

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 22, 2008

1:05 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Nancy Dahlstrom, Vice Chair

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 34

Urging the United States Congress to reauthorize the Debbie Smith DNA backlog grant program.

- MOVED HJR 34 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 196(FIN) am

"An Act relating to establishing a controlled substance prescription database."

- HEARD AND HELD

HOUSE BILL NO. 316

"An Act relating to establishing a controlled substance prescription database."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 355

"An Act requiring the disclosure of the identity of certain persons, groups, and nongroup entities that expend money in support of or in opposition to ballot initiatives and the aggregate amounts of significant contributions or expenditures made by those persons, groups, and nongroup entities."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HJR 34

SHORT TITLE: FEDERAL FUNDING FOR DNA TESTING

SPONSOR(S): REPRESENTATIVE(S) ROSES

02/13/08 (H) READ THE FIRST TIME - REFERRALS
02/13/08 (H) JUD
02/22/08 (H) JUD AT 1:00 PM CAPITOL 120

BILL: SB 196

SHORT TITLE: PRESCRIPTION DATABASE

SPONSOR(S): SENATOR(S) GREEN

01/16/08 (S) PREFILE RELEASED 1/4/08
01/16/08 (S) READ THE FIRST TIME - REFERRALS
01/16/08 (S) L&C, FIN
01/29/08 (S) L&C AT 1:30 PM BELTZ 211
01/29/08 (S) Heard & Held
01/29/08 (S) MINUTE(L&C)
02/05/08 (S) L&C AT 1:30 PM BELTZ 211
02/05/08 (S) Moved CSSB 196(L&C) Out of Committee
02/05/08 (S) MINUTE(L&C)
02/06/08 (S) L&C RPT CS 4DP 1NR SAME TITLE
02/06/08 (S) LETTER OF INTENT WITH L&C REPORT
02/06/08 (S) DP: ELLIS, DAVIS, HOFFMAN, STEVENS
02/06/08 (S) NR: BUNDE
02/14/08 (S) FIN AT 9:00 AM SENATE FINANCE 532
02/14/08 (S) Moved CSSB 196(FIN) Out of Committee
02/14/08 (S) MINUTE(FIN)
02/15/08 (S) FIN RPT CS 3DP 2NR SAME TITLE
02/15/08 (S) L&C LETTER OF INTENT WITH FIN REPORT
02/15/08 (S) DP: HOFFMAN, STEDMAN, THOMAS
02/15/08 (S) NR: ELTON, OLSON
02/19/08 (S) TRANSMITTED TO (H)
02/19/08 (S) VERSION: CSSB 196(FIN) AM
02/20/08 (H) READ THE FIRST TIME - REFERRALS
02/20/08 (H) JUD, FIN
02/22/08 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

CRYSTAL KOENEMAN, Staff
to Representative Bob Roses
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HJR 34 on behalf of the sponsor, Representative Roses.

GINGER BLAISDELL, Staff
to Senator Lyda Green
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 196 on behalf of the sponsor, Senator Green.

BRIAN HOWES, Investigator III
Division of Corporations, Business, and Professional Licensing
Anchorage Office
Department of Commerce, Community, & Economic Development
(DCCED)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of SB 196.

GREG POLSTON, M.D.
Anesthesiology; Pain Management
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 196.

ALEX MALTER, M.D.
Medicaid Medical Director
Division of Health Care Services
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Testified on SB 196.

JULIE WOODWORTH
Homer Chamber of Commerce
Homer, Alaska

POSITION STATEMENT: Testified in support of SB 196.

JANET MULLEN, Home Health Nurse
South Peninsula Hospital
Homer, Alaska.

POSITION STATEMENT: Testified in support of SB 196.

LINDA BAREFOOT, Regional Director
State Government Affairs
Purdue Pharmaceutical Company ("Purdue Pharma")
Stamford, Connecticut

POSITION STATEMENT: Testified in support of SB 196

ACTION NARRATIVE

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at [1:05:51 PM](#). Representatives Coghill, Samuels, Lynn, Gruenberg, and Ramras were present at the call to order. Representative Holmes arrived as the meeting was in progress.

HJR 34 - FEDERAL FUNDING FOR DNA TESTING

[1:06:31 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 34, Urging the United States Congress to reauthorize the Debbie Smith DNA backlog grant program.

[1:06:51 PM](#)

CRYSTAL KOENEMAN, Staff to Representative Bob Roses, Alaska State Legislature, stated on behalf of the sponsor, Representative Roses, that HJR 34 urges Congress to reauthorize the federally funded Debbie Smith DNA backlog grant program until FY 2014. This program ensures that the deoxyribonucleic acid (DNA) kits used to convict the guilty and free the innocent are processed. In 2004, Congress passed the grant program with a sunset date of FY 2009. In Alaska, a backlog of 400 cases exists. She explained the packet information that outlines expenditures in Alaska.

[1:08:37 PM](#)

REPRESENTATIVE COGHILL inquired as to where Congress now stands with regard to the reauthorization process.

MS. KOENEMAN related that Congresswoman Carolyn Maloney from New York has introduced a bill to reauthorize the program.

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REPRESENTATIVE SAMUELS moved to report HJR 34 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HJR 34 was reported from the House Judiciary Standing Committee.

SB 196 - PRESCRIPTION DATABASE

[Contains brief mention of HB 316, the House companion bill.]

1:10:48 PM

CHAIR RAMRAS announced that the final order of business would be CS FOR SENATE BILL NO. 196(FIN) am, "An Act relating to establishing a controlled substance prescription database."

CHAIR RAMRAS noted that he sponsored a companion bill, HB 316, which is substantially similar to this version, with the exception of an amendment which he intends to offer. He explained that he has worked closely with Senator Green and her staff on establishing a controlled substance prescription database. He stated that he has attended annual conferences at the Loussac Library, for the statewide Meth Watch program consisting of two members from Fairbanks, Alaska, Juneau, Alaska, the Matanuska-Susitna Borough, Anchorage, Alaska, and Kenai, Alaska. This year a member from the U.S. Drug Enforcement Administration (DEA) participated from Washington D.C.

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GINGER BLAISDELL, Staff to Senator Lyda Green, Alaska State Legislature, stated on behalf of the sponsor, Senator Green, that she asked pharmacists to identify any concerns regarding SB 196 prior to presenting the bill to 175 pharmacists. She indicated that the medical community and the Alaska Pharmacists Association (APA) brought this need to the attention of Senator Green. Ms. Blaisdell described the legislation as a compilation of existing statutes from forty other states. Many in the medical community who prescribe or dispense prescriptions and the Department of Public Safety (DPS) support the bill. She offered that feedback from her presentation included requests to more clearly define terms in the bill. She stated one suggestion was to change the term "inpatient" to someone who administers medications since dentists and other professionals administer drugs to patients who do not spend the night in their facilities. She characterized the support from the pharmacists as very positive.

MS. BLAISDELL referred to the PowerPoint presentation of the Prescription Drug Monitoring Program and Database contained in SB 196 and HB 316. All states have laws and regulations that govern the distribution and handling of controlled substances. Diversion of controlled substances and other pharmaceuticals is generally recognized as a serious problem throughout the United States, she stated.

MS. BLAISDELL, in response to Representative Samuels, explained that the bill does not change any existing requirement. Controlled substances are generally recognized as a serious problem throughout the United States. She offered that 53 prescription drug deaths were documented in Alaska in 2000. By 2003, 102 deaths were recorded, which demonstrates the rise in deaths. Homicides, thefts, muggings, and other problems have increased due to prescription drug abuse. States have found that Prescription Drug Monitoring Programs (PDMPs) are one of the most effective tools for curbing prescription drug abuse. Diversion is taking a legal prescriptive substance and altering it to provide a different effect or selling it to someone other than the person to whom it was intended. The street rate for oxycodone hydrochloride (OxyContin) is about \$1 per milligram, with one pill yielding \$80. She opined that in Bethel, Alaska, a single tablet sells for about \$250.

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MS. BLAISDELL, in response to Representative Samuels, explained the levels of drugs. She noted that schedule I drugs generally include illicit drugs or illegal drugs such as OxyContin and codeine, schedule II drugs include pain relievers, schedule III drugs include drugs such as Ritalin and stimulants, and lastly schedule V drugs would include low-dose narcotics such as cough syrup containing codeine.

MS. BLAISDELL offered that it takes a pharmacist about two minutes to download the information from the PDMP database. From a national standpoint, there is a new news article every week. She described national ads produced for the \$30 million U.S. drug awareness campaign. She stressed the importance of education.

MS. BLAISDELL stated that the national perception is that use of prescription drugs is safer than use of illicit drugs. Prescription and over-the-counter medications are fast becoming the new "party" drugs for many teenagers and adults. Twenty-five to forty percent of MySpace users include postings on how to get prescription medication on the Internet, she opined.

MS. BLAISDELL revealed that the most commonly abused medications include pain killers, stimulants, sedatives, tranquilizers, and over-the-counter drugs, which are not considered controlled substances. She explained that 12-13 year olds' first drug of choice is a painkiller. She opined that painkillers are within one percent of surpassing marijuana use. She described

prescription abuse to include children, who sometimes obtain prescription drugs from the elderly. Some elderly individuals keep half and sell half of their prescription use in order to pay fuel bills and other living expenses. Nearly seventy percent of prescription drugs are obtained for free from friends and family. Pain killers are the number one abused drug because of the feeling of euphoria and their high resale value.

MS. BLAISDELL explained that the Department of Commerce, Community, & Economic Development (DCCED) currently investigates, but must use paper. Data entry from investigations can take months and the only clues investigators generally receive are from external complaints. Complaints are not prevalent since other pharmacies don't see prescriptions filled by other pharmacies, she opined.

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MS. BLAISDELL stated that state and local law enforcement personnel have experienced increases in criminal activity. With legislation in place the state will be eligible for federal funding. Under SB 196, the Board of Pharmacy would establish a controlled substance prescription database administered by the Board of Pharmacy and provide the board with the necessary staff to implement the program. The database would contain data for every prescription for federally controlled substances contained in schedule I, II, III, IV, or V under state and federal law. Schedule I drugs are considered most harmful for the user. She noted that schedule I drugs generally include illicit drugs or illegal drugs such as OxyContin and codeine, schedule II drugs include pain relievers, schedule III drugs include drugs such as Ritalin and stimulants, and lastly schedule V drugs would include low-dose narcotics such as cough syrup containing codeine. The prescription monitoring database is for use by licensed practitioners when considering or dispensing prescriptions for a current patient in their office, by licensed or registered dispenser when dispensing drugs, and by law enforcement officers pursuant to a search warrant.

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REPRESENTATIVE HOLMES asked what constitutes an inquiry.

MS. BLAISDELL said obtaining a license renewal would not constitute an inquiry. Rather, an inquiry means someone suspects that a person is doing something out of the norm. She

said that she did not have a specific definition for the term, "inquiry".

MS. BLAISDELL returning to her PowerPoint presentation said that data can be used by the personnel of the Board of Pharmacy regarding licensing inquiries and for database management. Data can be requested through the board by law enforcement entities with a subpoena or court ordered warrant. Law enforcement personnel will not have direct access to the database to randomly review names.

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MS. BLAISDELL said that data can be used to improve health care for patients. The data can be used to identify prescribing and dispensing practices and can identify individuals who show a pattern of inappropriate use. The information is confidential. The Health Insurance Portability and Accountability Act (HIPAA) provides an exemption for states with Prescription Drug Monitoring Programs. The bill contains many security provisions. She pointed out that intentional disclosure of information or access to the database would be a class A misdemeanor, while someone who intentionally obtains access or alters or destroys information in the database would be subject to a class C felony.

MS. BLAISDELL reviewed the fiscal note and stated that the DCCED has already received some federal funding, but that approximately \$400,000 in additional federal funds is available to states that adopt legislation for prescription drug monitoring programs. The typical startup costs cover computer hardware and public education. She noted that ongoing costs are significantly less than the initial startup costs. In Wyoming, which is similar to our state in population, the ongoing costs are only \$90,000 per year. The Medicaid Services, Department of Health and Social Services (DHSS) fiscal note reflects an initial savings of \$86,000 in the first year. However, the DHSS testified in other committees that the amount could be as much as three times that amount.

MS. BLAISDELL, in response to Chair Ramras, explained that the cost savings are due to the decrease in the number of prescriptions that are filled and then illegally resold, a practice known as "diversion." She surmised that statewide the cost savings could be \$1.4 million including from private insurance and governmental agencies.

CHAIR RAMRAS pointed out that the fiscal note is unique in that it saves money and the harm, which is amplified through street drugs is eliminated.

REPRESENTATIVE GRUENBERG referred to the letter of intent dated February 5, 2008, and read:

It is the intent of the Legislature that the Alaska Prescription Drug Monitoring Program be funded with federal grants and state appropriations. It is not the intent of the legislature that the professional users of the database absorb the costs of managing this public program through their license fees or other fee structure.

REPRESENTATIVE GRUENBERG inquired as to whether the drug companies or insurers would obtain cost savings.

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MS. BLAISDELL answered the insurers would save approximately \$1.4 million savings.

REPRESENTATIVE GRUENBERG inquired as to whether the insurers should share part of the cost since they would obtain the benefits.

MS. BLAISDELL surmised that the state would also benefit by reductions in insurance premiums.

REPRESENTATIVE GRUENBERG argued that in the industry premiums have typically not been reduced. He inquired as to whether the sponsor would support the industry bearing part of the cost.

CHAIR RAMRAS interjected that as sponsor of the companion bill, he would not support that concept at this time.

MS. BLAISDELL answered that the impetus of this program is that it is a public program. It would seem appropriate for the state to bear the costs, she opined. Fortunately, states have often received full federal funding for multiple years, she noted. She said she anticipates that federal funding will continue. She offered the reason for the intent language was to appease pharmacists, who held concerns that the program would be paid for by pharmacists through license fees if federal funding was eliminated.

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MS. BLAISDELL returned to her PowerPoint presentation and reviewed changes that were made to SB 196. She referred to a document in the member's packet labeled, "Summary of Side-by-Side Bill Comparison in Senate Labor and Commerce," which outlines changes that were made in the Senate Labor and Commerce Standing Committee. This bill originally required pharmacists to collect information on the person picking up the prescription, but pharmacists expressed concern that collecting third party information would place an additional burden on pharmacists. She noted language was added to improve data security, and memorandums of agreement with health care entities, typically tribal and military entities. More specifically the language added read, "The board shall undertake to ensure the security and confidentiality of the database and the information contained within the database." The bill is asking the board to follow national standards for prescription data collection. Many safeguards could be placed in the database, but in order to keep pace with technology, the legislature may not want to place the safeguards in statute. Thus, SB 196 contains one broad statement instead.

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MS. BLAISDELL relayed that the following statement was added to SB 196, and she read:

The board shall promptly notify the president of the senate and the speaker of the house of representatives if, at any time after the effective date of this Act, the federal government fails to pay all or part of the costs of the controlled substance prescription database.

MS. BLAISDELL opined that the notification provides the strongest language that can be placed in a bill to support state funding. She explained other substantive changes with respect to civil liability. She noted that a prescriber or dispenser can not be held liable if they do or don't use the information. She opined the changes made the database more secure and attempted to address the concerns of pharmacists. She noted that in Senate Finance Committee an amendment was added to clarify the penalty provisions.

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MS. BLAISDELL explained changes that occurred in the Senate that include changing "inpatient" to "administered to a patient". Several amendments help to ensure privacy, including that the "method of payment" helps ensure that specific account numbers would not be collected and stored in the database; a provision was removed that would have allowed the Board of Pharmacy the ability to collect other information as necessary; and data is required to be destroyed after it is more than two years old. An amendment added a requirement to collect the patient's "date of birth" at the request of health care professionals, she noted. Prescriptions are sometimes transferred to a patient's pharmacy of choice so the database only will track prescriptions that are actually filled in order to avoid a false impression of overprescribing drugs. An amendment changed "tribal and military" with "non-state regulated health care" in order to ensure that other health care entities are captured, but the language still will allow tribal and military entities to participate in the program.

MS. BLAISDELL explained amendments that failed in the Senate, including an amendment that would have decreased the fee charged for requesting a report leaving it at \$10 since most medical providers can provide information to patients at no cost. An amendment to remove redundant language with respect to checking the database was removed at the request of Senator Therriault.

BRIAN HOWES, Investigator III, Division of Corporations, Business, and Professional Licensing, Anchorage Office, Department of Commerce, Community, & Economic Development (DCCED), stated that he is the senior investigator for the DCCED.

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REPRESENTATIVE GRUENBERG referred page 2, lines 20, through page 3, lines 6, of proposed AS 17.30.200. He asked whether the best organization to administer the program is the Board of Pharmacy.

INVESTIGATOR HOWES answered that historically in other states the data capability to provide the information is through the pharmacy boards.

REPRESENTATIVE GRUENBERG referred to page 2, line 26, and inquired as to whether the DCCED is the best department to serve the board.

INVESTIGATOR HOWES answered that the DCCED is the best department to oversee the database since all of the health professionals are licensed by the division.

REPRESENTATIVE GRUENBERG referred to page 2, line 29, and inquired as to whether the pharmacist-in-charge of each licensed or registered pharmacy refers to one in each store, for example the grocery stores, or one that oversees all of its stores' pharmacies.

INVESTIGATOR HOWES opined that there would be one at each branch.

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REPRESENTATIVE GRUENBERG said he is assuming that it is each branch, but if it is not, that SB 196 should reflect that specifically.

INVESTIGATOR HOWES related that investigators currently send requests to the corporate store and not to the individual pharmacy.

MS. BLAISDELL related that she spoke with the Fred Meyer pharmacists in order to determine the dispensing authority in a chain store. She stated that typically licensed pharmacists must be assigned to a specific store. One pharmacist is assigned to a specific store although he/she may not be present during the entire store hours, that pharmacist would be responsible for the activity.

REPRESENTATIVE GRUENBERG referred to page 2, line 31, and inquired as to whether "dispensed" means that the pharmacist is the only one who could dispense prescriptions, or if a pharmacist's technician can also dispense prescription drugs.

MS. BLAISDELL said that a pharmacist's technician cannot dispense any prescriptions without the pharmacist's authorization of the pharmacist.

REPRESENTATIVE GRUENBERG referred to page 3, line 7, and inquired as to whether "practitioner" is defined as he did not find it on page 6 of SB 196.

MS. BLAISDELL answered that in order for a practitioner to prescribe, he/she would have gone through the same criteria as a

pharmacist. She offered that in some locations in rural Alaska a practitioner can also dispense.

REPRESENTATIVE GRUENBERG inquired as to whether practitioner is defined in state law.

INVESTIGATOR HOWES surmised that a practitioner is anyone who has the ability to prescribe.

REPRESENTATIVE GRUENBERG asked that Ms. Blaisdell research that point further because he said that he thinks it's essential to have the term "practitioner" defined.

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GREG POLSTON, M.D., Anesthesiology, Pain Management, stated that he has served on the Medicaid and Pharmacy and Therapeutics Committees for the past six years and during that time has observed some of the problems with prescription abuse. He stated that he has observed other prescription monitoring programs. He said that he is concerned that the bill might potentially limit the ability to provide care to legitimate patients who need the ability to manage their pain. He said he wants to ensure that the database is accurate. He currently reviews the Medicaid database and finds errors when providers or pharmacies are incorrectly listed.

DR. POLSTON said that the second concern is to ensure that health care providers receive training or education in how to use the database. He hopes safeguards will be in place to monitor its effectiveness.

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REPRESENTATIVE GRUENBERG related that he has heard from another physician, Dr. Jasper, who has expressed similar concerns. He asked whether Dr. Polston is recommending any amendments.

DR. POLSTON answered that Ms. Blaisdell has worked with pharmacists and physicians. He offered that use of morphine or other drugs in an emergency room is often necessary, but is not the source of drug diversion or misuse. However, chronic conditions that require prescription pain medication pose more of a problem for drug diversion. By delaying [the data entry] it helps to limit the information and those that have immediate access. One concern by physicians who provide pain management

is that they may become targets of "fishing" operations since they write a lot of pain medication prescriptions.

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REPRESENTATIVE GRUENBERG referred to page 3, lines 4-5, of AS 17.30.200. He stated that the practitioners, "...shall submit the information to the board ...". He inquired as to when the information should be submitted, which he thinks is as soon as it is prescribed, not at a later stage.

DR. POLSTON disagreed and clarified that he would like the information collected immediately. He said that what he is referring to is the extraction of the data and use it clinically to benefit patients and protect citizens of Alaska. He expressed concern about the availability of access to the database. Therefore, he said he thinks that the database should have limited access, with the retrieval sent to providers, quickly, and through a secure means.

CHAIR RAMRAS inquired as to which drugs are covered by the proposed database.

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MS. BLAISDELL stated that the only prescription drugs covered are the schedule I-V drugs, which typically consist of the drugs that are considered most harmful for the user, if used inappropriately. The scheduled narcotics equate to about 10-15 percent of all drugs prescribed or dispensed in the state. She surmised that this is a relatively small group of drugs that would be tracked in the database. With regard to data security, she said that she spoke with a nationwide gatherer of this type of information for other states. A simple scenario is that information can be sent modem-to-modem, which means "a phone call to a phone call" and no opportunity for hackers, or through the Internet using the same type of encryption program used by online bankers. Information can also be sent via compact disc (CD), photo copy, or fax for data entry by the company. The "output" is in the form of reports and is not entered or edited, she stated. A prescriber would see an Internet screen, type in a person's name, birthday, and address, and obtain a history. Most of the databases have a seven second rule to keep the mouse or keyboard active or the system automatically times out the user, she noted.

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REPRESENTATIVE GRUENBERG opined that new language is necessary to accomplish what Dr. Polston suggests. He referred to page 4, lines 3-31, as a possible place to consider for an amendment, but stated that it was difficult to know what change to make without consulting with the bill drafter.

DR. POLSTON stated that he also did not yet have specific language to offer. He suggested that the highest level of encryption is necessary, but that the system would need to be continued and monitored.

REPRESENTATIVE GRUENBERG referred to page 3, lines 7-9, of proposed AS 17.30.200(b) (1), which requires the name and an identifier of the prescriber be included in the database. He acknowledged that prescriber's signatures are often illegible.

DR. POLSTON agreed, adding his hope that the industry will move more towards electronic records and e-prescribing so that data will be accurately entered by the prescriber, to reduce the human error of keypunching the information into the database. Thus, since the patient will not have access to the written form, the patient cannot alter the prescription, which can curb diversion. Controlled substances are not allowed to transmit prescriptions for opiates electronically transferred to curb diversion. He surmised that the problem of diversion is much larger than tampering with physicians written prescriptions. He opined that many sources for prescription drugs are currently available on the Internet.

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REPRESENTATIVE HOLMES referred to page 4, line 14, of proposed AS 17.30.200(d)(3), which relates to access of the database by a licensed practitioner. She gave her understanding that many doctors have patients waiting and are behind schedule. So, while the language states the access is limited to the practitioner, she inquired as to whether it might be someone else who is checking the database, such as a receptionist, nurse, office manager, or an aide.

MS. BLAISDELL said she'd inquired as to whether it would be appropriate for a pharmacist to delegate the authority to someone else. The pharmacists were adamant that the authority not be delegated to someone else. She offered one suggestion from medical professionals, which is that if the authority to delegate the access to the database is considered, to ensure

that the access is delegated to a licensed health care professional. Thus, licensing action could be taken against the licensee for any abuses. She added that the function of using the database is not mandated and if it was used, that only 10 percent of prescription drugs are entered into the database.

REPRESENTATIVE HOLMES surmised that the only person who would access the database is the prescriber, such as the doctor or nurse practitioner.

MS. BLAISDELL explained that a prescriber could be a doctor, a dentist, a veterinarian, or a nurse practitioner and cannot be delegated.

DR. POLSTON speculated that this information would be treated just like any other form of healthcare information. It would have to come from the physician and it would be the responsibility to ensure that it is secure and not seen by others. He said he would not want his medical records person to request that information without his knowledge. He suggested maintaining the limit to access the information to the provider.

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REPRESENTATIVE SAMUELS inquired as to how the process for obtaining a prescription for restricted drugs will change under SB 196.

MS. BLAISDELL answered that currently a patient can hand carry the prescription, it is filled at a pharmacy, and the pharmacist maintains a record. At some point the DEA may wish to see a record, either in ledger form, or electronic form for their review. The prescriber would have the information listed on the patient's chart, and the only record the pharmacy would retain is information that a drug was dispensed. In contrast, by entering this information into a database, the prescriber can review the complete patient drug history.

REPRESENTATIVE SAMUELS surmised that currently he could visit three different doctors for injuries and go to three different pharmacies to have the prescriptions filled.

MS. BLAISDELL stated that what will change under SB 196 is that the data base would show frequency of prescriptions, doctors and pharmacies visited by patients, which could indicate and identify a potential drug diversion problem since a person who "doctor shops" will do so frequently.

MS. BLAISDELL, in response to Representative Samuels, stated that only the pharmacist would provide the data. The prescriber or pharmacist would have access, but not any regulatory agency such as workers' compensation, the insurance company, or law enforcement.

REPRESENTATIVE SAMUELS surmised that the health care provider can choose whether or not to prescribe the drug to the patient.

MS. BLAISDELL concurred. She explained that the database helps to confirm what the health care professional intuitively determines.

MS. BLAISDELL, in response to Representative Samuels, explained that a pharmacist is not required to check each time a schedule of narcotics is distributed. She referred to page 5, line 12-18, of proposed AS 17.30.200(h), which states that the pharmacist may not be held civilly liable. Further, that subsection would remove any mandate that the pharmacist must check the database. Instead, she offered that the database is only an option for the pharmacist to use.

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REPRESENTATIVE SAMUELS asked whether a prescriber will take the time to check if he/she is not required to do so.

MS. BLAISDELL related that Nevada is the only state of the 40 states that use a prescription monitoring program that mandates that a prescriber access the database. Most states have found that the program is helpful and prescribers find that the database helps to resolve questions they may have about their patients.

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ALEX MALTER, M.D., Medicaid Medical Director, Division of Health Care Services, Department of Health and Social Services (DHSS), stated that the DHSS has previously testified in support of this bill. He noted the DHSS has several recommendations for changes. He offered he is available for questions.

DR. MALTER noted that he also practices internal medicine in Juneau. He offered his support for the previous testimony and surmised that most physicians will be very supportive of the prescription monitoring program, and that it will be most useful

to prescribing physicians. He noted that when doctors consult with patients not known to them, who come in an unusual injury or ailment, the doctor will use his/her intuition to assess that something seems astray. This bill would provide an easy method to observe the patient's prescription history and to determine whether the patient has had numerous prescriptions filled or if this is the first prescription being issued. He said he did not have a feeling for how many pharmacists would access the database, but he surmised that they might contact the physician in instances in which the pharmacist thought the prescription involved diversion or had been altered.

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DR. MALTER, in response to Chair Ramras, agreed that most of the patients obtain narcotics for good reasons. He stated that only a small percentage of patients cause concern for prescribers and dispensers.

DR. MALTER, in response to Representative Gruenberg, noted that he is not a pharmacologist. He stated that the federal drug administration (FDA) certifies drugs for one year so he did not think shelf life is something that can be solved in this legislation.

2:32:48 PM

JULIE WOODWORTH Homer Chamber of Commerce, stated that the Homer Chamber of Commerce recognizes that drug abuse adversely affects the quality of life and increased crime. She stated that the Chamber of Commerce supports SB 196. She said that she personally experienced issues in her family which led to her involvement in the methamphetamine education task force. She related that through her involvement she has been amazed at the propensity to abuse prescription drugs. She related one drug abuser was quick to say he only took pills, which is not drug abuse. This highlighted the misperception that exists with prescription diversion. In response to a question by Chair Ramras, she acknowledged that she attended the "Meth Watch" conference at the Anchorage Loussac Library last summer. She commended the state for developing the Alaska Meth Education Project (AME) and in joining 40 other states in working to curb methamphetamine use. She stated that the project emphasized that methamphetamine abuse is a national epidemic, she said. She also stated that she is grateful for the work that Alaska is taking to combat methamphetamine use.

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JANET MULLEN, Home Health Nurse, South Peninsula Hospital, stated that the South Peninsula Hospital supports SB 196. On a personal level, she said that her own son has been involved in meth and prescription drug use. She opined that it is so easy for teenagers to obtain prescription drugs. She hopes that SB 196 will pass since she said she believes it will help prevent the widespread use of drug diversion among teenagers.

[2:35:44 PM](#)

LINDA BAREFOOT, Regional Director, State Government Affairs, Purdue Pharmaceutical Company ("Purdue Pharma") stated that Purdue Pharma manufactures and distributes controlled and non-controlled prescription medications. She offered support of appropriately designed state monitoring programs. She said she believes that SB 196 is a good example of such a program. She asked to have Purdue Pharma shown on the record in support of SB 196. In response to questions by Chair Ramras, Ms. Barefoot answered that Purdue Pharma manufactures OxyContin (oxycodone hydrochloride), and that Purdue Pharma wants its products to be prescribed for legitimate pain patients. Purdue Pharma believes that a state monitored prescription program would be able to provide a resource tool for the prescriber and can assist them in assessing appropriate pain patients. Purdue Pharma does not want their products distributed to the wrong people since it can jeopardize the legitimate patient access to the benefits of their products, she offered.

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REPRESENTATIVE HOLMES inquired as to whether there are any procedures or laws that address how to dispose of physical evidence such as printouts of prescription drug information.

DR. MALTER answered that the federal HIPPA regulation is quite stringent with regard to medical office data. He surmised that most clinics would shred information prior to disposing of it. Although concerns of drug use are highlighted in the bill, most medical records contain sensitive information that patients trust their physician to safeguard. Currently, medical history is private and he did not sense a looming problem to maintain the narcotic prescription data.

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REPRESENTATIVE HOLMES offered that she would assume that most doctors and pharmacies would maintain confidentiality. She inquired as to whether any other law applies.

MS. BLAISDELL relayed that she would research that issue further and if necessary, have a provision prepared to highlight disposal of medical information. In further response to Representative Holmes, Ms. Blaisdell explained that law enforcement can gain access to information is through a court-ordered warrant or subpoena. Further, the information is provided in a report format and the officer would not gain access to the database.

REPRESENTATIVE HOLMES surmised that an officer has a subpoena; the database could help provide evidence, but would not allow him/her to "fish" for information.

2:43:10 PM

REPRESENTATIVE HOLMES inquired as to whether a method exists to correct inaccuracies in one's own record.

MS. BLAISDELL answered that there is not an appeal process, but the first thing a doctor would examine is the date of birth. The computer would perform some presorting and similar information, she advised.

CHAIR RAMRAS stated that he would research that issue further and provide information to members as the bill progresses.

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REPRESENTATIVE HOLMES referred to page 5, line 21, of proposed AS 17.30.200(h)(i). She inquired as to whether the information is clear as to which date to use when purging files since it refers to both "issued or dispensed" dates.

MS. BLAISDELL surmised that some language has been deleted from this proposed section so it might be appropriate to remove the words "issued or" since it would refer to prescriptions that were dispensed rather than prescriptions that are not picked up.

REPRESENTATIVE HOLMES referred to page 4, lines 12-13, of proposed AS 17.30.200(d)(2), which refers to who can obtain the information. She asked whether it would be appropriate to add the word, "database" to "tighten up" that provision.

MS. BLAISDELL pointed out that subsection (d) that leads into that paragraph refers to "access to the database" so she thought that it was not necessary to identify database in paragraph (2). She further added that she held discussions with the bill drafter about "review" in that paragraph. She advised the members that review refers to the information that people can access in the database. She opined that the board's personnel or contractors can not conduct any review of a physician's practice. In further response to Representative Holmes, Ms. Blaisdell answered that subsection (c) refers to the purposes of the database, but does not provide the authority to access the information. She further offered that subsection (d) allows access to the database.

REPRESENTATIVE HOLMES surmised that subsection (d) would not allow people authorized to access the database to conduct random searches.

[2:52:42 PM](#)

CHAIR RAMRAS inquired as to how he manages to work in private practice and for the DHSS.

DR. MALTER explained that he had a fulltime practice up until a year and a half ago. The DHSS was seeking a Medicaid/Medical director, which most states employ. However, it is a small enough state that the DHSS did not need a fulltime person. He stated that his practice accepts Medicaid. He opined that Medicare is under fire for low reimbursement rates. However, the state has been diligent to provide good access for its Medicaid patients. He opined that Alaska provides better care for its Medicaid patients. He said that Alaskans are lucky that the legislature has been willing to support Medicaid.

REPRESENTATIVE COGHILL referred to page 5, lines 1-5, of proposed subsection (e), which outlines disciplinary action for failure to submit information. He asked how the board would know the pharmacist is not reporting the information.

INVESTIGATOR HOWES offered that licensees are required to report and the board would have the ability to conduct an audit review.

REPRESENTATIVE COGHILL inquired as to whether the board would review sales versus the data entry.

INVESTIGATOR HOWES concurred.

2:57:14 PM

DR. MALTER, in response to Representative Gruenberg, answered that he could not speak for the department with respect to Medicare problems. However, he offered his understanding that Medicare access is a tremendous problem, particularly in Anchorage, and many are not taking any new Medicare patients. He offered his understanding that a few years ago the Congressional delegation was able to obtain a fix, but since then, the rates have fallen to national rates. He opined it may pose a problem due to the scarcity of physicians in the state. The past few years the DHSS and medical associations have examined these issues. Although he does not have the reports with him, his impression is that the problems have been examined. He offered to provide the information to members.

2:59:17 PM

REPRESENTATIVE GRUENBERG referred to page 3 lines 4, of proposed AS 17.30.200(b), which in part reads, "federal law other than those administered to a patient at a health care facility", and asked if people in a health care facility are exempt.

MS. BLAISDELL answered that the prior language read, "inpatient" but that term was unclear since some patients have day surgeries and are not admitted to a hospital or clinic. Thus, the language in subsection (b) means that the patient is in a health care facility when the drug was dispensed and the health care facility does not need to report.

REPRESENTATIVE GRUENBERG inquired as to whether that exemption would skew the database.

MS. BLAISDELL explained that most feel that in "inpatient facilities" the patient is managed and is under supervision. Thus, the level of concern is reduced. The people that would be targeted by subsection (b) are those who must self-manage their prescriptions. She surmised that once the patient leaves the facility with the drugs that the concern of prescription drug abuse is raised.

REPRESENTATIVE GRUENBERG expressed concern that not having access to the initial prescription information could impact the subsequent follow up care and the quantity of drugs later prescribed.

3:01:47 PM

DR. MALTER offered that the inpatient care is a less critical issue. If the person is in a hospital, he/she might be prescribed morphine IV for surgical pain. However, some people are obtaining large amounts of narcotics and using them on a day-to-day basis. He noted that Medicaid allows 120 milligrams of methadone a day. He noted that the bill is trying to address the problem of non-malignant pain and chronic back pain. Many need their medication and probably most are using them appropriately. However when large numbers of pills, for example, 300 pills per month or more are issued, prescribers are concerned that the outpatient's tablets are being diverted.

[3:03:08 PM](#)

REPRESENTATIVE COGHILL referred to page 5, lines 6-8, of proposed AS 17.30.200(f) which refers to agreements that the board may enter into with dispensers that are not regulated by the state. He inquired as to how this would fit into the felony accountability.

MS. BLAISDELL answered that this subsection was amended on the Senate floor, and previously referred to "tribal or military" entities. She said the term relates to "federally regulated entities." Further, she noted these are not Internet activities. The entities would have to follow the same requirements set out in statute under a memorandum of agreement.

REPRESENTATIVE COGHILL disagreed since some immunity issues may arise that would not require the parties to be held accountable. He suggested that this issue may need further review.

[3:05:47 PM](#)

CHAIR RAMRAS, after determining that no one else wished to testify, closed public testimony on SB 196.

[3:06:25 PM](#)

CHAIR RAMRAS made a motion to adopt Amendment 1, labeled 25-LS1092\LA.1, Luckhaupt, 2/22/08, which read:

Page 4, lines 10 - 11:
Delete "regarding license inquiries"

Page 4, line 11, following "practitioner":

Insert "pursuant to a search warrant, subpoena, or order issued by an administrative law judge or a court"

REPRESENTATIVE SAMUELS objected for the purposes of discussion.

CHAIR RAMRAS noted that Amendment 1 was requested by Dr. James Jordan, Executive Director of the Alaska State Medical Association. He stated that the intent of the amendment is to provide due process protection for licensed prescribers. He explained that the additional language would require a board or other administrative agency to obtain search warrant, subpoena, or order issued by an administrative law judge or a court. The new language would ensure appropriate protection while still allowing the database to be used as a tool to assure that best medicine is practiced in Alaska. He noted that a letter from the Alaska State Medical Association requesting this amendment is in member's packets.

REPRESENTATIVE SAMUELS removed his objection.

CHAIR RAMRAS, noting that there were no further objections, relayed that Amendment 1 was adopted.

[3:08:32 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 2, which read [original punctuation provided]:

On page 6, line 10

Add a new definition:

(5) "practitioner" has the meaning given in AS 08.80.480.

REPRESENTATIVE COGHILL objected.

REPRESENTATIVE GRUENBERG explained that the term "practitioner", on page 3 of SB 196, is not defined for purposes of proposed AS 17.30.200; instead, the term is defined in AS 08.80.480, which pertains to pharmacists.

REPRESENTATIVE COGHILL removed his objection.

CHAIR RAMRAS announced that Conceptual Amendment 2 was adopted.

[3:09:48 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 3, which read: [original punctuation provided]

page 5 line 9

after "shall" insert "promptly"

page 5 line 11

after "pay" insert "all or part of"

REPRESENTATIVE COGHILL objected.

REPRESENTATIVE GRUENBERG explained that Conceptual Amendment 3 is a technical amendment to proposed AS 17.30.200(g), which would require the Board of Pharmacy to notify the legislature as soon as possible if federal funding does not cover the costs of the database to initiate the budget process.

REPRESENTATIVE COGHILL removed his objection.

CHAIR RAMRAS announced that Conceptual Amendment 3 was adopted.

[3:10:59 PM](#)

REPRESENTATIVE HOLMES referred to page 5, line 21, of proposed subsection AS 17.30.200(i), and inquired as to whether the terms, "issued or "dispensed" should be clarified.

REPRESENTATIVE GRUENBERG explained that a prescription can be issued even if the drug is not dispensed. Thus, both instances would be covered in SB 196, he opined.

MS. BLAISDELL offered that there is not any provision for the subscriber to enter any data until the prescription is dispensed to the patient.

[3:12:34 PM](#)

REPRESENTATIVE HOLMES made a motion to adopt Conceptual Amendment 4, to delete the words, "issued or" from page 5, line 21. There being no objection, Conceptual Amendment 4 was adopted.

[3:12:56 PM](#)

REPRESENTATIVE COGHILL again referred to page 5, lines 6-8, of proposed subsection AS 17.30.200(f) with respect to tribal and military agreements.

CHAIR RAMRAS asked to work with the sponsor to address the two issues with respect to tribal and military agreements and to create a method to correct any inaccuracies in a medical record.

MS. BLAISDELL pointed out another issue the committee could consider is to specify how the board shall dispose of records.

CHAIR RAMRAS announced that CSSB 196(FIN)am, as amended, would be held over.

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:15 p.m.