guttenberg
State Capitol Room 501
Juneau AK, 99801

RE: HB 240 Pharmacy Benefits Managers

Dear Representative Guttenberg,

Thank you for sponsoring HB240 Pharmacy Benefit Managers (PBM). Our family operates Island Pharmacy in Ketchikan which has been serving Alaskans in southern Southeast Alaska for forty-four years. The passage of HB 240 is important and necessary for Alaskan pharmacies like ours to remain viable in the future.

While there are many important provisions in HB 240, I will outline two examples from our pharmacy that show the necessity of the legislation: timely allowance of appeal and generic drug pricing.

We received a large desk audit from a PBM which generated over 100 pages of documentation. Our two choices for transmission for the material was either unsecured e-mail or fax. Naturally, we choose fax, however since our fax machine will only hold/send 50 faxes at a time we had to send two separate faxes which was so noted on cover letters and also in e-mail to the auditor. Imagine our surprise when we got our audit results which showed we didn't include half the claim documentation. When we contacted the auditor they claimed the never received the second fax (even though we had confirmation that the fax went thru!). They did allow us to resend the second fax however they only allowed a five day period on the final audit findings for appeal. This included a \$400 claim for an RX that wasn't even present in the audit prescriptions claims that were send to us! The auditor claimed that they randomly select claims to send to prescribers to verify. In this case we checked with the prescribers office and they had no documentation asking to verify the prescription but they were willing to write a letter on our behalf indicating the validity of that prescription and two others deemed "not verified by prescriber". In this case we received the final audit findings document from the PBM on a Thursday afternoon and were told any additional documentation needed to reach their office in the Midwest by the following Tuesday via USPS MAIL.

This meant we had basically less than 24 hours to get our documents (and letter from prescriber mentioned above) in the mail so it would reach them. We do not believe that was a fair submission turn around time and quite frankly it was a miracle we were able to respond in time.

During the first two weeks of this year we had approximately 150 RX claims (excluding Medicaid claims) for generic drugs that were paid to us below invoice cost by the PBM's. These amounted to over \$2,000. Under the terms of our contract we are required to submit these claims. Yes, we can and do submit pricing appeals but rarely do we receive a positive result and even if we do we are rarely allowed to resubmit for the date of service of the Rx appeal. Obviously, any business cannot operate long under payment mechanisms that reimburse below cost and we ask for help in making sure generic drug pricing in Alaska by the PBM's is fair.

We agree that audits are necessary to ensure that fraud, waste and abuse activities are checked. However, we feel that it is time for Alaska to enact laws that provide clarity in the audit process and timely price updates like 30 plus states have already done.

I appreciate you and your staff's efforts to help provide audit relief to Alaska pharmacies and the patients we serve.

Respectfully,

Barry Christensen, RPh

Barry Christensen, RPh

Justin Ruffridge
Soldotna Professional Pharmacy
Juneau Drug Company
299 N Binkley
Soldotna, Alaska 99669

907-262-3800
907-262-6429
jruffridge@icloud.com

January 22, 2018
Representative Guttenburg
Alaska House of Representatives
State Capitol Room 501
Juneau, AK 99801

For your consideration,

In regards to HB 240, I extend my gratitude for sponsoring legislation to protect pharmacy services being offered by our pharmacies across the state. I would ask for consideration on the following:

First, consider a majority of states have passed similar legislation. This may be seen as an indicator that legislation is necessary to protect local businesses from oft overzealous audit practices and less than fair recoupments using methods such as extrapolation. To be fair, the audit is a necessary process to ensure that all participants in the billing of insurance are justly reconciling their claims and to prevent fraud. However, the creation of structure for how and when these audits occur and the penalties they may enforce only helps level the field for insurers and healthcare providers.

Second, consider the difference between an insurer and a local pharmacy. An insurer has full control of all aspects of the billing process while the pharmacy is, in many respects, left at the mercy of the insurer. In many cases, an insurer may pay well below the acquisition cost of medications and local pharmacies are left with no reasonable recourse to protect their investment. It is vital to the sustainability of local pharmacies to ensure we have a fair and equitable path to appeal pricing and to ensure that pricing is updated on a regular basis.

Certainly HB 240 is a valiant effort towards solving these issues and more and it is my sincerest hope the legislature will be able to pass this bill, protect local pharmacies, and look forward to a healthy future of the practice of pharmacy in Alaska

Sincerely,

Justin Ruffridge

Owner
Soldotna Professional Pharmacy

Juneau Drug Company

From: [Edric Carrillo](#)
To: [Caitlyn Ellis](#)
Subject: FW: Please pass HB240
Date: Friday, January 26, 2018 12:20:53 PM

From: Medical Center Pharmacy [mailto:medicalcenterpharmacyone@yahoo.com]
Sent: Friday, January 26, 2018 12:19 PM
To: Rep. Sam Kito <Rep.Sam.Kito@akleg.gov>
Subject: Please pass HB240

Dear Chairman Representative Kito,

1/26/18

Please support and pass HB240. This is a much needed piece of legislation as it helps to do 7 things.

- Establish codes of conduct when a PBM (Pharmacy Benefit Manager) conducts an audit on a pharmacy in the State of Alaska. Currently there is no such rule.
- Establishes an appeal procedure that is fair and equitable. Not having the PBM decide if it's own decision was fair.
- Stop the practice of extrapolation of fines and for clerical errors
- Perhaps curtail the exclusions of Alaska pharmacies mailing to patients as we serve many communities without pharmacies and the only way to service them is with a courier or mail service.
- Require that PBMs register with the state, currently not done. So we know who is operating and performing commerce in the State of Alaska.
 - Currently they do not have to register with the state
 - They operate in the state from afar without any knowledge of what they are doing.
 - They make up their own rules of conduct.
 - They answer to no one but themselves.
 - We do it with mail order pharmacies, we should do it with PBMs and Drug Wholesalers.
- Reduce harassment audits by PBMs.
- It tries to define that the MAC list price is not necessarily the lowest price, but that there has to be more than one source at that price and it needs to be available to that dispensing pharmacy type. One of which must be from a wholesaler located in the state. That the MAC price must be timely reviewed (not annual or every 6 months, but more currently) and a response to the pharmacy must be within a reasonable 10 days.
 - Establish fair and honorable MAC lists (Maximum Allowable Costs for drugs) with honest and attainable sources for Alaskan pharmacies. With an honest appeal process. Currently, the PBMs are paying 10 to 50 cents on the dollar of what the pharmacies are actually paying for the drugs. 19-46% of the time the pharmacies submit a claim it generates a negative revenue. The response from the PBM has been the MAC list price is available in the market place... But, not to Alaskan independent retail pharmacies.

MAC Prices established by PBMs have contributed to over \$33,000.00 in negative revenue to my small pharmacy. When the dispensing fees are \$0.25 to \$1.00 per prescription this is significant. Audits to other pharmacies in the state with extrapolation can be \$25,000.00 to \$75,000.00. Those fines have closed several independent pharmacies in Alaska over the past 15 years.

Despite what they (CVS/Caremark) or any other PBM have told you. They did not make adjustments to the positive on 1/10/18, most likely to the negative.

If you look at the screwy way they treat the same product over time, when our costs do not change or go up. I could sit here and submit pages of negative revenue, but it is beginning to me as a waste of my time as they have and will tell me that it is available in the market place. One of the market place should be the wholesaler located in this state. They have no basis for their MAC justifications. We need an honest broker, and impartial third party.

1/23/18	0037-7180-93	Quinine 324mg	437.40	156.67
1/18/18	69097-0856-05	Fosinopril 10mg	14.21	6.19
1/12/18	16714-0226-02	Losartan/HCTZ 50/12.5	7.44	3.82

1/18/18	68462-0257-01	Ropinirole 3mg	18.00	6.68
1/18/18	65862-0784-90	Esomeprazole 40mg	68.00	19.22
1/18/18	62332-0024-31	Fluoxetine 40mg	72.08	3.34
1/18/18	00781-1884-25	Ranitidine 300mg	43.09	10.29
1/19/18	47781-0307-01	Nitrofurantoin 50mg	22.59	5.15
1/19/18	47781-0307-01	Nitrofurantoin 50mg	67.76	15.44
1/19/18	47781-0470-13	Oseltam 75mg	82.29	77.69
1/19/18	47781-0470-13	Oseltam 75mg	82.29	77.69
11/2/17	00603-1880-16	Lidocaine 5% Patch	373.92	213.06
5/25/2017 Vacation over-ride	00603-1880-16	Lidocaine 5% Patch	373.92	257.48
5/12/17	00603-1880-16	Lidocaine 5% Patch	373.92	286.79

2660610	P_7c81289bcc89000f	12/26/17	12/26/17	200624	AK	393984	CLONIDINE DIS 0.3/24HR	Price remains based on CVS Health's review of current market price range.
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Standard reply.

So far for the month of January 2018

Negative Revenue Prescription for Caremark is \$2188.26 total 126 rxs
Alaska Retiree \$1682.38 84

rxs

other plans \$

505.88 42 rxs

Please pass HB240 out of committee, delivery of good healthcare in Alaska depends on it.

Gerald and Nancy Brown
Medical Center Pharmacy
1867 Airport Way, Suite #105
Fairbanks, Ak 99701
907-452-2328
medicalcenterpharmacyone@yahoo.com