

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 31, 2016

1:32 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Cathy Giessel, Vice Chair
Senator Kevin Meyer

MEMBERS ABSENT

Senator Gary Stevens
Senator Johnny Ellis

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

State Medical Board

Stephen Craig Humphreys - Soldotna
Camille (Cam) Olson Carlson - Fairbanks
Bruck Ann Clift - Mat-Su Valley
Joy Marasco Neyhart - Juneau
Grant Thomas Roderer - Anchorage

- HEARD & HELD

SENATE BILL NO. 201

"An Act relating to the Board of Pharmacy; relating to the licensing and inspection of certain facilities located outside the state; relating to drug supply chain security; and creating a position of executive administrator for the Board of Pharmacy."

- HEARD & HELD

SENATE BILL NO. 175

"An Act relating to the registration and duties of pharmacy benefits managers; relating to procedures, guidelines, and enforcement mechanisms for pharmacy audits; relating to the cost of multi-source generic drugs and insurance reimbursement

procedures; relating to the duties of the director of the division of insurance; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 166

"An Act relating to the controlled substance prescription database; relating to the Board of Dental Examiners; relating to the State Medical Board; relating to the Board of Nursing; relating to the Board of Examiners in Optometry; relating to the Board of Pharmacy; and providing for an effective date."

- BILL HEARING CANCELED

SENATE BILL NO. 169

"An Act relating to the authority of pharmacists to prescribe and dispense self-administered hormonal contraceptives; relating to the duties of the Board of Pharmacy; relating to insurance coverage for contraceptives prescribed by pharmacists; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 201

SHORT TITLE: PHARMA BD & EMPLOYEES; DRUG DIST/MANUFAC

SPONSOR(s): SENATOR(s) GIESSEL

02/22/16 (S) READ THE FIRST TIME - REFERRALS
02/22/16 (S) L&C, FIN
03/31/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 175

SHORT TITLE: PHARMACY BENEFITS MANAGERS

SPONSOR(s): SENATOR(s) GIESSEL BY REQUEST

02/10/16 (S) READ THE FIRST TIME - REFERRALS
02/10/16 (S) L&C, FIN
03/31/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

DR. STEPHEN CRAIG HUMPHREYS, Appointee
State Medical Board
Soldotna, Alaska

POSITION STATEMENT: Testified as appointee to the State Medical Board.

CAMILLE (CAM) OLSON CARLSON, Appointee
State Medical Board - public seat
Fairbanks, Alaska

POSITION STATEMENT: Testified as appointee to the State Medical Board.

DR. BRUCK ANN CLIFT, Appointee
State Medical Board
Mat-Su Valley, Alaska

POSITION STATEMENT: Testified as appointee to the State Medical Board.

DR. JOY MARASCO NEYHART, Appointee
State Medical Board
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the State Medical Board.

DR. GRANT THOMAS RODERER, Appointee
State Medical Board
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the State Medical Board.

EMMIE VAN WYHE, Intern
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided the sectional analysis for SB 201.

JANE CONWAY, Staff
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented information related to SB 201 and SB 175.

JANEY HOVENDEN, Director
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Presented information on SB 201.

MOLLY GRAY, Executive Director
Alaska Pharmacists Association
Anchorage, Alaska,

POSITION STATEMENT: Testified in support of SB 201 and SB 175.

DIRK WHITE, representing himself
Sitka, Alaska

POSITION STATEMENT: Testified in support of SB 201 and SB 175.

JOHN COTTER, President
Board of Pharmacy
Fairbanks, Alaska

POSITION STATEMENT: Testified in strong support of SB 201.

JASON TAPLEY, Community Pharmacist
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 175.

MARGARET SODEN, representing herself
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 175.

GERALD BROWN, representing himself
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 175.

SCOTT WATTS, Community Pharmacy
Juneau, Alaska

POSITION STATEMENT: Testified in strong support of SB 175.

CINDY LAUBACHER
Express Scripts
Roseville, California

POSITION STATEMENT: Testified in opposition to SB 175.

ERIC DOUGLAS
CVS Health
Washington, DC

POSITION STATEMENT: Testified in opposition to SB 175.

BARRY CHRISTENSEN, Co-Chair
Alaska Pharmacists Association
Ketchikan, Alaska

POSITION STATEMENT: Testified in support of SB 175.

JENNY CASTILLO, Trust Administrator
Alaska Teamster Employer Welfare Trust
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 175.

CHRIS MURRAY, Program Coordinator
Division of Insurance
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 175.

ACTION NARRATIVE

[1:32:46 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Giessel, Meyer, and Chair Costello. She reviewed the agenda.

CONFIRMATION HEARINGS
State Medical Board

[1:34:01 PM](#)

CHAIR COSTELLO announced the first order of business would be confirmation hearings for Governor Walker's appointments to the State Medical Board.

She asked Dr. Humphreys to express his interest in serving on the State Medical Board.

[1:34:11 PM](#)

STEPHEN CRAIG HUMPHREYS, Appointee, State Medical Board, said he's been on the board for a little over a year and hopes to bring a positive, unique perspective to the board.

CHAIR COSTELLO asked what the board is doing to address the backlog in processing applications for individuals seeking to practice medicine in Alaska.

DR. HUMPHREYS said they're addressing the applications as fast as they can while still maintaining quality. Some states have tried to make the process more automated and the board and staff are looking at that option.

CHAIR COSTELLO asked if he would like to highlight any experience that has been particularly helpful.

DR. HUMPHREYS talked about growing up in Anchorage and the broad patient base in Alaska. Trying to deal with the numbers while keeping it economical is a challenge. It's been inspiring to hear from other board members.

CHAIR COSTELLO thanked Dr. Humphreys. She asked Ms. Carlson to tell the committee her interest in continuing to serve on the State Medical Board.

[1:40:41 PM](#)

CAMILLE (CAM) OLSON CARLSON, Appointee, State Medical Board, noted hers is the public seat on the board. She shared her history in Alaska and work on past boards. She found the State Medical Board work the last four years very interesting and challenging.

SENATOR GIESSEL asked what she looks for when she considers the licensing of a physician.

MS. CARLSON said both public and medical board members look for the most competent candidates. They look at the person's record to ensure they come well qualified and are filling their obligations to patients.

CHAIR COSTELLO thanked her for her service. She asked Dr. Clift to tell the committee her interest in serving on the board.

[1:43:21 PM](#)

DR. BRUCK ANN CLIFT, Appointee, State Medical Board, said she is a family physician practicing in the Mat-Su Valley. She described her educational background. She said she was originally asked to serve on the Midwifery Board, but then was appointed to the State Medical Board.

CHAIR COSTELLO noted Dr. Clift is a new appointee. She asked her what she hopes to contribute if appointed to the board.

DR. CLIFT said she is particularly interested in ethical policies for licensure in the state, as well as expedited licensing of out-of-state physicians to practice in Alaska.

SENATOR GIESSEL asked if anything else is a priority. She also inquired about what interested her in the Midwifery Board.

DR. CLIFT said she was asked to serve by a midwife and felt under-qualified because she is not an OBGYN.

SENATOR GIESSEL asked if she has attended any board meetings.

DR. CLIFT said no.

CHAIR COSTELLO thanked Dr. Clift for her interest in serving. She informed the committee that there are two additional appointees for consideration to the State Medical Board but they are not available at this time. She stated that she will hold all the appointments and forward them in one batch.

[1:46:40 PM](#)

At ease

SB 201-PHARMA BD & EMPLOYEES; DRUG DIST/MANUFAC

[1:47:27 PM](#)

CHAIR COSTELLO announced the consideration of SB 201. She noted this is the first hearing.

[1:48:03 PM](#)

SENATOR CATHY GIESSEL, Alaska State Legislature, sponsor of SB 201, explained that the bill is an opportunity for Alaska to come into compliance with the federal Drug Quality Security Act established in 2013. It will create a new license category for out-of-state wholesale drug distributors. The bill deals with the safe practice of pharmaceutical manufacturing and what is shipped to Alaska for distribution. This is of utmost concern due to an increase in prescription drug counterfeiting.

Currently, the Board of Pharmacy has no authority to regulate out-of-state wholesale drug distributors or third-party logistics providers. Alaska is one of few remaining states that does not license out-of-state drug distributors. The bill would ensure that they comply with the same regulations as Alaska wholesalers. It requires out-of-state drug distributors, or outsourcing facility, to follow specific guidelines. This includes obtaining a license, authorizing inspection, appointing an agent before shipping, mailing or delivering prescription drugs, or advertising. An outsourcing facility must comply with the Drug Quality and Security Act.

She pointed out that SB 201 would also allow the Board of Pharmacy to create an executive administrator position to serve as the liaison, to implement statutes and regulations, and aid in managing new licensees.

[1:50:37 PM](#)

EMMIE VAN WYHE, Intern, Senator Cathy Giessel, Alaska State Legislature, provided the following sectional analysis for SB 201:

Section 1: AS 08.80.130(13): Allows licensing and inspecting for out-of-state drug distributors and outsourcing facilities.

AS 08.80.130(14): Establishes qualifications and duties of executive administrator. Executive administrator is delegated authority in order to conduct board business.

Section 2: AS 08.80.03(c): Specifications for facilities, equipment, personnel, and procedures for control of drugs.

Section 3: AS 08.80.157(k): Applies to wholesale drug distributors and outsourcing facilities outside the state under AS 08.80.159, regarding licensing.

Section 4: Amends AS 08.80 by adding a new section:
Sec. 08.80.159: Requires that a wholesale drug distributor or outsourcing facility have a license in Alaska before shipping, mailing, or delivering prescription drugs to a licensee in the state or before advertising in the state, an agent must be appointed in the state, and a designee of the board must authorize inspection of the facility.

An outsourcing facility, in addition, must comply with the Drug Quality and Security Act of 2013. The board may require an inspection of facilities located outside of the state, approve a designee to inspect. The board shall adopt regulations to implement this section.

Section 5: Amends AS 08.80 by adding new section to Article 2: **Sec. 08.80.270:** Allows the Board to create an executive administrator position. Defines the role of the executive administrator.

Section 6: AS 08.80.480(37): Defines "outsourcing facility"

[1:52:45 PM](#)

SENATOR MEYER asked if there's been a problem with counterfeit drugs coming to Alaska.

MS. VAN WYHE said the bill is a result of an occurrence in 2012 when a compounding facility in Massachusetts shipped unsanitary

medication to nine different states. Alaska is one of the only states that hasn't come into compliance with the federal law.

SENATOR MEYER asked if the federal government provides money for implementation.

[1:54:25 PM](#)

JANE CONWAY, Staff, Senator Giessel, Alaska State Legislature, said the federal government would impose regulations if the state doesn't come into compliance with this federal law. Most other states have determined that they would rather do it themselves.

She noted that John Cotter from the Board of Pharmacy is online to answer technical questions.

SENATOR MEYER asked if an executive administrator is necessary.

MS. CONWAY said the board doesn't have the capacity to do the extra work. The licenses will cover the cost of that position.

[1:55:55 PM](#)

SENATOR GIESSEL added that most of the larger professional boards have an executive administrator.

[1:57:01 PM](#)

JANEY HOVENDEN, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), presented information on SB 201. She advised that the Board of Pharmacy has entertained the idea of an executive administrator position for some time.

CHAIR COSTELLO asked her to review the fiscal note.

MS. HOVENDEN said the first year anticipates a cost of \$124.4 thousand. The personal services cost will be \$100.9 thousand. Some travel for the executive administrator to attend Board of Pharmacy meetings is included. The bill requires a change in regulations at a cost of \$2.5 thousand, and there is a one-time overhead cost for the new position.

CHAIR COSTELLO asked if the fiscal note includes travel for licensing and inspecting of out-of-state wholesale drug distributors. She inquired about the board's budget.

MS. HOVENDEN said no; those services would be on contract within those states. The Board of Pharmacy currently has a surplus budget.

[1:59:43 PM](#)

CHAIR COSTELLO opened public testimony on SB 201.

[1:59:56 PM](#)

MOLLY GRAY, Executive Director, Alaska Pharmacists Association, testified in support of SB 201. It is vitally important to bring all pharmacists in Alaska into compliance with federal law. The bill aligns with the association's mission and ensures compliance with the federal mandate.

[2:01:04 PM](#)

DIRK WHITE, representing himself, testified in support of SB 201. Speaking as a community hospital pharmacist in Sitka and a former president of the board when this issue first came up, he said he supports the bill and asks that it be moved out of committee. He offered to answer questions.

[2:01:52 PM](#)

JOHN COTTER, President, Board of Pharmacy, testified in strong support of SB 201. Alaska is one of the few states that doesn't regulate 503B pharmacies and that is a loophole that should be closed in order to ensure that drugs being brought into the state are safe. The license fees will fully cover the costs of doing this business and most of the new position. The cost of inspections would be borne by the pharmacy that is inspected. The cost of the bill is reasonable and the need is important.

SENATOR GIESSEL asked for examples of in-state and out-of-state wholesale distributors.

MR. COTTER said the issue is with smaller companies that are secondary suppliers that pick up drugs on the open market for resale. There is often a problem with the pedigree of those drugs.

SENATOR MEYER assumed that out-of-country drug suppliers aren't an issue.

MR. COTTER said they can't ship to the state, but that doesn't keep them from selling over the Internet.

[2:06:02 PM](#)

SENATOR MEYER asked if Puerto Rico is considered a state.

MR. COTTER said yes.

CHAIR COSTELLO asked if telemedicine is affected by the bill.

MR. COTTER said no.

[2:06:39 PM](#)

CHAIR COSTELLO stated she would keep public testimony open and hold SB 201 in committee for further review.

CONFIRMATION HEARINGS
State Medical Board

CHAIR COSTELLO stated that the committee would hear from two additional appointees to the State Medical Board.

CHAIR COSTELLO asked Dr. Neyhart to tell the committee her interest in serving on the State Medical Board.

[2:07:10 PM](#)

DR. JOY MARASCO NEYHART, Appointee, State Medical Board, said the Governor asked her to serve and she is eager to do so.

CHAIR COSTELLO asked if she is a new appointee.

DR. NEYHART said yes.

CHAIR COSTELLO asked what perspectives she brings to the board.

DR. NEYHART replied she has the Southeast Alaska perspective as a practicing pediatrician and wants to see the implementation of telemedicine in a safe and appropriate way.

CHAIR COSTELLO thanked Dr. Neyhart and asked Dr. Roderer to tell the committee about his interest in serving on the State Medical Board.

[2:08:48 PM](#)

DR. GRANT THOMAS RODERER, Appointee, State Medical Board, said he has served for about two years and is interested in continuing to serve. His interest is in pain management and the problem with over prescribing for this condition.

CHAIR COSTELLO asked whether he sees any challenges the board will be facing.

DR. RODERER said the board has to address the problem of over prescribing opioids to patients. He hopes to help the board draft regulations to regulate this form of treatment.

CHAIR COSTELLO noted there is a prescription drug database being reviewed in current legislation.

SENATOR GIESSEL highlighted the Medicaid reform bill moving through the legislative process that incorporates Centers for Disease Control and Prevention (CDC) recommendations which include a more robust use of the prescription drug monitoring program. She asked what can be done to educate clinicians on the safe prescribing of opioids.

DR. RODERER said having the database available will help physicians know if there is a potential for multiple prescriptions. He cautioned that compliance to use the database may be another issue.

SENATOR GIESSEL said she's hearing about fear of harsh penalties for noncompliance. She asked if he knows of disciplinary actions the board might take.

DR. RODERER stated it will take much more discussion to define disciplinary actions. The board first adopts regulations before determining sanctions. There has to be a law first and then the board can adopt regulations.

SENATOR GIESSEL thanked Dr. Roderer.

CHAIR COSTELLO echoed appreciation for his service.

[The names were held in committee with the intention of sending all the confirmation candidate names forward in one batch.]

[2:13:50 PM](#)

At ease

SB 175-PHARMACY BENEFITS MANAGERS

[2:14:33 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 175. She noted that this is the first hearing and a committee substitute is forth coming.

[2:15:43 PM](#)

SENATOR CATHY GIESSEL, Alaska State Legislature, as sponsor, introduced SB 175. She noted that the Labor and Commerce Committee is very supportive of small businesses in Alaska, of which local pharmacies are one. Small businesses are a vital part of Alaska's economy and that is the focus of SB 175. It has to do with fair and reasonable treatment and predictable guidelines that come from an entity called a pharmacy benefit manager (PBM). Local pharmacies must deal with PBMs in order to run their businesses. Currently, there are no real guidelines for reimbursements by PBMs to local pharmacies so PBMs can change reimbursement rates and request audits at will. They can also refuse to respond to, or pay pharmacies, for the dispensing medications. Pharmacies have no legal recourse at this point. SB 175 will provide an avenue of appeal to an unreasonable audit as their last recourse.

She noted support letters from many small pharmacies and some include examples of unfair treatment by PBMs. Several pharmacies have been driven out of business by PBMs. She also noted the four-page letter from a large pharmaceutical company from Washington, DC, that outlines reasons not to pass the legislation. She provided the history behind the profitable PBM industry.

SENATOR GIESELL said 33 other states have passed similar legislation demanding transparency in pricing and fair audits. She concluded that she considers PBMs as "pharmacy billion-dollar middlemen."

JANE CONWAY, Staff, Senator Cathy Giessel, Alaska State Legislature, presented information related to SB 175. She delivered a PowerPoint to explain PBMs. She said PBMs started in 1970 as claims processors and have since become intertwined in almost every aspect of the pharmaceutical supply chain. They are almost unregulated at the state and federal levels and they represent some of the largest companies in the nation.

She listed examples of PBM's market power and influence: CVS/Caremark, Express Scripts, and OptumRX control over 70 percent of all U.S. scripts.

She said PBMs are designed to reduce administrative costs for insurers, validate patient eligibility, administer plan benefits, negotiate costs between pharmacies and health plans, and audit pharmacies for fraud. PBMs also develop pharmacy provider networks, and pharmacies must accept PBM contracts.

She noted every opposition letter talks about negotiated contracts, but they are really "take it or leave it" contracts. She cited an example.

MS. CONWAY continued to say that PBMs influence what drugs are dispensed, collect money from drug manufacturers, and restrict pharmacies on how many pills they can dispense at a given time. They dictate how much pharmacies will be paid for the drugs they dispense, have free reign to dictate what pharmacies are permitted to do in a given network, operate their own mail-order pharmacies, and audit pharmacies at will.

[2:23:19 PM](#)

MS. CONWAY explained how PBMs work. The insurer hires a PBM to manage drug costs and it negotiates prices for both insurers/manufacturers and insurers/pharmacies, then with manufacturers, and finally with manufacturers/wholesalers. Finally, the PBM negotiates insurer reimbursement for drugs and dispensing fees with pharmacies.

MS. CONWAY said SB 175 brings fairness to audits and doesn't allow audits during the first seven days of each month because of high patient volume. It is designed to prevent targeting of clerical errors and it establishes a reasonable timeframe to prepare for an audit.

The bill also establishes an audit appeals process for pharmacies and guidelines for PBMs to follow regarding patient confidentiality. Extrapolation cannot be used in assessing fees and penalties. Alaska pharmacists would not be penalized for providing mail-order service to their customers. Finally, the bill does not prevent the recoupment of funds where fraud, waste, and abuse exist.

She noted that 33 states have already enacted fair audit legislation and 24 states have already enacted Maximum Allowable Cost (MAC) transparency legislation.

MS. CONWAY said the bill will also require registration of PBMs with the Division of Insurance. It sets up guidelines for generic drug MAC pricing, establishes a mechanism for a pharmacy to appeal MAC pricing, and prevents auditing local pharmacists out of a job.

[2:26:28 PM](#)

She related that there are many stories from pharmacists about the abuses of PBMs. She reviewed an audit from her hometown

pharmacy in Soldotna. The PBM extrapolated a .1 percent error and came up with a \$7,300 bill. The pharmacist found no recourse but to sell his business to an outside company.

[2:28:15 PM](#)

MS. CONWAY turned to the maximum allowable cost (MAC) that can be reimbursed to the pharmacist for dispensing a prescription. Typically, PBMs use an aggressively low MAC price list to reimburse their contracted pharmacies and a different, higher list of prices when they sell to their clients or plan sponsors. They reimburse low and charge high, pocketing the significant spread between the two prices. Most plan sponsors are unaware that multiple MAC lists are being used and have no real concept of how much revenue the PBM retains.

She said when PBMs fail to update MAC lists in a timely manner, pharmacies are forced to dispense at a loss, sometimes as high as \$100 or more, or not dispense at all. When prices increase, PBMs often wait weeks or even months before updating MAC lists. The acquisition price spike/lagging reimbursement trend has a very significant impact on pharmacies' ability to remain in business. Neither plan sponsors nor contracted retail network pharmacies have any transparency into the MAC process.

[2:30:52 PM](#)

MS. CONWAY addressed what SB 175, a MAC transparency bill, does. It sets reasonable standards on what can be MAC'd, requires regular reporting of MACs to a pharmacy in a useable format, and provides for a defined MAC appeals process.

It does not mandate that a PBM reimburse a pharmacy at a higher amount, or represent an administrative burden on the PBM, nor does it mandate that a PBM approve a pharmacy's MAC appeal. It does not result in increased costs to the healthcare system.

[2:31:38 PM](#)

She reviewed the statistics on the total pharmacies in Alaska; of the 84 pharmacies, 20 are independents.

She said that 24 states have passed similar legislation and 33 have passed fair and uniform pharmacy audits.

[2:32:33 PM](#)

CHAIR COSTELLO opened public testimony.

[2:33:10 PM](#)

JASON TAPLEY, Community Pharmacist, testified in support of SB 175. He said he works for SEARCH. He has had 5-10 audits where he has had to prove "that the money was yours," and to show documentation that he could recover the costs. This bill will provide a clear, consistent process for these audits to occur.

[2:35:13 PM](#)

MARGARET SODEN, representing herself, said she is a retired pharmacist testifying in support of SB 175. She recalled her fifty years in the field and the current policy of third-party billing. She said she has undergone a number of audits, but with proper notification and conduct they can be done and cause the least disruption. She shared a personal story of undergoing an audit in mid-winter in Fairbanks and opined that this bill will establish some parameters for audits to make them easier.

[2:38:56 PM](#)

GERALD BROWN, representing himself, said he is a pharmacist and business owner testifying in support of SB 175. A lot of contracts are sent by PBMs and this would provide some structure for those contracts, most of which are "take it or leave it." The MAC provision is very important because of the terrible reimbursement reductions. The take it or leave it contracts make it impossible to negotiate.

[2:41:56 PM](#)

SCOTT WATTS, Community Pharmacy, said he is a business owner testifying in strong support of SB 175. The bill establishes strong standards for audits and does away with the penalties for clerical errors. He provided an example of a recent audit that contained clerical errors and the pharmacy was charged \$6,000 recoupment for the entire prescription.

He noted that MAC pricings need to be updated or the pharmacy ends up dispensing at a lower cost. There is currently no way to get through to a PBM. While the contract is signed by a pharmacist, there is no room for negotiation.

[2:44:48 PM](#)

MOLLY GRAY, President, Alaska Pharmacists Association, testified in support of SB 175. It aligns with the pharmacy's mission to provide quality care. They are asking for a standard set of rules for audits.

[2:46:17 PM](#)

DIRK WHITE, representing himself, testified in support of SB 175. He said he has been a community hospital pharmacist for 31

years. Their primary issue is the low cost reimbursement; it is all about MAC pricing. Last year they lost \$22,176.42 on prescriptions in the grocery store pharmacy. He provided other examples of losses.

The said the bill wouldn't limit audits. He mentioned that his contract does not allow mail order prescriptions to rural areas.

[2:49:07 PM](#)

CINDY LAUBACHER, Express Scripts, testified in opposition to SB 175. She voiced concern about cost implications the bill would have on their clients and the limitations on auditing. It restricts the number of claims that can be reviewed and the lookback timeframe.

She said MAC was created as a means of incentivizing the purchase of generic drugs. That became the industry standard for reimbursing pharmacies. If the pharmacy disputes the reimbursement, they have the opportunity to request an audit. This bill would destroy any incentive to prescribe less expensive medications.

[2:51:48 PM](#)

ERIC DOUGLAS, CVS Health, testified in opposition to SB 175. He addressed misnomers mentioned in today's testimony. He said SB 175 is an omnibus bill aimed at every anti-PBM legislation that has been introduced. He said there are multiple audit laws in the U.S. He said CVS was not contacted to discuss this bill.

The audit provision in SB 175 is not how they operate. They don't extrapolate and there is an appeal process available. He disputed the statement about MAC reimbursement levels. Generic drugs are commoditized and they set a maximum allowable cost. He maintained that there is an appeals process. Putting PBMs under the insurance division regulations is wrong because they aren't insurance companies.

SENATOR GIESSEL asked if he has supported this type of legislation in any of the 33 states that have passed it.

MR. DOUGLAS answered no, but they have supported some audit bills.

[2:57:07 PM](#)

BARRY CHRISTENSEN, Co-Chair, Alaska Pharmacists Association, testified in support of SB 175. He noted that this topic has been discussed since 2008 when a similar bill passed the Senate.

He disputed the statement that there hadn't been meetings or negotiations with PBMs; he recalled a meeting Senator Egan held. PBMs also have lobbyists in Juneau.

He noted he submitted written testimony listing reasons why the bill is needed. Pharmacies in Alaska need help with the audit process and the amount they're getting paid for generic prescription drugs.

[2:59:47 PM](#)

JENNY CASTILLO, Trust Administrator, Alaska Teamster Employer Welfare Trust, testified in opposition to SB 175. She stated that their PBM performs infrequent on-site audits; the audits are multi-source claim reviews and are concurrent to claim submissions to mitigate client prolonged risk to inaccurate payments and decreased repetitive errors through timely corrections. Their PBM conducts many audits and the parameters are clearly outlined. The relationship is a negotiated arrangement and should remain that way. It should not be legislated.

[3:01:59 PM](#)

CHAIR COSTELLO kept public testimony open on SB 175. She asked if the administration has a position on the bill.

[3:02:14 PM](#)

CHRIS MURRAY, Program Coordinator, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), said he does not have a position on SB 175.

CHAIR COSTELLO asked if he agrees PBMs need regulation.

MR. MURRAY said he just recently learned about this issue and isn't prepared to answer.

CHAIR COSTELLO asked if it is appropriate for the division to regulate PBMs.

MR. MURRAY said they would be able to do the job, should the legislation pass.

CHAIR COSTELLO held SB 175 in committee awaiting a committee substitute.

[3:04:15 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:04 p.m.