

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 6, 2008

3:04 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Gabrielle LeDoux
Representative Jay Ramras
Representative Robert L. "Bob" Buch
Representative Berta Gardner

MEMBERS ABSENT

Representative Carl Gatto

COMMITTEE CALENDAR

HOUSE BILL NO. 320

"An Act relating to certification of search and rescue personnel and organizations; requiring certain search and rescue personnel to be considered state employees for purposes of workers' compensation coverage; and allowing municipalities to elect to provide workers' compensation insurance coverage for search and rescue personnel."

- MOVED CSHB 320(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 316

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

- MOVED CSHB 316(L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 320

SHORT TITLE: SEARCH & RESCUE: CERTIFICATION/WORK.COMP

SPONSOR(S): REPRESENTATIVE(S) MEYER

01/15/08	(H)	READ THE FIRST TIME - REFERRALS
01/15/08	(H)	L&C, FIN
01/28/08	(H)	L&C AT 3:00 PM CAPITOL 17
01/28/08	(H)	Heard & Held
01/28/08	(H)	MINUTE(L&C)

02/06/08 (H) L&C AT 3:00 PM CAPITOL 17

BILL: HB 316

SHORT TITLE: PRESCRIPTION DATABASE

SPONSOR(S): REPRESENTATIVE(S) RAMRAS

01/15/08 (H) READ THE FIRST TIME - REFERRALS

01/15/08 (H) L&C, JUD

02/06/08 (H) L&C AT 3:00 PM CAPITOL 17

WITNESS REGISTER

MIKE PAWLOWSKI, Staff
to Representative Kevin Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented and answered questions on CS for HB 320, Version E.

BRAD THOMPSON, Director
Division of Risk Management
Department of Administration (DOA)
Juneau, Alaska

POSITION STATEMENT: Testified on HB 316.

EMILY BEATLEY, Staff
to Representative Jay Ramras
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 316 on behalf of the prime sponsor.

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

POSITION STATEMENT: Answered questions during the discussion of HB 316.

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

POSITION STATEMENT: Testified and answered questions on HB 316.

BARRY CHRISTIANSON, Pharmacist; Co-Chair
Alaska Pharmacists Association
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions on HB 316.

KEITH MALLARD, Captain; Commander
Alaska Bureau of Alcohol & Drug Enforcement
Division of Alaska State Troopers (AST)
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions on HB 316.

WILLIAM STREUR, Deputy Commissioner
Office of the Commissioner
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions on HB 316.

ACTION NARRATIVE

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at [3:04:38 PM](#). Representatives Ramras, Buch, Neuman, and Olson were present at the call to order. Representatives LeDoux and Gardner arrived as the meeting was in progress.

HB 320-SEARCH & RESCUE: CERTIFICATION/WORK.COMP

[3:05:03 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 320, "An Act relating to certification of search and rescue personnel and organizations; requiring certain search and rescue personnel to be considered state employees for purposes of workers' compensation coverage; and allowing municipalities to elect to provide workers' compensation insurance coverage for search and rescue personnel."

REPRESENTATIVE NEUMAN moved to adopt the proposed committee substitute (CS) for HB 320, Version 25-LS1176\E, Bailey, 2/5/08, as the work draft. There being no objection, Version E was before the committee.

[3:05:27 PM](#)

MIKE PAWLOWSKI, Staff to Representative Kevin Meyer, Alaska State Legislature, summarized the changes section-by-section to

Version E. He said Section 1 would add a new section to AS 18.60 to allow the commissioner of the Department of Public Safety (DPS) or his/her designee to organize and conduct search and rescue training missions. He directed attention to page 2, lines 3-5, Section 2, which would amend proposed AS 18.60.120 to clarify that only the commissioner of DPS or his/her designee could authorize a person to participate in a search and rescue mission. Sections 3-5 are conforming sections, although Section 5 carries over from the original version of HB 320.

MR. PAWLOWSKI characterized Section 6 as the "meat" of the bill, because it authorizes workers' compensation coverage for search and rescue volunteers who participate in a search and rescue mission under AS 18.60.120 or in a training exercise under proposed AS 18.60.115. He offered that the key is the volunteer must be authorized to participate in a search and rescue effort. This provision was added because DPS expressed concern that comingling volunteers with professionally trained searchers could make it difficult to determine who is covered by workers' compensation in the event of an injury.

MR. PAWLOWSKI explained that the primary departure from the original bill is in response to issues raised by committee members during the January 28, 2008, committee meeting. After holding discussions with DPS on the registration and certification of volunteers, certification provisions were removed from the bill and the process for conducting search and rescues now mirror the process the DPS currently uses including initiating a search, starting the mission, and ending the mission. The workers' compensation coverage in Version E would extend only to participants authorized by DPS, he stressed.

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REPRESENTATIVE NEUMAN related his understanding that there is often commotion combined with a high level of emotion because citizen volunteers want to help during a search and rescue effort. He inquired as to whether there would be a sign-up sheet or a list of names available so DPS can track who is part of the formal search and rescue mission.

MR. PAWLOWSKI answered that under HB 320, DPS would maintain the responsibility to compile the list of volunteers. He referred to proposed Section 4 of the bill, which requires that DPS adopt regulations necessary to carry out its duties to make it clear who is eligible to assist with the formal search and rescue mission.

REPRESENTATIVE NEUMAN stressed that it is important for the committee to hold these discussions in order to establish the legislative intent for the record. He offered his support for HB 320.

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REPRESENTATIVE GARDNER noted her appreciation for the intent of HB 320 and her support to provide workers' compensation for search and rescue volunteers. However, she expressed concern for any unintended consequences. She posed an example in which a child is discovered missing near a body of water and the community galvanizes to locate the child. She inquired as to whether a volunteer who is injured during such a search is considered an authorized searcher and if he/she would be covered under HB 320.

MR. PAWLOWSKI answered that it would depend on whether the Division of Alaska State Troopers (AST) [in conjunction with the commissioner of DPS] has authorized the community to search or has assigned a community leader to oversee the search. He opined that if a group of townspeople informally gathered and searched and someone was injured, the injured person would not be covered under HB 320. However, if the townspeople went through the AST to activate a search and rescue mission and the volunteers were authorized as part of the search and rescue mission, then the volunteers would be covered under the mission.

REPRESENTATIVE GARDNER inquired as to whether the bill should also have a House Judiciary Standing Committee referral to review the state's liability for search and rescue personnel.

MR. PAWLOWSKI answered that a referral is something that could be discussed with Representative Harris. He noted that HB 320 currently has a House Finance Committee referral since the bill discusses financial responsibility and risk management issues. He further noted that the state is a self-insured entity.

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BRAD THOMPSON, Director, Division of Risk Management, Department of Administration, said that the division administers the self-insured program that includes workers' compensation obligations. This legislation would expand the state's exposure somewhat, he opined. However, the division's past practice has been to extend coverage to search and rescue volunteers who have signed

up as volunteers for a mission, he offered. The division has an agreement form posted on its web site for departments to use. In the event that a volunteer is injured while in state service, the division would extend coverage similar to workers' compensation, he said. He offered that the division would cover out-of-pocket expenses not covered by the injured person's medical provider. He related that volunteers would simply fill out a contractual form. He posed a scenario in which a volunteer might slip and fall at the state museum and due to an injury would need medical coverage. He stated that under HB 320, the Department of Public Safety would be required to designate when the search and rescue mission starts. He said that the DPS would prepare a list of volunteers and file a report with the list of participants to formally capture the information.

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REPRESENTATIVE GARDNER offered her understanding that the change under HB 320 from current statute is that search and rescue workers would be eligible for workers' compensation benefits. Currently, if search and rescue volunteers are injured they pay their own medical expenses out-of-pocket, she surmised.

MR. THOMPSON answered that is correct. He noted that in the past ten years there have been three injuries stemming from search and rescue missions that have resulted in minimal medical costs.

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REPRESENTATIVE GARDNER inquired as to whether the purpose of HB 320 is preemptive or if it would cover the professionals who are often called in to volunteer such as firefighters or law enforcement officers.

MR. PAWLOWSKI answered that HB 320 is entirely preemptive and stems from the concern that volunteers incur substantial risk in order to rescue people during missions such as an avalanche or mountain rescue. Current statutes prohibit search and rescue volunteers from suing the state, yet these volunteers fulfill an important role for the state. If one volunteer suffers a major accident it could result in financial hardship for the person or his/her family, he opined.

REPRESENTATIVE NEUMAN, in response to an earlier concern, opined that the committee is capable of reviewing the bill so HB 320 does not need a further referral to the House Judiciary Standing Committee. He offered that the bill contains several safeguards, including developing regulations for necessary oversight, that help ensure injured search and rescue volunteers are covered by workers' compensation. The DPS and search and rescue organizations have the necessary expertise to develop the regulations and the process since they routinely work with volunteers, he opined.

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REPRESENTATIVE GARDNER moved to report the proposed CS for HB 320, Version 25-LS1176\E, Bailey, 2/5/08, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 320(L&C) was reported out of the House Labor and Commerce Standing Committee.

The committee took an at-ease from 3:20 p.m. to 3:24 p.m.

HB 316-PRESCRIPTION DATABASE

[3:24:54 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 316, "An Act relating to establishing a controlled substance prescription database."

[3:25:34 PM](#)

REPRESENTATIVE NEUMAN moved to adopt proposed committee substitute (CS) for HB 316 labeled 25-LS1283\M, Luckhaupt, 2/4/08, as the working document. There being no objection, Version M was before the committee.

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EMILY BEATLEY, Staff to Representative Jay Ramras, Alaska State Legislature, on behalf of the prime sponsor of HB 316, Representative Jay Ramras, offered to present the bill. She informed committee members that all states have laws and regulations that govern the distribution and handling of controlled substances and other pharmaceuticals. As of December 2007, 35 other states have enacted programs that require prescription monitoring programs with another 14 additional states, including Alaska, that are in the process of considering

such legislation. Goals for prescription monitoring programs vary, but the major objectives include programs such as education and information, public health initiatives, early intervention and prevention, investigations and enforcement, and confidentiality. States with prescription monitoring programs reported the programs provide effective tools to identify and prevent drug diversion at the prescriber, pharmacy, and patient levels, she offered. Prescription monitoring programs are designed to be the least disruptive to medical and pharmacy practices, she opined. In fact, some states report that the time to use the prescription monitoring program takes less than three to five minutes.

MS. BEATLEY noted that under HB 316, prescription drug data would only be available to entities that currently have the right to access and obtain prescription data under state law. The proposed database for monitoring prescription drug use is a tool that would assist prescribing and dispensing practices to improve health care for Alaska's citizens, she opined. The proposed program is not intended to target possible subjects for investigation, but is to help law enforcement perform their investigations after an official complaint has been made.

MS. BEATLEY offered that the Department of Commerce, Community, & Economic Development (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. In 2006, the National Survey on Drug Use and Mental Health reported that nationally over 7 million people ages 12 or older used prescription drugs non-medically over a one-month period, she stated. According to the survey, of those 55.7 percent said that the source of the drug they most recently used was from a friend. Further, the Drug Enforcement Administration (DEA) reported in a recent fact sheet that Alaska has the highest rate of controlled substance use. The misconception that the misuse of prescription drugs is safer than using illicit street drugs makes this type of drug abuse particularly dangerous, she opined. Oftentimes, kids will steal prescription drugs from their home medicine cabinet, take the drugs to parties, and throw them in a bowl for others to use, she noted.

MS. BEATLEY gave an overview of the prescription monitoring program established in HB 316. Under HB 316, the DCCED 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. Some provisions in the bill outline the requirements for reporting information, such as who is responsible for reporting information to the board, the specific uses of the database, and who has the authority to access information contained in the database, such that individuals could also request their own data for a fee with the maximum fee set at \$10. She outlined the safeguards to keep information confidential and the penalty provisions contained in HB 316. The prescription monitoring database is for use by practitioners when considering or dispensing prescriptions for a current patient in their office, by licensed pharmacists when dispensing drugs, and by law enforcement officers pursuant to a search warrant. Failure to report data is grounds for disciplinary action by the Board of Pharmacy, she said. This bill would also authorize the state to enter into agreements with tribal and military dispensers and practitioners.

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MS. BEATLEY said that it is not the sponsor's intent to pass on costs of the prescription monitoring database to the professionals who use it. Thus, the board must notify the legislature if federal funding ceases to cover the program costs for the prescription monitoring database. Funding from federal grants and state appropriations should cover the program costs, she opined. Practitioners are not obligated to use the database, she offered. Instead, the database is a tool for dispensers to use to identify misuse of prescription drugs. The penalty provisions of HB 316 make it a class A misdemeanor to unlawfully disclose information and a class C felony to alter or destroy information contained in the database, she said. The prime sponsor considered testimony given on the companion bill when making changes to HB 316 that are contained in proposed Version M.

REPRESENTATIVE RAMRAS added that another genesis for HB 316 stems from the methamphetamine forum he attended in October 2007, which was held at the Anchorage Loussac Library. The group that met included a representative from the DEA, who expressed interest and support of Alaska initiating a prescription monitoring database. The legislature has previously considered programs similar to this, but the technology and federal funding now make the prescription monitoring database feasible, he opined. He also stressed the importance of controlling substances that people ingest and

noted the risks of drug addiction. This bill could help curb what is coined "doctor shopping" and the resale of prescription drugs referred to as "diversion," he said. Further, curbing diversion and inappropriate pharmaceuticals could actually result in a negative fiscal note. He characterized HB 316 as "good for society."

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REPRESENTATIVE GARDNER inquired as to whether HB 316 addresses the Health Insurance Portability and Accountability Act (HIPAA). She further asked whether other states currently using a prescription monitoring database have experienced any problems and how often pharmacists, dispensers, and other authorized users in other states access the prescription monitoring database. She asked what liability the state would incur if data was lost or stolen since the DCCED and the Board of Pharmacy are responsible for security of the prescription monitoring database. Lastly, she inquired as to whether federal grants would be ongoing or if funding will end.

MS. BEATLEY answered that HIPAA provides an exemption for states with prescription monitoring programs so long as the program and provisions of state law are necessary to prevent fraud and abuse related to the provision of health care and its principal purpose is the regulation of the distribution, dispensing, or other control of any controlled substance. Since the voluntary prescription monitoring database has proven to be such a helpful tool to those who use it, some states would like to change their programs to mandatory programs to increase the overall effectiveness. She offered to provide committee members with additional statistics. She recalled conversations she held with program administrators in other state, during which they characterized their prescription monitoring database program as a valuable and successful tool to help curb drug abuse.

MS. BEATLEY explained the stages of federal funding such that the first stage would fund research, the second stage would fund implementation with a limit of \$400,000, and the third stage would be enhancement grants. Some states have continuously received enhancement grants, she noted. However, there is no guarantee or certainty that federal funding for the prescription monitoring programs will continue.

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REPRESENTATIVE GARDNER expressed concern that busy pharmaceutical dispensers might not have time to query the prescription monitoring database. She requested information on the number of states with active voluntary programs.

REPRESENTATIVE NEUMAN expressed concern for government programs that obtain and store confidential information contained in records. He referred to page 4, lines 2-7, that require the Board of Pharmacy to ensure the security and confidentiality of the database and the information contained within the database. He expressed further concern for a security breach of the prescription monitoring database.

MS. BEATLEY referred to page 5, lines 18-22, and outlined the penalty provisions of the bill. 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.

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REPRESENTATIVE RAMRAS noted that a class A misdemeanor is punishable with a fine up to \$5,000 and 1 year in prison and that a class C felony is punishable with a fine up to a \$10,000 fine and 5 years in prison.

REPRESENTATIVE NEUMAN pointed out that there is not a mandatory penalty listed in HB 316. He offered his understanding that the district attorney offices are busy offices that must prioritize which cases to prosecute. He expressed concern that crimes of this nature would not be considered high priority crimes to pursue. People routinely hack into databases, he opined. He maintained his concern about security breaches to the database. He further inquired as to whether there is a seal of confidentiality in circumstances in which a court obtains information contained in the prescription monitoring database or whether that information becomes public.

MS. BEATLEY offered her belief that the information would be held confidential.

[3:45:25 PM](#)

REPRESENTATIVE NEUMAN asked whether it is the sponsor's intent that information contained within the prescription monitoring

database would be kept under seal and not be open to the public except under the strictest regulations controlled by a judge.

MS. BEATLEY offered that the database would be kept under the strictest confidentiality and the language [on page 2, line 6 of Version M] specifies the six categories of persons who can have access. She noted that law enforcement access is limited in scope and officers would not be allowed to log into the database, but could only access information through a court order.

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MS. BEATLEY, in response to Representative Neuman, said that she could not find any evidence in the research that spans 10-15 years that someone hacked into a prescription monitoring database. Further, all states with prescription monitoring databases contract with vendors that use sufficient firewalls to protect the data, she offered.

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REPRESENTATIVE NEUMAN referred to Version M, page 3, lines 27-30, of proposed AS 17.30.200(c)(3), which read: .."relates to controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for a controlled substance;". He asked whether doctors might be targeted if they were to prescribe medication to a patient that falls outside the norm. He expressed concern that HB 316 might capture legitimate uses of controlled substances prescribed by reputable doctors. He related several instances in which doctors may routinely prescribe a number of controlled substances, for example, to cancer patients.

MS. BEATLEY acknowledged that pharmacists would be required to check with the doctor to verify the drug and dosage being prescribed. She offered that one reason for housing the administration of the prescription monitoring database within the Board of Pharmacy is to allow the board to establish the norms for prescribing practices. She offered that doctors who demonstrate a continual pattern of overprescribing would trigger flags in the database.

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REPRESENTATIVE NEUMAN referring to the sponsor's memo outlining the changes included in Version M, inquired as to the reason for

removing the language from the original HB 316, proposed AS 17.30.200(b)(4), which read: "the name and address of the person for whom the prescription was written and the name and address of the person who picked up the prescription."

MS. BEATLEY explained that the language, "and the name and address of the person who picked up the prescription" was removed from the original bill because the Alaska Nurses Association expressed concern about nurses' personal information being logged since health care workers routinely pick up medication for patients in licensed-care facilities. Additionally, the requirement would also capture information not currently reported by pharmacists. Pharmacists said it would be burdensome to report it, she related. In further response to Representative Neuman, Ms. Beatley explained the information that would be recorded in the database includes the date of the prescription, date filled, method of payment, name and address of the patient, name and national code of the controlled substance, its strength, the name of the drug outlet, the pharmacist or practitioner prescribing the controlled substance, and other pertinent information. She noted that "other pertinent information" was added to give the Board of Pharmacy the flexibility to capture additional information by regulation.

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MS. BEATLEY, in response to Representative Neuman, explained that Version M removes proposed AS 17.30.200(b)(7) from the original bill, which read: "the dosage, quantity, and frequency as prescribed;" because it captured essentially the same information as proposed AS 17.30.200(b)(6), which read: "the quantity and strength of the controlled substance prescribed or dispensed;" so it was removed.

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REPRESENTATIVE LEDOUX asked for clarification of the process. She related her understanding that a person would go to the pharmacy to submit a prescription and the pharmacist would query the database to retrieve the person's medical and prescription history.

MS. BEATLEY offered her understanding that several different databases exist and the information stored in the databases varies. The Board of Pharmacy and DCCED will select from several different databases since there is not one standardized format. She elaborated that one type of database under

consideration uses web-based access. Users would use a unique login code and confidential password to query patients, view a list of prescribed medications, along with the name of the doctor or medical professional who prescribed the controlled substance. She offered that this information is currently being captured by medical staff, but that the proposed Version M would place the information in one location. Thus, pharmacists will not have to call numerous doctors to obtain the patient's prescription profile.

[3:57:18 PM](#)

MS. BEATLEY, in response to Representative LeDoux, answered that it is the sponsor's intent to allow pharmacists to access information for a current patient only. Thus, a pharmacist would not be able to "fish" for information regarding random persons.

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MS. BEATLEY, in further response to Representative LeDoux, answered that pharmacists or other medical professionals who misuse the prescription monitoring database would be in violation of the penalty provisions in proposed AS 17.30.200(i). She offered that a person who intentionally discloses information in the database or allows an unauthorized person access to the database is subject to a class A misdemeanor. The prime sponsor is considering a specific amendment to address "fishing for information". However, the legal drafter assured the prime sponsor that the aforementioned activity is currently covered in this subsection, she offered.

REPRESENTATIVE LEDOUX noted her agreement that the penalty provision described would address intentional disclosure of information. However, she expressed concern that if someone used information to satisfy his/her own curiosity, the penalty provision would not apply.

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GINGER BLAISDELL, Staff to Senator Lyda Green, Alaska State Legislature, speaking on behalf of the prime sponsor of the companion bill, SB 196, clarified that under both bills pharmacists would have access to the specific prescription number being filled or refilled. Since the pharmacist is interested in determining whether or not to fill a prescription, the pharmacist does not need to have access to the patient's

condition, she offered. She explained the process pharmacists would use to access the prescription database. The pharmacist would enter the specific drug code for the federally controlled drugs from the prescription. Information contained in selected records would be compiled and transmitted daily or weekly to a secure data warehouse for access by the Board of Pharmacy, pharmacists or other authorized users. When a pharmacist enters the patient's name, specific information that pertains to the prescription for the federally controlled substance will appear, not the patient's high blood pressure medication or other medication, she noted.

REPRESENTATIVE LEDOUX inquired as to the specific language in the bill that would limit the information to the prescription.

MS. BLAISDELL referred to page 3, line 14, of Version M, proposed AS 17.30.200(b)(5) which read: "the name and national drug code of the controlled substance;" and explained that refers to the specific information that would be collected in the prescription monitoring database. In further response to Representative LeDoux, Ms. Blaisdell said that controlled substances vary slightly in state and federal schedules. 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.

[4:04:03 PM](#)

REPRESENTATIVE LEDOUX inquired as to funding sources for the prescription drug monitoring program if the federal funding for the program "dries up". She related her understanding that the sponsor's intent is not to pass on the cost of monitoring prescription drugs to the medical professionals who would access the prescription monitoring database.

MS. BEATLEY answered that was the reason for adding proposed AS 17.30.200(g) to HB 316, which read:

The board shall 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 the costs of the controlled substance prescription database.

MS. BEATLEY noted that the prime sponsor of the companion bill, authored a letter of intent and the prime sponsor of HB 316 has drafted a similar letter. She offered to provide a copy to Chair Olson or to the House Finance Committee since the bill has a further referral to that committee.

[4:05:45 PM](#)

REPRESENTATIVE GARDNER, in response to an earlier question, offered her understanding that evidence entered into a criminal record becomes part of the record and the public has access to the court record, with some exceptions.

REPRESENTATIVE LEDOUX offered her understanding that the information becomes public in the event that the person is convicted of a crime, otherwise it is not normally part of the public record.

REPRESENTATIVE GARDNER opined that the bill could help identify and prevent "doctor shopping" by drug addicts or could help identify corrupt doctors who sell prescriptions.

[4:09:05 PM](#)

REPRESENTATIVE NEUMAN inquired as to whether the Board of Pharmacy would have access to medical records of federally controlled prescription drugs that have been prescribed.

MS. BLAISDELL answered that the Board of Pharmacy would adopt regulations to more clearly define how the program would work, its reporting functions, and the information that would be captured in the database. Thus, the structure the board elects to use will determine the level of direct access users will have. In some states, the board does not have direct access to the database and only its investigator and technical staff have access to the database. Technical staff has access to the database since they need to determine whether the data captured migrates to the correct field. Other boards have elected to receive data only when specific flags appear, in the form of an automated report. Such a report might list a single person who accessed 20 pharmacists and 30 doctors in the past 12 months. The board could assign its investigator to review the matter for potential criminal activity, she offered.

[4:11:51 PM](#)

BRIAN HOWES, Investigator III, Division of Corporations, Business, and Professional Licensing, Anchorage Office, Department of Commerce, Community, & Economic Development (DCCED), said that as senior investigator he supervises staff that provides investigative services to occupational licensing boards serving 35 professions. The Board of Pharmacy is currently authorized to release confidential information to the division's investigators.

MR. HOWES explained that through the current state, federal, and HIPAA exemptions, the data gathered by the program is currently available to the division and to prescribers, dispensers or law enforcement personnel. However, HB 316 would help reduce prescription drug abuse such as "prescription forgery", "blanket prescribing", and "doctor shopping." This bill would provide investigators ready access to prescription information in a searchable, electronic form which makes collection of information easier and less intrusive, and reduces time and effort to conduct investigations. Thus, investigators could access multiple pharmacy locations without having to visit every pharmacy, mail out letters, or physically review countless copies of pharmacy prescriptions. He reviewed the current investigative procedures and noted that HB 316 would help investigators identify and make cases on prescription drug abusers in cost effective ways. He recalled one case in which pharmacists provided copies of over 10,000 prescriptions, which required three months of data entry and analysis to enable investigators to document the case. That same case could have been completed in a few minutes using the prescription database authorized by HB 316, he opined. He has contacted numerous states with active prescription monitoring programs. Prescribers, dispensers, professionals, board licensing staff, and law enforcement all reported positive feedback on current prescription monitoring programs in other states, he said. He pointed out that Nevada provides patient prescription reports to doctors to alert them when their patients are using multiple doctors and prescribers simultaneously. Such reporting is often the first step in acquiring drug abuse treatment for patients, he opined.

[4:17:14 PM](#)

MR. HOWES, in response to Chair Olson, advised that the proposed database would be able to track user access to provide a tool for investigators to curtail unauthorized use of the prescription monitoring database by pharmacists. In response to Representative LeDoux, Mr. Howes explained that under the

program individual pharmacists would have a login, password, access time, and length of time. He related that cases of this type arise when suspected leaks are reported. Under HB 316, investigators would have the necessary tools with the prescription monitoring database that could result in apprehension of some criminals such as stalkers.

[4:18:52 PM](#)

REPRESENTATIVE NEUMAN related his understanding that under HB 316, pharmacists and other prescription monitoring database users would have limited access to information. However, the board would be the entity with full access to information contained in the database.

MR. HOWES answered that pharmacists would be able to access all of a specific patient's prescriptions in order to identify any contraindications to the prescription he/she was filling.

REPRESENTATIVE NEUMAN expressed concern that the only patients being tracked are the ones requesting reimbursement from insurance companies, but that patients who purchase with cash would not be tracked in the proposed system.

MS. BLAISDELL pointed out that there are two separate databases. She clarified that the prescription monitoring database authorized by HB 316 is separate from the pharmacist's database. She noted that only prescriptions for federally controlled substances listed in federal drug schedules I-V would be monitored in the proposed program. She explained that when a pharmacist is suspicious of drug diversion, the pharmacist could query the controlled substance database to determine whether there is a pattern of multiple doctors prescribing restricted substances to the patient. She offered that some pharmacists may examine each patient's record, but others may only access the database for patients they do not personally know. She posed a scenario in which a pharmacist might average dispensing from one to five federally restricted drugs per day. The Board of Pharmacy could establish security guidelines to trigger an automatic report be generated when a red flag showed the pharmacist accesses a certain number of records, such as if a pharmacist accessed 2,000 records during that same timeframe.

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REPRESENTATIVE LEDOUX expressed concern that a pharmacist might review the records of a specific individual, such as his/her

next door neighbor and not just randomly review records in the system. She inquired as to whether that type of access could be detected in the proposed program.

MS. BLAISDELL answered that HB 316 would allow the Board of Pharmacy to develop regulations to address potential drug abuse and database access abuse. The board is the entity that will have the best understanding of the issues and potential problems, she opined.

[4:24:41 PM](#)

BARRY CHRISTIANSON, Pharmacist; Co-Chair, Alaska Pharmacists Association, offered support for the proposed Version M, which incorporates many issues that were worked out in the companion bill.

REPRESENTATIVE NEUMAN expressed concern about unauthorized use of the proposed prescription monitoring database.

MR. CHRISTIANSON offered his understanding that the prescription monitoring program would be administered through the Board of Pharmacy, but pharmacists, prescribing physicians, and other medical professionals who prescribe, such as nurse practitioners, would have access to the prescription monitoring database. He said that the data transmitted on the federally controlled substances would be limited to the Board of Pharmacy.

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REPRESENTATIVE NEUMAN inquired as to who will have access to the individual's personal information.

MR. CHRISTIANSON said he believed that only pharmacists and prescribers currently registered by the Board of Pharmacy would have access to the personal information.

REPRESENTATIVE NEUMAN related his understanding that the program would allow pharmacists, pharmacy technicians, physicians, and the Board of Pharmacy access to the patient's information.

MS. BEATLEY referred to Version M, page 4, line 2, which would limit access to the prescription monitoring program database. She reviewed proposed AS 17.30.200(d)(3)-(6). Under proposed AS 17.30.200 (d)(3), a licensed practitioner could access the database specifically to query a patient that the practitioner is currently treating. Proposed AS 17.30.200(d)(4) would limit

a licensed pharmacist's access to information that relates specifically to a current patient to whom the pharmacist is dispensing a controlled substance. Proposed AS 17.30.200(d)(5) would allow enforcement authorities to access printouts of the information pursuant to a search warrant, subpoena or an order issued by a court establishing probable cause for the access and use of the information. Proposed AS 17.30.200(d)(6) would allow individuals to access their own information for a fee.

[4:29:14 PM](#)

MR. CHRISTIANSON, in response to Chair Olson, offered that drugs are classified by their potential for abuse, and schedule I refers to experimental drugs. He noted that his pharmacy does not stock any schedule I drugs. Schedule II drugs include medications such as OxyContin, schedule III drugs include medications such as Vicodin and Percocet, schedule IV drugs include medications such as Valium, and schedule V drugs include medications such as codeine-based cough syrups. In further response to Chair Olson, Mr. Christianson noted that about 15 percent of all prescriptions fall under the federally restricted drugs. Thus, about 85 percent of prescriptions would not be addressed by HB 316.

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REPRESENTATIVE GARDNER inquired as to whether Mr. Christianson could predict how often pharmacists will use the database if it is voluntary to do so.

MR. CHRISTIANSON opined that the database would frequently be used. Pharmacists are intuitive so when something seems amiss, the pharmacist will call the prescriber's office to be certain that the patient has advised their physician of other prescriptions being filled, he offered. However, if a known client submits a prescription for a painkiller from her dentist, the pharmacist would probably not query the database. He offered his preference for a program that allows for voluntary use.

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MR. CHRISTIANSON, in response to Representative Neuman, explained that under HB 316, pharmacists would voluntarily query clients who submit prescriptions for controlled substances. However, he clarified that HB 316 would require pharmacists to report scheduled drug data to the Board of Pharmacy.

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REPRESENTATIVE LEDOUX inquired as to the cost for a pharmacist to report and whether further costs are covered by the federal grant.

MR. CHRISTIANSON answered that the major hurdle for the program will be whether the prescription monitoring database will interface with the portal to transfer the data. Since Alaska is not the first state to initiate the prescription monitoring program, he anticipated that sufficient federal funds will be available to cover the state's startup costs. Once the prescription monitoring database is online the costs are projected to be minimal, he said.

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REPRESENTATIVE BUCH inquired as to whether there are other means for cost recovery of the program if federal funding is cut.

KEITH MALLARD, Captain, Commander, Alaska Bureau of Alcohol & Drug Enforcement, Division of Alaska State Troopers (AST), Department of Public Safety (DPS), said that setup costs are the main expense of prescription monitoring programs. Other states have reported that their costs after setup have been rather low. He offered that there are a number of respected programs in other states and the combined queries tally about 5,000 queries per month. Thus, physicians and pharmacists who are the primary database users frequently access the system in states that currently have a prescription monitoring program.

4:36:54 PM

MS. BLAISDELL reported that most states initially spend close to \$400,000 in federal setup grants for their prescription monitoring programs for expenses such as establishing separate servers and for hardware and software purchases. She noted that New Mexico reports its ongoing costs at the low end in the amount of \$13,000 per year. However, other states such as Wyoming hired additional staff and reported ongoing costs of about \$90,000 per year. She said she anticipates that the cost in Alaska will drop dramatically after the initial setup costs.

REPRESENTATIVE BUCH referred to page 3 of an article in the committee packet labeled "The Goals of Prescription Monitoring" in the section titled, Protection of Confidentiality, and read:

"Over the decades during which prescription monitoring programs have been operating, there have been no documented or anecdotal causes of breach of confidentiality of data." That reference should help members with questions about security of prescription monitoring systems, he opined.

[4:39:05 PM](#)

WILLIAM STREUR, Deputy Commissioner, Office of the Commissioner, Department of Health and Social Services (DHSS), said that he oversees the Medicaid and health care policy for the DHSS. The DHSS supports HB 316, he related. He offered that similar programs have been successful in other states. It is good for legislators to strive to ensure confidentiality because of risks involved, he opined. This legislation provides for a prescription monitoring program that will bring a balance between safe use of drugs and the need to prevent the illegal activity associated with drug diversion of controlled substances. He reported that in the Medicaid program he oversees approximately \$68 million is spent on prescription drugs, of which \$8.6 million, or approximately 15 percent, is spent on schedule I-V drugs controlled drugs. "Drug diversion" refers to drugs such as OxyContin or other prescription pain relievers that are illegally sold to other uses. The cost for unintended use adds to the overall cost of the Medicaid program, he opined. The proposed prescription drug monitoring program in HB 316 would help to ensure the safe use of medications beyond what is currently done such as checking for contraindication of prescribed drugs. This bill would help prevent drug diversion and reduces "fragmented care", which is when a person obtains health care from multiple doctors and pharmacists. This bill can help health care professionals to work together for the benefit of the patient. This bill would allow prescribers and pharmacists knowledge of prescribed controlled substances for specific patients. He related an example from another state drug monitoring program that identified a patient who had received prescriptions from over 40 doctors. Additionally, the proposed database would assist in detecting forged prescriptions when physicians report their name is associated with prescriptions that they did not write.

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CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 316.

[4:43:49 PM](#)

REPRESENTATIVE GARDNER made a motion to adopt Conceptual Amendment 1:

Page 3, line 20

Delete "(9) other relevant information as required by the board."

REPRESENTATIVE GARDNER explained that HB 316 carefully delineates the data to be collected. Conceptual Amendment 1 would allow the legislature direct oversight over information that is collected in the drug monitoring database. The Board of Pharmacy may wish to collect information such as a patient's social security number, she offered. Since the legislature does not have direct oversight over the board, Conceptual Amendment 1 would allow the legislature the opportunity to review the board's requests.

REPRESENTATIVE RAMRAS noted his agreement with Conceptual Amendment 1, so long as it only deletes paragraph (9).

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REPRESENTATIVE LEDOUX objected for the purposes of discussion. She expressed concern with HB 316. She then withdrew her objection.

[4:45:43 PM](#)

CHAIR OLSON asked if there were any further objections to adopting Conceptual Amendment 1. There being no further objection, Conceptual Amendment 1 was adopted.

REPRESENTATIVE NEUMAN noted his concern with HB 316, but offered that he does not wish to keep the bill from moving forward. He offered to work with the sponsor to address his concern with HB 316.

[4:46:38 PM](#)

REPRESENTATIVE NEUMAN moved to report the proposed CS for HB 316, Version 25-LS1283\M, Luckhaupt, 2/4/08, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 316(L&C) was reported from the House Labor and Commerce Standing Committee.

[4:47:07 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at adjourned at 4:47 p.m.