

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

March 28, 2017

1:29 p.m.

**MEMBERS PRESENT**

Senator Mia Costello, Chair  
Senator Shelley Hughes, Vice Chair  
Senator Kevin Meyer  
Senator Gary Stevens  
Senator Berta Gardner

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CONFIRMATION HEARINGS

Real Estate Commission

David Pruhs - Fairbanks  
Guy Mickel - Ketchikan

CONFIRMATIONS HELD

Board of Certified Direct-Entry Midwives

Dr. Kathryn Ostrom - Homer  
Dana Brown - Fairbanks  
Kathryn Roberts - Anchorage

CONFIRMATIONS HELD

Board of Professional Counselors

Anne Brainerd-Marko - Fairbanks

CONFIRMATIONS HELD

HOUSE BILL NO. 48

"An Act relating to the composition of the State Board of Registration for Architects, Engineers, and Land Surveyors; extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

- MOVED HB 48 OUT OF COMMITTEE

SENATE BILL NO. 93

"An Act relating to security freezes on the credit reports or records of incapacitated persons and certain minors."

- HEARD AND HELD

SENATE BILL NO. 38

"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. 51

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

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 48

SHORT TITLE: ARCHITECTS, ENGINEERS, SURVEYORS: EXTEND BD

SPONSOR(S): REPRESENTATIVE(S) KITO

01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	L&C, FIN
02/08/17	(H)	L&C AT 3:15 PM BARNES 124
02/08/17	(H)	Heard & Held
02/08/17	(H)	MINUTE(L&C)
02/10/17	(H)	L&C AT 3:15 PM BARNES 124
02/10/17	(H)	Moved HB 48 Out of Committee
02/10/17	(H)	MINUTE(L&C)
02/13/17	(H)	L&C RPT 6DP
02/13/17	(H)	DP: SULLIVAN-LEONARD, JOSEPHSON, BIRCH, KNOPP, STUTES, KITO
02/22/17	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
02/22/17	(H)	Moved HB 48 Out of Committee
02/22/17	(H)	MINUTE(FIN)
02/24/17	(H)	FIN RPT 9DP

02/24/17 (H) DP: GARA, WILSON, KAWASAKI, PRUITT,  
 ORTIZ, THOMPSON, GUTTENBERG, TILTON,  
 02/24/17 (H) SEATON  
 03/06/17 (H) TRANSMITTED TO (S)  
 03/06/17 (H) VERSION: HB 48  
 03/08/17 (S) READ THE FIRST TIME - REFERRALS  
 03/08/17 (S) L&C, FIN  
 03/21/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
 03/21/17 (S) Heard & Held  
 03/21/17 (S) MINUTE(L&C)  
 03/28/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 93

SHORT TITLE: CREDIT REPORT SECURITY FREEZE  
 SPONSOR(s): SENATOR(s) COGHILL

03/13/17 (S) READ THE FIRST TIME - REFERRALS  
 03/13/17 (S) L&C  
 03/28/17 (S) L&C AT 9:00 AM BELTZ 105 (TSBldg)  
 03/28/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 38

SHORT TITLE: PHARMACY BENEFITS MANAGERS  
 SPONSOR(s): SENATOR(s) GIESSEL BY REQUEST

01/25/17 (S) READ THE FIRST TIME - REFERRALS  
 01/25/17 (S) L&C, FIN  
 03/28/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

DAVID PRUHS, Appointee  
 Real Estate Commission  
 Fairbanks, Alaska

**POSITION STATEMENT:** Testified as nominee to the Real Estate Commission.

GUY MICKEL, Appointee  
 Real Estate Commission  
 Ketchikan, Alaska

**POSITION STATEMENT:** Testified as nominee to the Real Estate Commission.

DR. KATHRYN OSTROM, Appointee  
 Board of Certified Direct-Entry Midwives  
 Homer, Alaska

**POSITION STATEMENT:** Testified as nominee to the Board of Certified Direct-Entry Midwives.

DANA BROWN, Appointee  
Board of Certified Direct-Entry Midwives  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified as nominee to the Board of Certified Direct-Entry Midwives.

KATHRYN ROBERTS, Appointee  
Board of Certified Direct-Entry Midwives  
Anchorage, Alaska

**POSITION STATEMENT:** Testified as nominee to the Board of Certified Direct-Entry Midwives.

ANNE BRAINERD-MARKO, Appointee  
Board of Professional Counselors  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified as nominee to the Board of Professional Counselors.

REPRESENTATIVE SAM KITO  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 48.

SENATOR CATHY GIESSEL  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 38.

RYNNIEVA MOSS, Staff  
Senator John Coghill  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 93 on behalf of the sponsor.

ERIC ELLMAN  
Consumer Data Industry Association (CDIA)  
Washington, D.C.

**POSITION STATEMENT:** Offered supporting testimony for SB 93.

CARLIE CHRISTENSEN, Director of Government Relations  
Equifax  
Atlanta, Georgia

**POSITION STATEMENT:** Testified in support of SB 93.

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

**POSITION STATEMENT:** Answered questions and provided information related to SB 38.

LORI WING-HEIER, Director  
Division of Insurance  
Department of Commerce, Community and Economic Development  
Anchorage, Alaska

**POSITION STATEMENT:** Testified that she does not expect passage of SB 38 to be a burden on the Division of Insurance.

EMILY RICCI, Chief Health Policy Administrator  
Division of Retirement and Benefits  
Department of Administration (DOA)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to SB 38.

MICHELE MICHAUD, Chief Health Official  
Division of Retirement and Benefits  
Department of Administration (DOA)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to SB 38.

LEIF HOLM, Pharmacy Owner  
North Pole, Alaska

**POSITION STATEMENT:** Testified in support of SB 38.

MATTHEW KEITH, Vice President of Pharmacy Services  
Geneva Woods Pharmacy, Inc.  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 38.

SCOTT WATTS, Pharmacist and Independent Pharmacy Owner  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 38.

GERALD BROWN, Pharmacist and Independent Pharmacy Owner  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of SB 38.

ERIC DOUGLAS, CVS Health  
Illinois

**POSITION STATEMENT:** Expressed concern with SB 38.

TOM WADSWORTH, Associate Clinical Professor  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 38.

BARRY CHRISTENSEN, RPh  
Co-Chair Legislative Committee  
Alaska Pharmacists Association  
Ketchikan, Alaska

**POSITION STATEMENT:** Stated that the passage of SB 38 is important for Alaska pharmacies to remain viable.

FRED BROWN  
Health Care Cost Management Corporation of Alaska  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of SB 38.

#### **ACTION NARRATIVE**

[1:29:47 PM](#)

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 1:29 p.m. Present at the call to order were Senator Gardner and Chair Costello. Senator Hughes arrived soon thereafter, and Senators Stevens and Meyer joined the committee during the course of the meeting.

#### **CONFIRMATION HEARINGS**

#### **Real Estate Commission** **Board of Certified Direct-Entry Midwives** **Board of Professional Counselors**

[1:30:23 PM](#)

**CHAIR COSTELLO** announced the first order of business would be confirmation hearings of governor appointees to boards and commissions. She thanked the nominees for their service.

She asked David Pruhs of Fairbanks to express his interest in serving on the Real Estate Commission in a broker seat.

[1:32:09 PM](#)

**DAVID PRUHS**, Appointee, Real Estate Commission, Fairbanks, Alaska, said he was born and raised in Fairbanks and has had a career in real estate since 1982. He started as a commercial and residential real estate appraiser and received his broker

license in 2001. He also has a license in real estate instruction. He advised that he served on the Fairbanks North Star Borough Planning Commission from 2007-2014, the Board of Equalization for the Fairbanks North Star Borough for seven years, and is a current member of the Fairbanks City Council.

[1:32:50 PM](#)

SENATOR MEYER and SENATOR STEVENS joined the committee.

CHAIR COSTELLO asked him to comment on the fact that the Real Estate Commission has failed to meet its statutory obligation to adopt an errors and omissions (E&O) insurance policy for licensees. She noted that this requirement was placed in statute about 10 years ago when the legislature did away with the surety fund.

MR. PRUHS said he has had an E&O policy since he started in real estate. He maintained that brokers should be required to list their E&O policy on their license renewals and then Real Estate Commission staff can use that information to do spot audits just as they do now to spot check that a licensee has fulfilled their educational requirements.

SENATOR GARDNER asked what can be done to help part time licensees who can't afford the cost of the E&O policies that are required.

MR. PRUHS clarified that it is the broker who must carry the E&O policy. The licensees working under that broker are covered by that policy.

SENATOR GARDNER asked if every licensee works under a broker.

MR. PRUHS said yes.

[1:36:54 PM](#)

SENATOR HUGHES joined the committee.

CHAIR COSTELLO found no further questions or public testimony and thanked Mr. Pruhs for being willing to serve.

CHAIR COSTELLO asked Guy Mickel of Ketchikan to express his interest in serving on the Real Estate Commission in a broker seat.

[1:37:57 PM](#)

GUY MICKEL, Appointee, Real Estate Commission, said he is a lifetime Ketchikan resident and has had a real estate license since 1987. He noted that a current commission member asked him to put his name forward and he did so in the belief that he could be of service to the state.

CHAIR COSTELLO found no questions or public testimony and thanked Mr. Mickel for being willing to serve.

[1:38:48 PM](#)

CHAIR COSTELLO asked Kathryn Ostrom of Homer to express her interest in serving on the Board of Certified Direct-Entry Midwives in the physician/OB practice seat. She also asked her to address any challenges the board will be addressing.

[1:39:39 PM](#)

DR. KATHRYN OSTROM, Appointee, Board of Certified Direct-Entry Midwives, Homer, Alaska, said she has been an OB/GYN in Alaska since 2006. Initially she worked for the Alaska Native Medical Center for three years followed by seven years in a private practice. For the last year she has been the OB/GYN in Homer. Some of the current issues include building the number of direct-entry midwives in the state. While she was in Anchorage she helped start a program to have an OB/GYN on staff at all times. That provided a good way to work with the lay midwives in the community. When she moved to Homer, she knew she would work with certified nurse midwives in her fulltime job, but she also knew that she could be a direct referral source and consultant for the community of direct-entry midwives. That was the impetus to apply to serve on this board, she said.

She advised that one of the issues the board will address is the very high professional license fees. She explained that one reason the licensing fees went up is that the board is responsible for investigating the cases where somebody comes to the state and is not licensed but nevertheless does a home delivery. Last year 13 people did not renew their licenses and she predicted that the repercussions of high licensing fees would be more dramatic in the coming year.

CHAIR COSTELLO asked the size of the deficit and the current cost of a license.

DR. OSTROM replied the licensing fee is about \$3,800 every two years and the deficit is about \$60,000.

SENATOR HUGHES asked what the board plans to do to eliminate the deficit.

DR. OSTROM said the board hopes to increase the number of licensees by keeping the apprentices currently working in the state after they graduate their program. They are also working to cut the cost of meeting by using teleconferencing, which should save about \$5,000 a year.

SENATOR HUGHES asked if the board is having to pay for investigations related to individuals who are practicing but are not licensed in the state.

DR. OSTROM said that is correct; the cost to investigate cases of a provider who practices without a license falls to the Board of Direct-Entry Midwives.

SENATOR GARDNER noted that Dr. Ostrom indicated on her application that she was not willing to disclose personal financial data. She asked if this board requires that.

DR. OSTROM said she didn't know and didn't recall answering "no" to that question.

SENATOR GARDNER noted that Dr. Ostrom indicated on her application that she or her family could potentially gain financially by serving on the board but declined to explain the potential financial benefit. She asked if this was a matter of mixed signals.

DR. OSTROM answered yes and added that she did have trouble with the online application and is surprised at the answers because neither she nor her family would have a direct financial benefit.

CHAIR COSTELLO suggested Dr. Ostrom submit a corrected application. Finding no further questions or public testimony, she thanked Dr. Ostrom for being willing to serve.

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CHAIR COSTELLO asked Dana Brown of Fairbanks to express her interest in serving on the Board of Certified Direct-Entry Midwives in the certified direct-entry midwife seat. She also asked her to comment on the licensing fees and efforts to address the deficit.

DANA BROWN, Appointee, Board of Certified Direct-Entry Midwives, Fairbanks, Alaska, said she was licensed in 1993 as part of the first group of midwives to be licensed in Alaska. She said she helped Alaska develop its licensing program for midwives and served on the board from 2000 to 2009. Unlicensed practitioners were an issue at that time, so the board has been paying for investigations since its inception. She opined that a previous licensing examiner contributed to the size of the debt and stated support for the current one. She described the current board as strong and said it is looking at ways to streamline the application process and conducting meetings via teleconference.

CHAIR COSTELLO commented on the importance of institutional memory on boards and commissions.

SENATOR HUGHES asked if she had any ideas about how to get the people who are investigated to pay the cost of their investigation.

MS. BROWN said she believes that HB 90 will help direct-entry midwives if it passes. She highlighted that midwives are willing to pay the high fees in the interest of paying down the debt. She also commented on fluctuating licensing fees and past legal advice that licensing fees could not be held high artificially because that would amount to "paying ahead."

CHAIR COSTELLO said the legislature is aware of fluctuations in licensing fees. Finding no further questions or public testimony, she thanked Ms. Brown for being willing to serve.

[1:58:53 PM](#)

CHAIR COSTELLO asked Kathryn Roberts of Anchorage to express her interest in serving on the Board of Certified Direct-Entry Midwives in the certified nurse midwife seat.

KATHRYN ROBERTS, Appointee, Board of Certified Direct-Entry Midwives, Anchorage, Alaska, said she has been practicing for about three years and started working alongside direct-entry midwives on out-of-hospital births. She said she now works at the Alaska Native Medical Center. She has served on the board for a little over a year and is interested in continuing this important and interesting work helping the women and families in this state.

CHAIR COSTELLO commented on Ms. Roberts qualifications and tremendous experience. Finding no further questions or public

testimony, she thanked Ms. Roberts for being willing to continue to serve.

CHAIR COSTELLO asked Anne Brainerd-Marko of Fairbanks to express her interest in serving on the Board of Professional Counselors and to comment on any challenges the board faces going forward.

[2:02:15 PM](#)

ANNE BRAINERD-MARKO, Appointee, Board of Professional Counselors, Fairbanks, Alaska, said she has been a licensed professional counselor in Alaska for 14 years and is also an approved counselor supervisor. She related that this will be her second term and she was compelled to apply initially because of her broad experience and interest in mental health in Alaska. She worked in the village of Galena for five years and then moved to Fairbanks and ran a residential treatment center for women with addictions for a year. She now works for Hope Community Resources. She opined that her experience has been and will continue to be helpful to the board.

SENATOR GARDNER commented that Ms. Brainerd-Marko's resume is exhaustively long and has widely varied.

CHAIR COSTELLO asked Ms. Brainerd-Marko to comment on the board's \$264,000 surplus and if licensing fees will be reduced in the future.

MS. BRAINERD-MARKO explained that the board increased the fees significantly when an earlier audit found a \$125,000 deficit. She estimated that the board would be at or a bit over breakeven by the end of FY17.

CHAIR COSTELLO found no further questions or public testimony and thanked Ms. Brainerd-Marko for being willing to continue to serve.

[2:06:12 PM](#)

CHAIR COSTELLO stated that the committee's review of nominations for boards and commissions is complete for today.

**HB 48-ARCHITECTS,ENGINEERS,SURVEYORS: EXTEND BD**

[2:06:24 PM](#)

CHAIR COSTELLO announced the consideration of HB 48. She noted that this is the second hearing and public testimony is closed.

REPRESENTATIVE SAM KITO, Alaska State Legislature, sponsor of HB 48 summarized the bill extends the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors the full eight years to 2025. The bill also changes the status of the current landscape architect board member from nonvoting to voting. There is no cost associated with this change because the board is self-sustaining with all costs borne by the licensees. There are currently about 50 landscape architects who are licensed and the same number of mining engineers. He noted that the size of the board will change in statute from 10 to 11 in recognition of the new voting member.

CHAIR COSTELLO found no questions and solicited a motion.

[2:08:21 PM](#)

SENATOR HUGHES moved to report HB 48 from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO announced that without objection, HB 48 is reported from the Senate Labor and Commerce Standing Committee.

[2:08:37 PM](#)

At ease

### **SB 93-CREDIT REPORT SECURITY FREEZE**

[2:11:30 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 93. She stated that intent is to hear the introduction, take questions and public testimony, and hold the bill for further consideration.

[2:11:48 PM](#)

RYNNIEVA MOSS, Staff, Senator John Coghill, Alaska State Legislature, explained that SB 93 supplements Senate Bill 121 that passed last year. It establishes a process for setting up security freezes for minors who are [16] years of age and younger that mirrors the process that 26 other states have adopted.

She presented SB 93 speaking to the following PowerPoint:

#### **Sec. 1**

Who is a protected consumer?

A person who is an incapacitated person or under 16 years of age.

## Definition of incapacitated person

An incapacitated person is a person whose ability to receive and evaluate information or to communicate decisions is impaired to the extent that the person lacks the ability to provide or arrange for the essential requirements for the person's physical health or safety without court-ordered assistance.

## **Why Sixteen?**

Consumers at 16 years of age typically begin working, own a cell phone, have a bank account, and have established active credit. 26 other states have reduced the age from 18 to 16.

**A credit freeze for a minor and a credit freeze for an adult, while similar in name, in practice they operate in very different ways.**

A credit freeze for an adult is placed to temporarily turn off the availability of already established credit for that individual. The request for a freeze could be due to a recent identity theft or for other purposes. Because a credit report was previously created by a lending agency and therefore currently exists for an adult, one can turn on and off their credit by placing a freeze.

In the case of a minor, a credit report should not exist for a person under the age of 16. Therefore, in order to place a freeze, a credit reporting agency must (1) verify and authenticate the identities of both the minor and the requester, (2) verify the relationship of the person requesting the freeze for the minor, and (3) create a new record (prohibiting a credit report from being created in the future for the minor)

## **Sec. 2**

### **Creates Article 2A. Security Freeze for Protected Consumers**

Article 2A sets up a system in state statute for placement of and removal of a security freeze for

minors and incapacitated consumers. The bill puts in place requirements for identification of parties involved, verification of authority of personal representatives, accessing the record by the representative or other entities with legal purpose, and the lifting of a security freeze.

[2:16:28 PM](#)

#### **Placement of a Security Freeze**

**AS 45.48.300 - A consumer credit reporting agency is mandated to place a freeze on a protected consumer's report if:**

A protected consumer's representative requests one.

The protected consumer's representative

Submits the request in a manner specified by the agency

Submits proof of identification of the protected consumer

Submits proof of identification of the representative and proof of authority

Pays the fee of not more than \$5.00

#### **Creation of a Record for a Protected Consumer**

**AS 45.48.310 Record**

If a protected consumer does not have a credit report with the agency, the agency will create a record for the protected consumer and place a freeze on it.

#### **Proof of Identification and Authority**

**AS 45.48.320 - Proof of Identification**

Proof of identification includes:

Social Security number or copy of SS Card

Certified or official birth certificate

A driver's license or identification card issued by the Division of Motor Vehicles

Other identification issued by a government agency

Proof of Authority Includes:

A court order

A written, notarized statement expressly describing the authority that the representative has signed

#### **Time of Placement of Security Freeze**

##### **AS 45.48.330 - Placement of Freeze**

The agency must place a freeze on the credit report of record no later than 30 days after receiving the request.

#### **Operation of Security Freeze**

##### **AS 45.48.340 - Operation of Freeze**

Once a freeze is placed on the report or record, the agency cannot release information about the record without permission from the representative or consumer unless the freeze was placed based on misrepresentation of fact or the agency has received a request for removal of the security freeze from the representative.

#### **Duration of Security Freeze**

##### **AS 45.48.350 - Duration of Freeze**

A security freeze remains in effect until the representative requests the freeze be removed or if the agency determines the freeze occurred because of a misrepresentation of facts.

#### **Effect of Material Misrepresentation of Fact**

##### **AS 45.48.370 - Material Misrepresentation of Fact**

The agency may remove a security freeze or delete the record if the security freeze was obtained using a material misrepresentation of fact.

#### **Removal of Security Freeze**

##### **AS 45.48.360 - Removal of Security Freeze.**

(a) The protected consumer or his representative can have a freeze removed by:

Submitting a request in the manner prescribed by the agency

Providing sufficient proof of:

Identification of protected consumer

Identification of representative

Authority for the representative

Paying the agency a fee of not more than \$5.00

(b) The agency has not more than 30 days to remove the freeze.

### **Charges**

#### **AS 45.48.380 - Charges.**

A consumer credit reporting agency may not charge more than \$5.00

The agency may not charge a fee when:

The protected consumer's representative submits a police report, investigative report of complaint involving criminal impersonation in the 1st degree

The protected consumer is under the age of 16 and the agency has created a credit record for that consumer

[2:18:36 PM](#)

### **Exemptions**

**AS 45.48.390 - Exemptions.** Under the following conditions a frozen report of a protected consumer will be made available to the requestor:

A person with a court order

A government agency establishing and enforcing child support orders

Dept. of Health & Social Services and its agents in investigating fraud

Dept. of Revenue and its agents when investigating or collecting delinquent taxes, unpaid court orders, or other statutory responsibilities

A credit file monitoring service the protected consumer is a subscriber to

A person preparing a credit report for an inquiring bank or financial institution regarding account

closures because of fraud, substantial overdrafts, automated teller machine abuse, or similar information regarding a protected consumer

Exemptions (continued)

**AS 45.48.390 - Exemptions.** Under the following conditions a frozen report of a protected consumer will be made available to the requestor:

If the report of the agency consists entirely of information used solely for one or more of the following:

Criminal records information      Personal loss  
information  
Fraud prevention or detection  
Tenant screening  
Employment screening

Definitions

**AS 45.48.395 - Definitions**

"consumer credit reporting agency" - a person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or part, in the practice of assembling or evaluating consumer credit information or other information on consumers to furnishing credit reports to third parties, but does not include a person who issues the report.

[2:19:19 PM](#)

**Sec. 3 - Transition**

This transition language provides that security freezes put in place prior to the effective date of this Act, will remain enforced under the same statutes as they did when the freeze was placed on the record.

SENATOR MEYER commented that age 16 as opposed to age 18 can be discussed as a policy call. He asked if all the provisions that passed last year remain the same, but that this bill is directed at minors and incapacitated people.

MS. MOSS said that's correct.

SENATOR GARDNER asked if adolescents would need to go through the process of removing a freeze placed by their parents once they reach age 16.

MS. MOSS said she believes they would be allowed to remove the freeze once they turn 16. She deferred further comment to invited expert testimony.

[2:21:47 PM](#)

CHAIR COSTELLO opened public testimony on SB 93.

[2:21:59 PM](#)

ERIC ELLMAN, Consumer Data Industry Association (CDIA), Washington, D.C., stated that CDIA represents over 100 consumer reporting agencies including the three major credit bureaus. They have worked with legislators in 26 other states to establish minor credit freezes and SB 93 will make Alaska law consistent with those states.

Addressing the question regarding age 16 versus age 18, he explained that all the minor credit freeze statutes that have passed apply to individuals below 16 years-of-age. The reasoning is that 16-year-olds get jobs and are essentially credit active consumers. That is why CDIA is asking that SB 93 follow what other states have done and adopt age 16. Responding to Senator Gardner's question, he explained that once the minor turns 16 he/she can affirmatively request the credit bureau remove the freeze.

[2:25:10 PM](#)

SENATOR MEYER continued to question the age 16 provision and pointed out that a parent or guardian is legally responsible for their child or ward.

MR. ELLMAN argued that those in the credit reporting community, the banking and financial services community, and schools encourage the pursuit of credit education for youngsters. He agreed that a parent or guardian might need to step in if a minor fails financially, but maintained it is not appropriate to address that through a minor freeze. The goal in establishing age 16 as the threshold is to protect individuals who should not be credit active. Once they reach the age of 16 many consumers will become credit active and we want to meet their needs and their parents' needs, he said.

SENATOR MEYER questioned the notion of encouraging his 17-year-old to be credit active. He observed that she could get a job, but she could not get a credit card or a bank loan on her own.

MR. ELLMAN reminded members that the goal of the minor freeze is to prevent commerce from occurring, whereas the goal of the adult freeze is to allow adult consumers to turn their credit on and off as needed.

CHAIR COSTELLO asked if there is a way to communicate with a minor's parent if someone steals a minor's identity and there is a freeze on their credit.

MR. ELLMAN said yes. He explained that 99 percent or more of minors under age 16 do not and should not have a credit report. If they do, it is most certainly due to fraud and the bill will allow a parent or guardian to lock down the minor's credit history. Procedures are also in place to allow the parent or guardian to monitor activity on the credit report.

[2:31:41 PM](#)

CARLIE CHRISTENSEN, Director of Government Relations, Equifax, Atlanta, Georgia, testified in support of SB 93. She agreed with previous testimony that SB 93 would amend Alaska law to bring it in line with minor freeze laws in other states. It specifies the way a protected consumer's representative must place a request to place or remove a security freeze. It also clarifies what constitutes sufficient proof of identification for the representative to act on behalf of the protected consumer. She also stated support for the bill covering minors 16 years of age and younger.

SENATOR GARDNER asked if she's aware of any dueling parents who have placed a credit freeze on a minor's record.

MS. CHRISTENSEN said she isn't aware of any specific instance, but the company likely has an established procedure to deal with that circumstance.

CHAIR COSTELLO asked Mr. Ellman to respond to the question.

MR. ELLMAN said he suspects that there would be times when it might be necessary to arbitrate between dueling parents. He offered to do some research and provide a more definitive answer.

SENATOR GARDNER commented that this could be both a bug and a feature.

[2:36:20 PM](#)

CHAIR COSTELLO closed public testimony on SB 93 and held the bill in committee.

**SB 38-PHARMACY BENEFITS MANAGERS**

[2:36:36 PM](#)

CHAIR COSTELLO announced the consideration of SB 38. She stated that the intent is to hear the introduction, take questions and public testimony, and hold the bill for further consideration.

[2:37:21 PM](#)

SENATOR CATHY GIESSEL, Alaska State Legislature, sponsor of SB 38, stated that SB 38, which is about pharmacy benefit managers (PBMs), covers: 1) the cost of health care in Alaska, 2) Alaska hire, and 3) Alaska's small businesses.

She recognized that a group of pharmacy students from the University of Alaska, Anchorage were in the audience.

CHAIR COSTELLO welcomed the students.

SENATOR GIESSEL displayed a graphic to show that pharmacy benefit managers are the middlemen between the insurance company and the pharmacy and leave the pharmacy in a position to be reimbursed less than it pays for a prescription. She cited an example of an insurance company that pays out \$100 for a prescription for which a pharmacy pays \$60. The PBM captures \$50 off the top and pays the pharmacy \$50, essentially telling the pharmacy to "eat" the \$10 difference.

She stated that PBMs also audit pharmacies and sometimes make egregious finds that can result in significant fines. She highlighted that she is offering the bill by request of pharmacists. She directed attention to articles in the packets from Newsweek and Bloomberg. She concluded saying the bill will allow the state to license PBMs and constrain action on minor technical errors found during audits.

[2:42:39 PM](#)

SENATOR STEVENS asked if some agencies can avoid the use of a PBM.

SENATOR GIESSEL responded that PBMs work for insurance companies. She noted that the PBM that Aetna uses will not allow covered consumers to order prescriptions by mail order from a local Alaska pharmacy. It requires the use of pharmacies from out-of-state.

SENATOR MEYER asked if similar legislation is used in other states.

SENATOR GIESSEL said she believes that 37 states have passed similar legislation. She directed attention to the map in the packet.

SENATOR MEYER asked if this has saved money for consumers.

SENATOR GIESSEL deferred the question to her aide, Jane Conway.

JANE CONWAY, Staff, Senator Cathy Giessel, Alaska State Legislature, said there are claims that the legislation will increase health care costs, but the sponsor has been unable to find data to substantiate that claim. However, similar legislation may have helped local pharmacies stay afloat.

SENATOR GARDNER observed that a variation of this legislation has been offered before.

SENATOR GIESSEL agreed.

CHAIR COSTELLO asked if the auditing practices that PBMs use are based on some guidelines.

MS. CONWAY replied that PBMs are largely unregulated and have few sidebars on their procedures.

CHAIR COSTELLO asked for an explanation of how PBMs manage prescriptions.

SENATOR GIESSEL said they essentially ensure the person is an insured, that the quantity of the prescription is appropriate, and when they do the audits they check to see that the pharmacy has charged the appropriate amount. She highlighted the complaint with the audits that small clerical errors often result in a fine. She suggested the committee ask the pharmacists about their experience with these audits.

CHAIR COSTELLO asked if PBMs have access to the prescription database.

SENATOR GIESSEL said she didn't know.

[2:48:36 PM](#)

SENATOR HUGHES said she was surprised to see that the State Chamber of Commerce has reservations with the bill. She asked if the pharmacists have attempted to work directly with the PBMs to resolve the audit problems and payment arrangements.

SENATOR GIESSEL said pharmacists have tried but the contracts are offered as take it or leave it. The pharmacies have no power to negotiate.

SENATOR HUGHES asked if she has asked the state chamber why it is taking the position it has.

SENATOR GIESSEL said her understanding is the state chamber wanted to see what Congress would do with the Affordable Care Act. She noted that Congress did not act on the AFC last week and she was unaware of whether the state chamber continues to have reservations.

SENATOR HUGHES asked if the bills Congress is currently working on related to changing the Affordable Care Act include the issue of PBMs.

MS. CONWAY said she didn't know if they were related to the Affordable Care Act, but Congress is considering four pieces of legislation that try to shine a light on the activities of pharmacy benefit managers.

SENATOR STEVENS asked if the bill would change the way Aetna works with its PBM.

MS. CONWAY said the indeterminate fiscal note from the Department of Administration (DOA) posits that SB 38 might increase costs. However, a letter in the packet from Barry Christensen, a pharmacist from Ketchikan, refutes many of the points in the letter from the state chamber. "I don't think the pharmacists agree that this would actually be increasing costs or changing anything that Aetna is doing. However, there could be some good suggestions to our health plan that could help our local pharmacies rather than be to the detriment of them in terms of the mail order component," she said.

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SENATOR STEVENS asked how this would cause Aetna to act differently than it does now.

SENATOR GIESSEL said Aetna will likely continue to have the PBM. SB 38 does not address their existence; it seeks to address their conduct.

SENATOR GARDNER expressed surprise that PBMs could get half of the retail cost of a prescription. "No wonder the consumer is paying so much," she said. She wondered if anyone would be testifying about why PBMs, that are essentially auditors, should get so much.

SENATOR GIESSEL replied, "That's the point of the bill."

[2:54:33 PM](#)

CHAIR COSTELLO invited Lori Wing-Heier to testify and noted that one of the two fiscal notes mentions the role of the director of the Division of Insurance.

[2:55:24 PM](#)

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), stated that if SB 38 were to pass, pharmacy benefit managers would be required under Alaska statute to register as a third-party administrator (TPA) and pay a biannual licensing fee. The division tracks TPA activity and would be able to follow up if there were consumer complaints.

She advised that SB 38 is not expected to be a great burden on the state because not many TPAs are operating in the state and the first part of the bill is just a licensing or registration matter for the division. While the division does not know how many audit appeals there will be, they would be handled through the established procedures for appeals within the division.

CHAIR COSTELLO asked if the administration has a position on the bill.

MS. WING-HEIER replied the division looks on it as a process that can be handled internally and within existing statute. She added that the position of the administration is reflected in the indeterminate fiscal note from the Department of Administration.

CHAIR COSTELLO, noting that a fiscal note doesn't generally reflect a philosophical position, asked if she was aware that the administration supports or does not support the bill.

MS. WING-HEIER said she was not aware of the administration's position.

SENATOR MEYER asked if the legislature could require Aetna to stop using PBMs.

MS. WING-HEIER suggested that the Division of Retirement and Benefits could best answer that question then pointed out that every insurance company uses a pharmacy benefit manager. She described the bill as a consumer protection which is something the administration supports. The bill has two parts; first is the audit piece for the PBMs, which resembles the Fair Audit Act and the second part is about pricing of generic drugs and the impact that would have on any employer plan as well as the individual market.

SENATOR MEYER asked how many insurance companies in Alaska provide health insurance.

MS. WING-HEIER said less than six insurance companies currently are writing for the public. This does not include those that are writing for one or two accounts or ConocoPhillips or Fred Meyer, for example.

SENATOR STEVENS asked what the PBMs do.

MS. WING-HEIER explained that a PBM negotiates the price from the wholesaler or drug manufacturer to the pharmacist and the insurance company is somewhere in the middle. She acknowledged that the methodology of the charge is a little fuzzy regarding what the PBM pays the pharmacist, what it receives from the insurance company, and what it pays the wholesaler or drug company.

SENATOR STEVENS said it's a shocking situation, but he would hope that negotiating with the drug companies for a lower price would ultimately benefit the consumer.

MS. WING-HEIER confirmed that their purpose is to obtain the best possible cost so the consumer or the employer in an employer-sponsored plan receives the benefit of the lowest cost.

SENATOR GARDNER asked if PBMs don't have an adverse incentive to negotiate the lowest cost if they receive 50 percent of the cost.

MS. WING-HEIER advised that rebates are common in pharmaceuticals from providers to PBMs to the insurance companies.

CHAIR COSTELLO asked if other states have similar legislation, specifically regarding the role that the Division of Insurance has in the bill.

MS. WING-HEIER said quite a few states have Fair Audit Acts and most reside with insurance of licensing.

CHAIR COSTELLO invited Michele Michaud and Emily Ricci forward to respond to the question relating to the Division of Retirement and Benefits.

[3:02:57 PM](#)

EMILY RICCI, Chief Health Policy Administrator, Division of Retirement and Benefits, Department of Administration (DOA), introduced herself.

MICHELE MICHAUD, Chief Health Official, Division of Retirement and Benefits, Department of Administration (DOA), introduced herself.

CHAIR COSTELLO asked if they wanted to comment on the bill or any questions or testimony they heard.

MS. MICHAUD answered no.

SENATOR MEYER asked if the state could ask Aetna not to use a PBM.

MS. MICHAUD said if the Department of Law advised that would be possible under the existing agreement with Aetna, it would still take significant analysis to see if it would be in the best interest of the plan.

SENATOR STEVENS asked how much the state's retirement programs pay in pharmacy benefits each year.

MS. MICHAUD reported that the state spent \$55 million on generic medication last year and the overall pharmacy spend was close to \$300 million.

SENATOR STEVENS commented, "That would balance our budget right there."

MS. RICCI added that she didn't know when the state health plans first adopted PBMs to manage pharmacy benefits, but it is a common practice among large employers. When she looked at other options several years ago, she found that there isn't an easy alternative to using a PBM to manage the pharmacy spend.

SENATOR GARDNER asked if a 50 percent cut is standard among pharmacy benefit plans.

MS. RICCI deferred the question to Aetna or other pharmaceutical experts in the room.

[3:07:41 PM](#)

CHAIR COSTELLO opened public testimony on SB 38.

[3:08:03 PM](#)

LEIF HOLM, Pharmacy Owner, North Pole, Alaska, testified in support of SB 38. He reported that the three pharmacies he owns in Interior Alaska are most affected by the MAC pricing that the bill seeks to correct. He stated that passage of SB 38 will regulate audit practices and correct questionable pricing strategies which will be a step toward achieving transparency with PBMs. It's the right thing to do to rein in PBMs and begin to eliminate their abusive tactics that are ultimately costly for health plan sponsors and patients, he said.

CHAIR COSTELLO advised that the committee would eagerly accept any written testimony or response to questions that members posed.

SENATOR STEVENS asked Mr. Holm to contact the committee to describe abusive audit practices.

MR. HOLM agreed.

[3:10:19 PM](#)

MATTHEW KEITH, Vice President of Pharmacy Services, Geneva Woods Pharmacy, Inc., Anchorage, Alaska, testified in support of SB 38. He said that Geneva Woods is a small independent pharmacy that constantly struggles with the practices and abusive audits that have been described. He questioned why the state shouldn't regulate PBMs just as it regulates pharmacies, medical practices, wholesalers, and insurance providers in the state. He

said SB 38 isn't about eliminating PBMs but rather it establishes guardrails, so the negotiations are more reasonable and fair. He noted that many PBMs own mail order pharmacies and questioned whether the intent is to steer business in that direction.

3:12:10 PM

SCOTT WATTS, Pharmacist and independent pharmacy owner, Juneau, Alaska, said he has practiced pharmacy for 27 years and his pharmacy daily dispenses medication below his cost because of MAC price listing. He said that talking with the PBMs would be the best way to resolve the issue, but most of the time these departments do not have a phone number. He said that MAC price listing is a way to keep costs down, but they need to be updated more frequently to reflect the cost. It should not be borne on the backs of the pharmacists to keep those prices down." He explained that his out-of-town customers come in to have their prescriptions filled when they are in town and would like to have them refilled when they return home. However, some contracts don't allow that, and the people must have their prescriptions refilled from an out-of-state mail order pharmacy. He cited an example of the pricing issue. When a customer questioned their co-pay, he directed them to their health care plan because the pricing is set by the PBMs when the prescription is transmitted. The PBM responded that afternoon telling the pharmacist he was in breach of contract by telling the customer what the plan was paying for their prescription. He said the PBMs have their reasons to not want the customer to be aware of the price of their medication, but he feels customers should have that information.

CHAIR COSTELLO said the committee would accept his written testimony if he chose to submit it.

3:14:40 PM

GERALD BROWN, Pharmacist, Fairbanks, Alaska, said he owns an independent pharmacy with his wife and they too are experiencing the problems that have been discussed earlier. The MAC pricing list does not reflect price increases for six months to a year, so they are constantly under-reimbursed. It amounts to about \$1,000 per month for their small pharmacy. He reported that a large chain pharmacy in town has been under-reimbursed by \$30,000 a month. "This is a prevalent problem with PBMs." He explained that PBMs are like a credit card; Alaska Airlines sponsors the card and VISA administers the benefit. The VISA card, for example, is setting the co-pay amount. He said the

problem is that the pharmacies are getting about \$0.45 to dispense the prescription plus 21 percent less than cost. A bank would not lend on that business model. Referencing the 50 percent that the PBMs capture, he clarified that the rebates from the pharmaceutical company to the PBMs are generally between 30 percent and 60 percent. "So now your formulators are based not on therapeutics, but they're based on who gives us the bigger rebates." The pharmacies don't generally see that; they are just told how much they will be reimbursed. Further, the amount the pharmacy receives may not reflect the cost the pharmacy paid. He highlighted that the PBMs are certainly making money and their executives are as well. Last year the CEOs for these PBMs received bonuses ranging from \$9 million to \$49 million. He summarized that SB 38 simply seeks to give the PBMs structure, so they can't squash the small businesses. "We don't have a problem with the audits; we have a problem with the take it or leave it attitude." These large organizations at the very least should be required to register with the state.

SENATOR GARDNER asked if the bill addresses either the issue that the back prices are met but the increases to the pharmacy don't follow timely or the issue that formulas can be based on who gives the largest rebate.

MR. BROWN said no.

[3:19:44 PM](#)

ERIC DOUGLAS, CVS Health, Illinois, said he is calling to express concern with SB 38. He said many of the comments today have been off the topic that the bill addresses and PBMs have been portrayed inaccurately. He said PBMs save money and they wouldn't be utilized if they didn't. He said CVS Health is concerned that SB 38 would unintentionally promote fraud, waste, and abuse because it inserts the state in private audit terms that are well addressed in current contracts. It is also inappropriate that the bill charges the director of the Division of Insurance to be the arbiter of private contract disputes when that division does not have expertise regarding generic pharmaceutical reimbursement. The bill also establishes requirements that would be impossible to meet. For example, insuring that a specific pharmacy can buy a specific product from a specific wholesaler at a specific price. This would increase costs just as setting up a no loss guarantee on MACS would. Noting that the Board of Pharmacy is defined in the definitions but isn't used in the legislation, he said CVS Health would not support the Board of Pharmacy having anything

to do with PBMs if there is a financial relationship between pharmacy benefit managers and pharmacies.

[3:22:35 PM](#)

TOM WADSWORTH, Associate Clinical Professor, University of Alaska Anchorage (UAA), said UAA has a pharmacy program and he is the assistant dean of the program. He introduced the pharmacy students in the audience as Alaskans and highlighted that the founding principles of the program is to train Alaskans in Alaska, so they serve Alaskans living in the rural areas of Alaska. He said he supports SB 38 because the largest issue with sending these students into rural areas is that there won't be any pharmacies to go to. Brick and mortar pharmacies are in jeopardy and pharmacists see patients seven times more often than a doctor. He highlighted that pharmacists in these rural communities only make their money by selling prescriptions and as the profit margins have shrunk, the sustainability of these businesses is in question. He offered his belief that PBMs serve a good role in controlling formularies but the money they save goes into a pot also controlled by the PBMs.

He concluded, "We need to see that pharmacists are reimbursed for what they do for these communities, so they can be there to serve the patients of these communities, particularly rural Alaska."

CHAIR COSTELLO invited the pharmacy students to talk with her after the meeting for the committee's Facebook page. "That's an important message to get out. That we need more Alaska born and raised pharmacists here in our state."

[3:24:42 PM](#)

BARRY CHRISTENSEN, RPh, Co-Chair Legislative Committee, Alaska Pharmacists Association, Ketchikan, Alaska, stated that the passage of SB 38 is important for Alaska pharmacies to remain viable. Responding to Senator Stevens' request for an example of an audit abuse practice, he explained that his pharmacy received a large desk audit from a PBM that required submitting over 100 pages of documentation. The only secure option for transmitting the material was through FAX and their machine could only handle 50 pages at a time. They informed the auditor that the transmission was in two parts, yet the results of the audit showed that only half of the documentation was considered. The pharmacy received permission to resend the material, but the auditor allowed just five days on the final audit findings for appeal. The final findings included a \$400 claim for a prescription that was not part of the original audit. The PBM

gave the pharmacy less than 24 hours to get their documents and a letter from that prescriber in the mail. He maintained that this was not a fair turnaround time.

MR. CHRISTENSEN summarized that SB 38 will set standards for PBMs and that is all the bill asks for.

[3:27:34 PM](#)

FRED BROWN, Health Care Cost Management Corporation of Alaska, Fairbanks, Alaska, advised that he would not reiterate the written testimony he submitted but would respond to some of the comments made earlier in the hearing. He reported that his organization has over 100,000 covered lives in Alaska and is comprised of more than 25 self-funded plans. They offer a myriad of options for member plans to select, among which is access to prescription benefit management (PBM) plan. Thirteen of the plans in Alaska use the PBM program his organization offers. The total gross drug valuation for those 13 plans in 2016 was \$74.1 million. Noting that earlier testimony stated that 50 percent of that goes to the PBM, he reported that in 2016 their plans saved 49 percent of that total or about \$37.8 million. He added, "If the earlier descriptions are correct, then the PBM only made 1 percent." The point, he said, is that there is more to the story than has been told.

CHAIR COSTELLO held SB 38 in committee with public testimony open.

[3:29:49 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:39 p.m.