

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 2, 2018

3:11 p.m.

**MEMBERS PRESENT**

Representative Sam Kito, Chair  
Representative Adam Wool, Vice Chair  
Representative Andy Josephson  
Representative Louise Stutes  
Representative Chris Birch  
Representative Gary Knopp  
Representative Colleen Sullivan-Leonard

**MEMBERS ABSENT**

Representative Mike Chenault (alternate)  
Representative Bryce Edgmon (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 302

"An Act extending the termination date of the Board of Professional Counselors; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 255

"An Act relating to individuals and employees who must have certificates of fitness to perform certain plumbing and electrical work; and relating to civil penalties and violations for not having required certificates of fitness."

- HEARD & HELD

HOUSE BILL NO. 240

"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."

- MOVED HB 240 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 302

SHORT TITLE: EXTEND: BOARD OF PROFESSIONAL COUNSELORS

SPONSOR(s): REPRESENTATIVE(s) WOOL

01/24/18 (H) READ THE FIRST TIME - REFERRALS  
01/24/18 (H) L&C, FIN  
02/02/18 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 255

SHORT TITLE: PLUMBING/ELECTRIC CERTIFICATE OF FITNESS

SPONSOR(s): REPRESENTATIVE(s) TUCK

01/08/18 (H) PREFILE RELEASED 1/8/18  
01/16/18 (H) READ THE FIRST TIME - REFERRALS  
01/16/18 (H) L&C, FIN  
02/02/18 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 240

SHORT TITLE: PHARMACY BENEFITS MANAGERS

SPONSOR(s): REPRESENTATIVE(s) GUTTENBERG

04/28/17 (H) READ THE FIRST TIME - REFERRALS  
04/28/17 (H) L&C, FIN  
05/17/17 (H) L&C AT 3:15 PM BARNES 124  
05/17/17 (H) -- MEETING CANCELED --  
01/26/18 (H) L&C AT 3:15 PM BARNES 124  
01/26/18 (H) Heard & Held  
01/26/18 (H) MINUTE(L&C)  
02/02/18 (H) L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

ASHLEY STRAUCH, Staff  
Representative Adam Wool  
Alaska State Legislature  
Juneau, Alaska.

**POSITION STATEMENT:** Introduced HB 302 on behalf of  
Representative Wool, prime sponsor.

KRIS CURTIS, Legislative Auditor  
Legislative Audit Division  
Legislative Agencies and Offices  
Juneau, Alaska

**POSITION STATEMENT:** Presented auditor findings and recommendations and answered questions during the discussion of HB 302.

KENDRA KLOSTER, Staff  
Representative Chris Tuck  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 255 on behalf of Representative Chris Tuck, prime sponsor.

REPRESENTATIVE CHRIS TUCK  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 255 as prime sponsor.

DEBORAH KELLY, Director  
Labor Standards and Safety Division  
Department of Labor & Workforce Development (DLWD)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions in the hearing on HB 255.

WILLIAM HARLAN, Chief  
Mechanical Inspection Section  
Department of Labor & Workforce Development (DLWD)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions in the hearing on HB 255.

BRANDON MCGUIRE  
UA Local 367 Plumbers Union  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke in support of HB 255.

BRENT HOVDEN  
Licensed Electrician  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke in support of HB 255.

JASON ROE  
Plumber  
Fairbanks, Alaska

**POSITION STATEMENT:** Spoke in support of HB 255.

KYLE KAISER  
IBEW Local 1547

Anchorage, Alaska

**POSITION STATEMENT:** Spoke in support of HB 255.

RYAN ANDREW

IBEW Local 1547

Anchorage, Alaska

**POSITION STATEMENT:** Spoke in support of HB 255.

PAUL GROSSI

Alaska State Pipe Trades

Juneau, Alaska

**POSITION STATEMENT:** Spoke in support of HB 255.

DEBORAH BROLLINI

Anchorage, Alaska

**POSITION STATEMENT:** Spoke in support of HB 255.

REPRESENTATIVE DAVID GUTTENBERG

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Presented HB 240 as prime sponsor.

BILL HEAD

Pharmaceutical Care Management Association

Washington, D.C.

**POSITION STATEMENT:** Spoke in opposition to HB 240.

DOMINIC GUGLIUZZA, Vice President

Finance

CVS Health

Colleyville, Texas

**POSITION STATEMENT:** Testified in opposition to HB 240.

LEIF HOLM, Pharmacist

North Pole, Alaska

**POSITION STATEMENT:** Spoke in support of HB 240.

JUSTIN RUFFRIDGE, Owner

Soldotna Professional Pharmacy;

Juneau Drug Company

Soldotna, Alaska

**POSITION STATEMENT:** Spoke in support of HB 240.

STEPHEN SREBERNAK, Owner

Family Pharmacy

Eagle River, Alaska

**POSITION STATEMENT:** Spoke in support of HB 240.

DIRK WHITE, Pharmacist  
Sitka, Alaska

**POSITION STATEMENT:** Spoke in support of HB 240.

CATHERINE KOWALSKI, Pharmacist  
Petersburg, Alaska

**POSITION STATEMENT:** Spoke in support of HB 240.

DEBBIE JOHNSON  
Ketchikan, Alaska

**POSITION STATEMENT:** Spoke in support of HB 240.

#### **ACTION NARRATIVE**

[3:17:49 PM](#)

**CHAIR SAM KITO** called the House Labor and Commerce Standing Committee meeting to order at 3:11 p.m. Representatives Kito, Sullivan-Leonard, Stutes, Knopp, Birch, Josephson, and Wool were present at the call to order.

#### **HB 302-EXTEND: BOARD OF PROFESSIONAL COUNSELORS**

[3:20:33 PM](#)

CHAIR KITO announced that the first order of business would be HOUSE BILL NO. 302, "An Act extending the termination date of the Board of Professional Counselors; and providing for an effective date."

[3:20:51 PM](#)

ASHLEY STRAUCH, Staff, Representative Adam Wool, Alaska State Legislature, introduced HB 302 on behalf of Representative Wool, prime sponsor. She stated the proposed bill would extend the sunset date for the Board of Professional Counselors to June 30, 2026. She explained the board's primary function is to license professional counselors and to issue supervisor certificates. She added the board was made up of five members, of which four were professional counselors. She highlighted from fiscal year 2014 (FY 14) to FY 16, the board had a 46 percent increase in new licenses and had issued 190 new licenses and 73 supervisor certifications over that time. The audit recommended the full extension.

[3:21:52 PM](#)

REPRESENTATIVE KNOPP asked whether she knew what the new rate for licenses was following the [46] percent increase.

MS. STRAUCH deferred to Kris Curtis, Legislative Auditor.

[3:22:23 PM](#)

KRIS CURTIS, Legislative Auditor, Legislative Audit Division, Legislative Agencies and Offices, presented April 2017 sunset audit findings related to HB 302. She stated the report concluded that the board was serving the public interest by effectively licensing and regulating counselors and certified counselor supervisors. She added the board monitored licensees and worked to ensure that only qualified counselors practice. She reiterated that the board was growing, with an increase of 46 percent in licensees compared to the previous sunset audit. She stated the board had a surplus of just over \$70 thousand and the board planned to reduce fees to address the surplus. She presented that the Office of the Governor, the department, and the board all concurred with the recommended extension.

[3:24:43 PM](#)

CHAIR KITO opened public testimony on HB 302 and announced public testimony would remain open.

CHAIR KITO held over HB 302.

**HB 255-PLUMBING/ELECTRIC CERTIFICATE OF FITNESS**

[3:25:28 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 255, "An Act relating to individuals and employees who must have certificates of fitness to perform certain plumbing and electrical work; and relating to civil penalties and violations for not having required certificates of fitness."

[3:26:00 PM](#)

KENDRA KLOSTER, Staff, Representative Chris Tuck, Alaska State Legislature, introduced HB 255 on behalf of Representative Tuck,

prime sponsor. She read from the sponsor statement, which read as follows:

House Bill 255 will change enforcement policies for individuals performing electrical or plumbing work without a valid certificate of fitness. Current enforcement techniques are ineffective, and the revisions proposed in this legislation will give the Department of Labor a substantive way of enforcing certificate of fitness requirements.

A certificate of fitness is issued by the Mechanical Inspection section of the Division of Labor Safety & Standards in the Department of Labor and Workforce Development, and is essentially an occupational license for performing electrical or plumbing work. Alaska statute prohibits individuals from performing these types of work without a valid certificate of fitness.

The current enforcement for operating without a valid certificate of fitness is ineffective. AS 18.62.080 states that it is a misdemeanor to perform work requiring a certificate of fitness without having one. However, enforcement requires filing a written complaint through the Department of Law and taking the matter to the superior court, and often these offenses are too minor to merit the interest of the District Attorney's office. The department's other enforcement option is to issue a civil order to cease and desist, which carries no punitive sanction, and so provides little motivation for the offender to remedy the situation. Therefore, offenders often go unpunished.

House Bill 255 will change the penalty from a misdemeanor to a violation, which will allow the department to issue citations and civil penalties to individuals and to employers using employees who are operating without a valid certificate. New sections of statute added by this legislation give the department authority to issue citations, outline the procedures for issuing citations, and set the amount of and the procedure for administering civil penalties. The penalty is set at \$125 for an individual and \$250 for an employer for a first offense, and \$250 for an individual and \$500 for an employer for subsequent offenses.

[3:27:37 PM](#)

REPRESENTATIVE CHRIS TUCK, Alaska State Legislature, presented HB 255 as prime sponsor. He said he thought the overview covered the intent of HB 255.

[3:28:05 PM](#)

REPRESENTATIVE BIRCH asked whether Representative Tuck held an electrical certificate of fitness or whether it was something with which he was familiar.

REPRESENTATIVE TUCK replied he did not currently hold a certificate of fitness.

REPRESENTATIVE BIRCH cited bill language from page 1, line 13 of the proposed bill, which reads as follows:

(c) An employee of an electric utility that does not have within its service area a portion of a municipality that has a population of more than 2,500 is not required to have a certificate of fitness

REPRESENTATIVE BIRCH asked how the exemption still protected the people involved.

REPRESENTATIVE TUCK explained that the exemption was in existing statute and would not change under HB 255. He added that utilities tended to have different standards and training programs to fit their safety concerns.

[3:29:21 PM](#)

CHAIR KITO added that in the engineering profession the state does not require engineers to be licensed if they are working only on industrial projects within the confines of the organization and not engaging with the public.

REPRESENTATIVE TUCK stated that maintenance work was also not covered in the proposed bill.

[3:30:06 PM](#)

REPRESENTATIVE KNOPP asked whether Representative Tuck had ever held a certificate of fitness.

REPRESENTATIVE TUCK answered in the affirmative.

REPRESENTATIVE KNOPP asked what benefit the certificate gave. He stated he had concerns about increasing penalties and the amount of training and paperwork required to get the card.

REPRESENTATIVE TUCK answered he had served an 8,000-hour apprenticeship program with an additional 1,400 hours of classroom time. He explained the training had ensured he performed his work correctly to make sure the public was safe. He underlined that the penalty was currently a misdemeanor with a fine of up to \$2,500, and HB 255 would be lowering it to \$125 for the first fine.

[3:33:31 PM](#)

REPRESENTATIVE JOSEPHSON commented that a certificate of fitness was already required in statute and it did not appear that HB 255 was demonstrably changing that.

[3:33:53 PM](#)

DEBORAH KELLY, Director, Labor Standards and Safety Division, Department of Labor & Workforce Development (DLWD), added that the proposed legislation was an enforcement tools bill. She stated that the graduated enforcement tool proposed in the bill had worked well with contractor licensing and that she felt it would work well with certificates of fitness.

[3:34:42 PM](#)

REPRESENTATIVE TUCK added that the structure set out in the proposed bill was no different from someone needing a commercial driver's license (CDL) license or a techniques of alcohol management (TAM) card for the food and beverage service sector.

REPRESENTATIVE KNOPP commented that driving an 80,000-pound truck is not the same as running a simple sewer line. He said he thought the proposed bill goes a little far. He did not see how the certificate had served Representative Tuck over and above his training. He stated he would rather have a strict penalty, and he said he was fond of a policy giving the department the power to write citations.

REPRESENTATIVE TUCK replied that the purpose of the certificate of fitness was not to benefit the worker but the public.

[3:37:15 PM](#)

REPRESENTATIVE STUTES asked whether the 8,000 hours and 1,400 hours of classroom training are a requirement for the certificate of fitness.

REPRESENTATIVE TUCK answered that it depends on the trade, and the only requirement for the state of Alaska was 8,000 hours of classroom and on-the-job training. He deferred to the department.

MS. KELLY added that there are several different classifications for plumbers. She gave the example of the simplest license which had a requirement of 1,000 hours of work, to give an idea of the range of requirements.

[3:39:24 PM](#)

REPRESENTATIVE STUTES asked whether the licenses expire and whether they are maintained through continuing education.

REPRESENTATIVE TUCK answered in the affirmative. He stated the requirement was continuing education of 16 hours for a two-year renewal.

[3:40:03 PM](#)

REPRESENTATIVE KNOPP asked for confirmation of the inclusion of work on private property in the proposed bill.

MS. KELLY answered in the affirmative.

[3:40:37 PM](#)

REPRESENTATIVE WOOL asked whether homeowners would be subject to the requirements as the bill says "person", not employer.

REPRESENTATIVE TUCK answered that the certificate of fitness is for construction workers and a private citizen is exempt.

[3:41:33 PM](#)

CHAIR KITO clarified that a homeowner who does work would still have to comply with municipal requirements for inspections.

REPRESENTATIVE TUCK explained that he meant exempt from the certificate of fitness requirements.

CHAIR KITO clarified that the debate was not whether the certificate of fitness should exist, but the department's ability to enforce. He asked the department for confirmation.

MS. KELLY answered in the affirmative. She reiterated that the proposed bill was merely an enforcement tool and would not change jurisdiction, applicability, or responsibility for maintaining a certificate of fitness.

[3:42:48 PM](#)

REPRESENTATIVE WOOL asked whether both the employee and employer are liable.

CHAIR KITO asked whether he was referring to a construction company. He clarified that the individual doing the work would be required to have a certificate of fitness.

[3:43:50 PM](#)

REPRESENTATIVE TUCK answered it would be the same thing if an employer asked an employee who did not have a CDL to drive a semi-truck across town. He added that was why the penalty on the employer was greater than that on the individual.

REPRESENTATIVE WOOL asked whether the same would apply to an apprentice.

REPRESENTATIVE TUCK answered if a person is not in a registered apprentice program, then they are probably a laborer.

REPRESENTATIVE WOOL asked the difference between a license and a certificate of fitness.

REPRESENTATIVE TUCK clarified that the terms are used interchangeably, and the certificate of fitness is a license.

[3:46:03 PM](#)

REPRESENTATIVE JOSEPHSON asked whether there would be any demand on the department in terms of the expense of enforcement.

MS. KELLY stated there would likely be a small amount of administrative work, especially if there is an appeals process, but the division anticipated it would be minimal.

[3:46:49 PM](#)

REPRESENTATIVE WOOL gave the example of a crew working on a house. He asked whether someone could do the work and a person with the certificate of fitness could "sign off on it."

REPRESENTATIVE TUCK answered that the material handling of pipe did not require a license, but performing installations did, particularly on new construction.

[3:47:57 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked about the chain of events for inspections and whether inspectors administer misdemeanors.

MS. KELLY gave a general overview of the inspections. She said inspectors already carry out inspections for their primary job duty and while on site they carry out certificate of fitness checks and give out cease and desist orders. She said the proposed bill would allow them to issue administrative fines. She deferred to the mechanical inspection chief.

[3:50:35 PM](#)

REPRESENTATIVE KNOPP asked whether the Department of Environmental Conservation (DEC) or DLWD had oversight on installations.

[3:51:13 PM](#)

WILLIAM HARLAN, Chief, Mechanical Inspection Section, Department of Labor & Workforce Development (DLWD), answered he was not sure he understood to which type of installations he referred.

REPRESENTATIVE KNOPP replied that he was asking about DEC oversight on septic system installations.

MR. HARLAN answered in the affirmative. He added that DEC permits for installing a septic system cover that work; however, DLWD licensure would also cover it, and the department would defer to DEC permits.

[3:52:34 PM](#)

REPRESENTATIVE WOOL referred to section 3 and asked why the language included "person" rather than "employer".

MS. KELLY deferred to the Legislative Legal for clarification.

REPRESENTATIVE TUCK answered Legislative Legal was trying to make that language standard throughout all statutes.

[3:53:49 PM](#)

CHAIR KITO opened public testimony on HB 255.

[3:53:56 PM](#)

BRANDON MCGUIRE, UA Local 367 Plumbers Union, testified in support of HB 255. He said he felt the proposed bill would strengthen enforcement. He gave the example of electricians and plumbers working in private homes. He maintained that often those performing the work did not have a current license. He stated it is his job to speak with non-union, unrepresented workers, and he finds that often they are not licensed, and the vast majority do not have a certificate of fitness. He underlined that incorrect installation was an important health and safety issue. He stated the current problem is that there are "no teeth behind enforcement."

[3:57:23 PM](#)

BRENT HOVDEN, Licensed Electrician, testified in support of HB 255. He indicated he is a licensed commercial electrician and a member of IBEW Local 1547. He stated the ability to enforce certification requirements was the only way to make sure work is done safely.

[3:58:24 PM](#)

JASON ROE, Plumber, spoke in support of HB 255. He indicated he is a non-union plumber in Fairbanks, Alaska, and that he thinks "in this particular instance the union guys are right." He stated it was important to license the trades as there were severe risks such as amoebic dysentery and gas explosions at stake. He stated he was frequently frustrated by poor workmanship and had complained about illegal workmanship to the Department of Law (DOL). He said he felt DOL did not currently have the enforcement tools to do something about the issue, and the proposed bill was necessary.

[4:00:59 PM](#)

KYLE KAISER, IBEW Local 1547, testified in support of HB 255. He stated it is very common to find unlicensed people doing electrical work. He gave the example of finding a work offer on Craigslist which did not involve proper licensing. He maintained the immediate fine of \$125 would be a huge deterrent for the individual working illegally for \$200 or \$300 a night. He added it was a huge liability to have someone who is not trained, and it is important to make sure the people doing the job are qualified. He said he felt the proposed bill would help enforcement and keep people safe.

[4:03:49 PM](#)

RYAN ANDREW, IBEW Local 1547, testified in support of HB 255. He stated the issue of licensing was a public safety issue. He added that license requirements ensure the people doing plumbing and electrical work are properly trained.

[4:05:27 PM](#)

PAUL GROSSI, Alaska State Pipe Trades, testified in support of HB 255. He stated the proposed bill would not change the requirements for certificates of fitness, "only change the current law from a criminal to a civil offense, which makes it easier for the DLWD to enforce."

[4:06:24 PM](#)

DEBORAH BROLLINI testified in support of HB 255. She stated she hoped the enforcement effort in the proposed legislation would be passed and funded.

CHAIR KITO announced that public testimony would remain open on HB 255.

[HB 255 was held over.]

#### **HB 240-PHARMACY BENEFITS MANAGERS**

[4:07:40 PM](#)

CHAIR KITO announced that the final order of business would be HOUSE BILL NO. 240, "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."

[4:08:21 PM](#)

REPRESENTATIVE DAVID GUTTENBERG, Alaska State Legislature, presented HB 240 as prime sponsor. He explained the proposed legislation is about the relationship between pharmacies and pharmacy benefit managers (PBMs). He stated the proposed bill would give the pharmacies a remedial place to go when there was a conflict. He added the bill would put the director of insurance in the middle of the process to adjudicate issues in the audit. He stated it was modeled after national legislation that had been passed in around 23 states. He said he thought one of the issues the bill would affect was the ability to understand the pricing of prescription drugs. He said it was not transparent but was moving in that direction.

[4:09:42 PM](#)

REPRESENTATIVE JOSEPHSON remarked the opponents of the bill raise concerns that without the oversight of the existing system, prices will rise. He asked Representative Guttenberg for his thoughts.

REPRESENTATIVE GUTTENBERG replied that there is no oversight to the existing system. He indicated he had spoken to the administrators for the state, and they did not know what the prices are or what they pay. He added they don't know who gets the rebate or at what percentage. He reiterated there was no transparency. He opined the opposition reflected PBMs on the top of the Forbes 500 list were concerned that people are trying to understand the rising cost of prescription drugs. He reiterated there was no oversight in the state.

[4:11:34 PM](#)

CHAIR KITO stated that public testimony on HB 240 [had been opened on January 26] and that invited testimony would also be heard.

[4:11:59 PM](#)

BILL HEAD, Pharmaceutical Care Management Association, spoke in opposition to HB 240. He explained PBMs contract with employers, unions, and government plans to administer drug benefits offered by those entities. He said PBMs compete with

one another by finding ways to help payers save money. He stated it was estimated PBMs would help save payers over \$650 billion over the next 10 years. He underlined an important part of what PBMs do is negotiate costs with drug manufacturers. He added PBMs contract with pharmacies to establish networks that ensure the widest access possible for consumers and patients who have drug benefits. He said PBMs are often required to audit entities to avoid fraud, waste, and abuse, and it was estimated that nationally 3 percent to 10 percent of healthcare spending is lost to fraud, waste, and abuse, which adds up to billions of dollars.

MR. HEAD said one of the main reasons his organization opposed HB 240 is that it would restrict PBMs' ability to audit pharmacies and prevent fraud, waste, and abuse. He pointed out that Centers for Medicare & Medicaid Services (CMS) and all their contracts with Part D plans require such auditing, as does virtually any plan that employs a PBM. He stated the proposed bill would add costly regulations, which would add costs to the purchaser of healthcare and their enrollees. He said the bill would interfere with the ability for private entities to contract with a PBM. He concluded, "At the end of the day, it comes down to PBMs helping purchasers save money on the drug benefits they offer their enrollees."

[4:14:54 PM](#)

CHAIR KITO stated Mr. Head had said the proposed bill would prohibit PBMs from auditing, but it was his understanding that HB 240 put sideboards on the audit process. He asked whether Mr. Head could say specifically within the bill where it would prohibit audits.

MR. HEAD stated he had misspoken and clarified that the bill would interfere with the audit process. He said the proposed bill defeats the purpose of detecting fraud if the PBM is required to notify the pharmacies of the audit. He said he did not think other entities that have audit processes would do that.

CHAIR KITO replied he did receive audits every year on workers' compensation insurance payments and that he was informed 30 days before the audit. He added he thought creating some sideboards creates predictability for the industry and there were too many opportunities for fraud and abuse "from the other side" if there was no notice provided when someone was being audited.

CHAIR KITO informed that pharmacists in Alaska were reporting that they were being denied reimbursement for the drugs they purchase, and they were having to pay out-of-pocket for the balance for drugs they had already dispensed. He asked Mr. Head to speak to the issue.

[4:16:59 PM](#)

MR. HEAD answered he was not familiar with the issue as it pertains to Alaska, but that generally there are processes in place for the pharmacists to appeal to the PBM and to the division of insurance to resolve any disputes regarding contracts.

CHAIR KITO stated the committee had heard from three pharmacies who had identified about 1,000 appeals pending.

MR. HEAD answered that suggested the process was in place but was not as efficient as it should be.

CHAIR KITO asked whether PBMs are prohibited from owning pharmacies.

MR. HEAD answered many of them do own mail-order pharmacies.

CHAIR KITO said he thought there may be a conflict of interest if the PBM could drive business to its own online pharmacy.

MR. HEAD answered PBMs were not producing money but were providing a service to the purchaser and were in fact audited by the purchaser.

[4:18:43 PM](#)

REPRESENTATIVE JOSEPHSON asked Mr. Head whether he believed it was accurate that the proposed bill is consistent with model legislation.

MR. HEAD answered he did not know of another state that made changes to auditing requirements or allowed the state to get directly involved in the contracts between the purchasers and PBMS.

[4:20:02 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD said she was aware legislation has passed in other states to eliminate the PBM, and the states

had found it very cumbersome to replace the service provided by the PBM. She asked Mr. Head to comment.

CHAIR KITO clarified there was nothing in the proposed bill that would eliminate PBMs.

REPRESENTATIVE SULLIVAN-LEONARD restated her question.

MR. HEAD stated if PBMs did not exist it would make things much more difficult and more expensive for the consumer. He added it was a service borne of necessity, the elimination of which would result in much higher costs to the purchaser.

[4:22:42 PM](#)

REPRESENTATIVE JOSEPHSON remarked the proposed bill seemed to be a bill of rights for pharmacists relative to the audit structure and asked whether that could be accommodated within the PBM model.

MR. HEAD clarified he is not an expert on the audit process and would like to defer to someone with more experience. He stated PBMs were not performing the audits for self-gain but on behalf of the purchaser with limited funds to ensure those dollars were being spent in the most cost-effective way. He underlined the savings go to the purchaser and not to the PBM.

[4:24:26 PM](#)

REPRESENTATIVE WOOL asked whether he meant the consumer.

MR. HEAD clarified he meant both the health plans and the consumer. He reiterated the PBM was saving money for the organization that provides healthcare and for the consumer in the long run through lower premiums and co-pays.

REPRESENTATIVE WOOL remarked 36 states had passed similar legislation. He asked whether online pharmacies are subject to the same audits and whether the mail-order pharmacies were self-audited.

MR. HEAD stated that would be a conflict of interest and that mail-order pharmacies are required to have the same licenses and follow the same rules as any pharmacy, including audits. He reminded that mail-order was not dispensing the same way as a retail pharmacy, which ultimately means the consumer can save money on prescriptions.

4:28:07 PM

DOMINIC GUGLIUZZA, Vice President, Finance, CVS Health, testified in opposition to HB 240. He explained one of his team's responsibilities is to calculate maximum allowable cost (MAC) price used by the claims processing systems to reimburse pharmacies for generic drugs. He explained the team reviews the marketplace and product availability for generic drugs to implement MAC changes, typically on a weekly basis. He added it creates an opportunity for additional market feedback, including pharmacy feedback through the appeals process. He stated the feedback could lead the team to modify MAC prices. He explained the MAC model was established by the Centers for Medicare and Medicaid Services to create incentive for pharmacies to purchase the lowest-priced drugs. He stated he believes HB 240 would drive up consumer costs by limiting the use of the MAC reimbursement tool. He said restricting which drugs can be reimbursed using MAC would allow pharmacies to be overpaid at brand rates for generic drugs and would remove the incentive for wholesalers to sell drugs at the lowest prices if wholesalers know that the reimbursement level will ensure a profit for a pharmacy and therefore ensure their profit.

4:30:42 PM

REPRESENTATIVE JOSEPHSON asked in which section of the bill MAC pricing is "undone," wherein an independent pharmacist could charge more than MAC pricing would allow.

MR. GUGLIUZZA said he believed one of the sections would require PBMs to change their prices based on the invoiced cost if pharmacies appeal MAC prices. He stated this could incentivize wholesalers to avoid purchasing at the lowest cost. He added a lot of pharmacies use [Pharmacy Services Administrative Organizations] PSAOs, which are owned by wholesalers, to obtain their products. He said it could incentivize wholesalers to keep prices high if they knew pharmacies could appeal and the PBM would have to grant the appeal and change the cost.

CHAIR KITO posited a scenario in which a pharmacy purchases drugs on a schedule and later dispenses that medication but the MAC price changes in the interim, causing the pharmacy to pay out of pocket. He reiterated the statement that ensuring the pharmacy is responsible for the cost would save the consumer money. He suggested that "too much activity in that vein could actually put a pharmacy out of business."

[4:33:24 PM](#)

MR. GUGLIUZZA answered he thought that would be a highly unusual situation. He explained PBMs do not typically have a large supply of inventory. He added the reverse could occur where there is change in generic price that makes it more expensive. He said the pharmacies were still making money from an aggregate perspective.

[4:34:47 PM](#)

REPRESENTATIVE WOOL asked whether Mr. Gugliuzza was suggesting the appeals process would be created or enhanced.

MR. GUGLIUZZA offered to describe the appeals process.

REPRESENTATIVE WOOL responded he thought it would be useful.

MR. GUGLIUZZA explained CVS has a pharmacy portal for appeals which the team monitors daily. He said often more information is required for evaluation, then a determination is made, and a response is given to the pharmacy.

[4:37:10 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD stated it seemed that there is already a process in place involving a private contract and specific manuals for pharmacies. She asked why there was a need for "government intrusion."

MR. GUGLIUZZA replied that he agreed with her statement.

[4:38:43 PM](#)

LEIF HOLM, Pharmacist, testified in support of HB 240. He stated he is also state president of the Board of Pharmacy but was testifying as a pharmacist. He gave his background and added he started the first independent telepharmacy in Healy, Alaska. He stated pharmacists live in fear of the PBMs and their tactics. He added pharmacists are dependent on PBMs as only about 3 percent of people pay cash for their medication. He responded to the question of government intrusion, stating it was because contracts were "take it or leave it" with no negotiations. He said he thought PBMs were driving consumers to mail-order pharmacy which they owned.

MR. HOLM stated that since October [2017] there had been drastic cuts in reimbursement of MAC prices. He added the appeals process is broken and that all his appeals are denied. He said he felt he was doing more work for less compensation. He stated pharmacies have closed everywhere, which was a concern for public safety as small towns depend on independent pharmacies for access to medication. He stated mail-order pharmacy does not work in Alaska as prescriptions are lost, frozen, or create waste due to the pharmacy not receiving updated information regarding the customer's need to continue to receive the medication. He said he thought it was not a good model for Alaska. He described his telepharmacy in Healy and said the way he was being reimbursed at MAC prices he did not know that he could sustain the model. He said he thought the bill would create a fair playing field.

[4:44:35 PM](#)

REPRESENTATIVE BIRCH asked whether there are any models which show how pharmacists could get paid for their services and expertise beyond retail transactions.

MR. HOLM answered that pharmacists are not currently paid for their expertise and there are no models that provide for that.

[4:46:56 PM](#)

JUSTIN RUFFRIDGE, Owner, Soldotna Professional Pharmacy; Juneau Drug Company, testified in support of HB 240. He stated he was concerned independent pharmacies could be misunderstood and wanted to underline they only want transparency from PBMs. He added the issue of PBMs affects all pharmacies, not just independents; however, independent pharmacists are businessowners and pharmacists and have a unique prospective, while other pharmacists working for large stores may be shielded from the problem through corporate structures. He remarked audits were originally intended to be random fraud prevention checks, whereas pharmacies are now being audited constantly and were focused on the most expensive brand drugs. He gave the example of a request for an audit going back 3 years by a major PBM, the information for which took 3 hours to prepare. He stated that typically a random audit would have to include cheaper generic drugs, but he had been able to identify which drugs would be included in an audit by price alone. He stated the example showed the current audit practices are not fair or random. He reiterated pharmacies must have protections in place.

[4:52:25 PM](#)

STEPHEN SREBERNAK, Owner, Family Pharmacy, spoke in support of HB 240. He clarified he did not know of anyone who is against audits as they are useful tools to detect problems of fraud and waste. He compared PBM audits with Medicare audits. He said he thinks it makes sense to have rules. He stated he did not know where MAC prices came from and that he was "losing money left and right." He stated he feels the appeals process isn't working. He said he had sent in over 300 appeals in the previous year and had not had a single response. He highlighted that pharmacies perform a service for communities. He concluded that the pharmacists were hoping for some transparency.

[4:55:00 PM](#)

DIRK WHITE, Pharmacist, spoke in support of HB 240. He stated he had about 30-35 employees in two locations in Sitka. He said pharmacies need to have the proposed legislation passed as pharmacists have no place to go for redress because PBMs are not registered or licensed in the state. He said pharmacists need some government division to get help. He described one of the latest issues with reversing a claim, saying a prescription gets taken back from the PBM after a patient does not pick up the prescription. He added this time the PBM took the co-pay if as if the patient got it. He spoke to MACs coming in below acquisition costs, meaning the pharmacy was losing freight costs, which were about 3 percent. He suggested no business is going to buy a more expensive product than it needs, so there was no way a MAC was going to incentivize to "buy better." He mentioned other states that have passed similar legislation and suggested if the prices had gone up, the states would have repealed the legislation.

[5:00:44 PM](#)

CATHERINE KOWALSKI, Pharmacist, testified in support of HB 240. She shared her family history in the pharmacy industry. She spoke to moments when the pharmacies in remote communities saved lives. She emphasized that her business was struggling in terms of time, labor, and reimbursement from PBMs. She remarked she currently had 250 negative revenue claims. She cited that other states had passed similar bills and said Alaska needed to do the same.

[5:04:17 PM](#)

DEBBIE JOHNSON testified in support of HB 240. She relayed that she lives in a remote area of Alaska off the road system. She referred to the section in the proposed legislation stating a pharmacy should not be penalized for mailing out drugs. She underlined that she does not have a way to get medication except through the mail or on float planes.

[5:06:39 PM](#)

CHAIR KITO closed public testimony on HB 240.

[5:06:50 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD stated she would like to do more research on the matter. She asked whether HB 240 could be held over.

CHAIR KITO explained that the bill had another committee referral and that he was compelled to move the bill forward.

[5:07:50 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the state had taken a position on HB 240.

CHAIR KITO answered that the state had not taken a position, but that Emily Ricci from the Department of Administration had given testimony in the previous hearing of HB 240.

[5:08:14 PM](#)

REPRESENTATIVE KNOPP indicated he was convinced the proposed bill was about clear and transparent auditing, so he was ready to support the bill moving forward.

[5:08:56 PM](#)

REPRESENTATIVE WOOL moved to report HB 240 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 240 was reported out of the House Labor and Commerce Standing Committee.

[5:09:34 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:09 p.m.