ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE
February 27, 2024
3:05 p.m.

MEMBERS PRESENT

Representative Mike Prax, Chair
Representative Justin Ruffridge, Vice Chair
Representative CJ McCormick
Representative Jesse Sumner
Representative Zack Fields
Representative Genevieve Mina

MEMBERS ABSENT

Representative Dan Saddler

COMMITTEE CALENDAR

HOUSE BILL NO. 226
"An Act relating to the Board of Pharmacy; relating to insurance; relating to pharmacies; relating to pharmacists; relating to pharmacy benefits managers; relating to patient choice of pharmacy; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 343
"An Act relating to medical assistance coverage for rehabilitative, mandatory, and optional services furnished or paid for by a school district on behalf of certain children."

- BILL HEARING POSTPONED

PREVIOUS COMMITTEE ACTION

BILL: HB 226
SHORT TITLE: PHARMACIES/PHARMACISTS/BENEFITS MANAGERS
SPONSOR(s): REPRESENTATIVE(s) SUMNER

01/16/24	(H)	PREFILE RELEASED 1/8/24
01/16/24	(H)	READ THE FIRST TIME - REFERRALS
01/16/24	(H)	HSS, L&C, FIN
02/27/24	(H)	HSS AT 3:00 PM DAVIS 106

WITNESS REGISTER

SARENA HACKENMILLER, Staff
Representative Jesse Sumner
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: On behalf of the prime sponsor, Representative Sumner, presented the sectional analysis of HB 226.

BRANDY SEIGNEMARTIN, PharmD, Executive Director
Alaska Pharmacy Association;
Clinical Assistant Professor
University of Alaska
Anchorage, Alaska
POSITION STATEMENT: Provided expert testimony on HB 226 and offered a PowerPoint presentation.

PALMER WETZEL, Deputy Pharmacy Director
Tanana Chiefs Conference
Fairbanks, Alaska
POSITION STATEMENT: Provided a quick overview of data analyses regarding HB 226 and its companion bill SB 121.

ASHLEY SCHABER, PharmD, Chair
Alaska Board of Pharmacy
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 226.

PAT SHIER, Executive Board Member
Pacific Health Coalition
Anchorage, Alaska
POSITION STATEMENT: Testified in opposition to HB 226.

BRITTANY KEENER, representing self
Eagle River, Alaska
POSITION STATEMENT: Spoke in support of HB 226.

BRENDA SNYDER, Director
State Government Affairs
CVS Health
Olympia, Washington
POSITION STATEMENT: Spoke in opposition to HB 226.

KAREN MILLER, Director
Denali Pharmacy
Fairbanks, Alaska
POSITION STATEMENT: Spoke in support of HB 226.

GARY STRANNIGAN
Premera Blue Cross and Blue Shield of Alaska
Everett, Washington
POSITION STATEMENT: Spoke in opposition to HB 226.

BARRY CHRISTENSEN, Owner
Island Pharmacy
Ketchikan, Alaska
POSITION STATEMENT: Spoke in support of HB 226.

DIRK WHITE, President
Pharmacy Association of Sitka
Sitka, Alaska
POSITION STATEMENT: Spoke in support of HB 226.

ACTION NARRATIVE

3:05:03 PM

CHAIR PRAX called the House Health and Social Services Standing Committee meeting to order at 3:05 p.m. Representatives Ruffridge, McCormick, Sumner, Fields, Mina, and Prax were present at the call to order.

HB 226-PHARMACIES/PHARMACISTS/BENEFITS MANAGERS

[Contains discussion of SB 121.]

3:06:35 PM

CHAIR PRAX announced that the only order of business would be HOUSE BILL NO. 226, "An Act relating to the Board of Pharmacy; relating to insurance; relating to pharmacies; relating to pharmacists; relating to pharmacy benefits managers; relating to patient choice of pharmacy; and providing for an effective date."

3:07:05 PM

REPRESENTATIVE RUFFRIDGE moved to adopt the proposed committee substitute (CS) to HB 226, Version 33-LS0955\S, Wallace, 2/9/24, as the working document.

CHAIR PRAX objected for the purpose of discussion.

3:07:55 PM

REPRESENTATIVE SUMNER presented the summary of changes to HB 226 from the original version to Version S [included in the committee packet] which read as follows [original punctuation provided]:

> Fiduciary duty: Version S adds that the PBM has a fiduciary duty to the plan sponsor which would lead to the lowest possible cost for the plan and for the patients.
>
> Dispensing fee: The dispensing fee is the responsibility of the Division of Insurance to set based on a cost of dispensing survey; removes Medicaid language from Version B.
>
> Claim limitations: Version S also adds that the PBM may not reverse and resubmit a claim of a pharmacy more than 30 days after the claim was adjudicated unless there is just cause, but prior written notification to the pharmacy is required.
>
> Third-party licensing: Version S requires PBMs to have their own licensing category and licensing fee; removes third-party administrator language.

3:09:00 PM

CHAIR PRAX removed his objection. There being no further objection, Version S was before the committee.

3:09:35 PM

REPRESENTATIVE SUMNER introduced HB 226 to the committee and explained that the bill is designed to allow patient choice of pharmacy; improve transparency and accountability of pharmacy benefit management; and enhance the standards for pharmaceutical care across the state. This bill emphasizes the powers of the Board of Pharmacy including provisions for licensing, inspection, and regulation of pharmacies, pharmacists, and other entities involved in distribution of drugs. It also establishes safeguards for patient access to pharmacy services while preventing unfair trade practices by insurers and benefit managers. The legislation also includes provisions for reimbursement of pharmacy services; issues related to national average drug pricing; drug acquisition costs and dispensing fees; and insuring fair compensation for pharmacies and

pharmacists. The bill is a critical step forward in promoting the best interests of patients and pharmacies in Alaska. The legislation helps create an environment that fosters quality care, enhances integrity in pharmaceutical care, and modernizes the pharmaceutical landscape in Alaska.

3:11:38 PM

SARENA HACKENMILLER, Staff, Representative Jesse Sumner, Alaska State Legislature, presented the sectional analysis of HB 226 on behalf of the prime sponsor, Representative Sumner. The sectional analysis [included in the committee packet] read as follows [original punctuation provided]:

> HB 226: Pharmacies / Pharmacists / Benefit Managers
> Sectional Analysis - Version S
> Section 1. Amends AS 08.80.030(b) - Powers and duties of the board
> (b)(19) establishes that the Board of Pharmacy has authority to regulate the dispensing of drugs that are not approved for self-administration (practices commonly known as white bagging and brown bagging).
>
> Section 2. Amends AS 21.27.901 - Registration of pharmacy benefit managers; scope of business practice.
>
> - Requires a Pharmacy Benefits Manager (PBM) operating in Alaska to register as a PBM with
> the Division.
> - Allows PBMs to contract with an insurer to manage pharmacy benefits and other services and audits, and contract with network pharmacies. PBMs must be registered with the Division of Insurance to conduct business in the state.
>
> Section 3. Amends/adds new subsections to AS 21.27.901 - Registration of pharmacy benefit managers
> Adds a new subsection (c) establishing that each day a PBM conducts business in the state without being licensed by the state is a separate violation under AS 21.97.020.
>
> Section 4. Amends AS 21.27.905(a) - Renewal of registration
> Establishes that PBMs must biennially register with Division of Insurance under its procedures for license renewal.

Section 5. Amends/adds new section to AS 21.27 - Fiduciary duty Adds that a PBM has a fiduciary responsibility to the plan sponsor and its covered persons, meaning it must consider impacts to the plan sponsor as well as the insured employees; notify conflicts of interest with its duties to the state; shall pass on its rebates to the plan; shall respond to requests of drug costs when requested; basically it directs the PBM to act in good faith and transparently with its plan sponsor.

Section 6. Amends AS 21.27.945 - Drug pricing list; procedural requirements

(a) establishes that a PBM must keep its drug pricing list current and electronically searchable (without charge) and must identify each drug by its national drug code, its national average drug acquisition cost (NADAC) or its wholesale acquisition cost, and its reimbursement amount; provides definitions. The PBM must provide a current PBM employee phone number to the pharmacy, update price list at least weekly to reflect current national drug database pricing.

Section 7. Repeals and reenacts AS 21.27.945(b) - Drug pricing list; procedural requirements Require PBMs to ensure drugs on a pricing list meet certain objective standards, are available, and are not obsolete.

Section 8. Amends AS 21.27.945 adds definitions and adds new subsections – Drug pricing list; procedural requirements

To establish that a PBM must keep its drug pricing list current and electronically searchable and must identify each drug by its national drug code, its national average drug acquisition cost or its wholesale acquisition cost, and its reimbursement amount; provides definitions.

Section 9. Repeals and reenacts AS 21.27.950 - Reimbursement Establishes that PBMs shall not reimburse pharmacies for a drug at less than the national average drug acquisition cost, (NADAC) or, in its absence, at less than the wholesale acquisition cost as defined in federal law, and in addition shall

reimburse a pharmacist or pharmacies with a professional dispensing fee set by the Director. Subsection (c) sets out the factors the director will consider when determining the fees.

Section 10. Amends AS 21.27 and adds 3 new sections

1. AS 21.27.951 Patient choice of pharmacy. This subsection bars health insurers and PBMs from: (1) prohibiting or limiting an insured person from receiving pharmacy services from a pharmacy of that person's choice; and (2) restricting access to drugs through only a PBM-owned or affiliated pharmacy except when doing so is required by USFDA standards; and requires PBMs to treat as a network pharmacy any qualified pharmacy that agrees to network terms; provides definitions for "specialty drug" and "specialty pharmacy."

2. AS 21.27.952 Patient access to clinician-administered drugs. This subsection bars health insurers and PBMs from denying reimbursement to, or imposing higher fees, copayments, or penalties on, pharmacies (other than those selected by the insurer or PBM) who dispense to insured persons clinician-administered drugs (drugs infused, injected, or administered in clinical settings, typically high-cost cancer or autoimmune therapy drugs); bars insurers and PBMs from requiring or encouraging that clinician administered drugs be dispensed to an insured person in a manner inconsistent with the federal Drug Supply Chain Security Act (practices commonly known as "white bagging" and "brown bagging".) Adds definition of "clinician-administered drug".

3. AS 21.27.953. Penalties. Allows the Director of Division of Insurance to impose penalties resulting from a filed complaint. Nothing in this section interferes with a patient's right to choose his or her preferred pharmacy.

Section 11. Amends AS 21.27.955 - Definitions

(4) Modifies language relating to the list of reimbursement prices/amounts that are set by the PBMs.
Section 12. Repeals and reenacts AS 21.27.955 - Definitions

(6) Provides a new, expanded definition of the term "network pharmacy".
Section 13. Amends AS 21.27.955 - Definitions
This adds nine new definitions to this section (11) to (19) Section 14.
Amends and adds a new section to AS 21.36.126 - Unfair trade practices
(a) establishes that insurers or PBMs may not:
- violate a pharmacy's right to reimbursement under new AS 21.27.950;
- interfere with a person's right to choose a pharmacy under new AS 21.27.951;
- interfere with a person's right of access to clinician-administered drugs under new AS 21.27.952;
- interfere with a pharmacy's right to participate in a PBM's pharmacy network under new AS 21.27.951;
- reimburse a pharmacy less than it reimburses a PBM-owned or affiliated pharmacy for the same services;
- impose any copayment, fee or condition not equally imposed upon all in the same benefit category;
- steer insured persons to use a PBM-owned or affiliated pharmacy;
- impose any monetary advantage or penalty that could affect or influence a person's choice among pharmacies that have agreed to a PBM's network terms;
- reduce pharmacy reimbursement because of a person's choice among pharmacies that have agreed to a PBM's network terms;
- use a person's pharmacy services data for soliciting, marketing, or referral to a PBM owned or affiliated pharmacy;
- condition a person's coverage or pharmacy's reimbursement on use of a mail-order pharmacy or PBM-owned or affiliated pharmacy;
- prohibit or limit a network pharmacy from mailing, shipping or delivering drugs to its patients;
- condition participation in a PBM pharmacy network on credentialing standards beyond licensing standards set by the Alaska Board of Pharmacy or charging a fee in connection with network enrollment;
- prohibit a pharmacy from informing patients of the difference between the pharmacy's customary cost of a drug versus the drug cost when using the PBM's insurance;
- conduct spread pricing, where a PBM charges an insurer a different price for a drug (typically higher) than it reimburses a pharmacy;

• charge or collect any fee from a pharmacy, including claim-processing fees, performance-based fees, network participation fees, or accreditation fees.

The new subsection establishes that contract terms between a pharmacy and a PBM in violation of this subsection are null and void; that violations of the subsection are unfair trade practices subject to penalty under AS Chapter 21 (Insurance); and provides that nothing in the section shall be construed to interfere with a patient's right to know where there is access to the lowest cost drugs, nor be construed to interfere with a patient's right to receive notice of changes to pharmacy networks; provides 11 definitions.

Section 15. Adds new paragraph to AS 29.10.200 - Limitations of home rule powers Adds new (68) AS 29.20.420 health care insurance plans See below.

Section 16. Amends AS.29.20 and adds new subsection .420 to article 5 AS 29.20.420. Health care insurance plans. Adds that a municipality that offers a group health benefit plan for its employees enjoys the same protections as defined by the Division of Insurance unfair practices guidelines.

Section 17. Amends AS 39.30.090(a) - Procurement of group insurance

New paragraph (13) requires participating governmental units to obtain a policy of group health insurance that meets requirements of 21.27.901-21.27.955, 21.36.126 and requirements relating to managing pharmacy benefits under their policies.

Section 18. Amends AS 39.30.091 - Authorization for self-insurance and excess loss insurance

Adds that the state's self-insured group employee medical plan and union trusts are subject to the statutes on PBMs and unfair trade practices.

Section 19. Amends and adds new paragraph AS 45.50.471(b) - Unlawful acts and practices

Adds new paragraph (b)(58) establishes that violations of new subsection 21.36.126(a) are violations of the Alaska Unfair Trade Practices and Consumer Protection Act.

Section 20. Repeals AS 21.27.955(5) and 21.27.955(8) - Definitions

Repeals two definitions: "multi-source generic drug" and "pharmacy acquisition cost".

Section 21. Applicability: States that this legislation applies to contracts between PBMs and pharmacies/pharmacists initiated after the effective date of this bill.

Section 22. Gives Dept. of Commerce, Community, & Economic Development (DCCED) and the Dept. of Administration (DOA) authority to adopt regulations necessary to implement the bill.

Section 23. Adopts immediate effective date for purposes of regulation-making.

Section 24. Establishes that the Act takes effect July 1, 2025.

3:23:04 PM

REPRESENTATIVE SUMNER introduced invited testimony.

BRANDY SEIGNEMARTIN, PharmD, Executive Director, Alaska Pharmacy Association; Clinical Assistant Professor, University of Alaska, explained that the issues of transparency, prescription pricing, patient choice, and Pharmacy Benefit Managers (PBMs) are complex issues. She began her PowerPoint presentation [hardcopy included in the committee packet], by defining PBMs as "third party companies that act as intermediaries between insurance companies and drug manufacturers." She continued her discussion by explaining the various functions of PBMs, pointing out that their original function was to help control drug costs, but they are now incentivized to increase spending on prescriptions. She listed several means by which PBMs increase drug prices including rebates and fees, spread pricing, providing incentives for purchasing higher cost drugs, reimbursing self-owned pharmacies at higher rates, and re-defining the term "specialty" pharmacy.

DR. SEIGNEMARTIN explained how PBMs are harming Alaskans by deceptive practices, driving up drug costs, determining what prescriptions will be covered, influencing which pharmacies a patient can use, causing smaller pharmacies to close, and negatively impacting tribal health systems. The PBMs' lack of transparency, regulation, and control over competitors' reimbursements has resulted in detrimental delays in patient care and closure of independent pharmacies.

DR. SEIGNEMARTIN continued her PowerPoint with a slide, titled "The Big 3 PBMs Have a Market Monopoly," which showed that Consumer Value Store (CVS) has 33 percent, Express Scripts has 24 percent, and OptumRx has 22 percent of the market. These three PBMs are represented by the Pharmaceutical Care Management Association (PCMA), and all are under investigation by the Federal Trade Commission and Congress. The next slide was titled, "Spread Pricing" and described how the PBM charges the sponsor of the plan one price for a prescription claim and pays the pharmacy a lower price. The difference is pocketed by the PBM, and that information is called "proprietary information" and is not given out. An Ohio state investigation found that a state plan was overcharged $223.7 million one year, and Utah was charged an extra $8 average per prescription.

DR. SEIGNEMARTIN continued the PowerPoint presentation with information about unfair trade practices including vertical integration where PBMs own mail-order pharmacies, insurance companies, offshore companies, clinics, and drug manufacturing plants. They also steer patients to their own mail-order pharmacies, causing poor outcomes with such issues as frozen prescriptions, delayed deliveries, and healthcare crises due to delivery issues.

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DR. SEIGNEMARTIN described the practices referred to as "specialty pharmacies" in which PBMs steer patients to specialty drugs which are small-volume but large-profit. One example stated that a specialty pharmacy patient's drug costs were $38,000 but a non-specialty patient's costs were $492. Although PBMs attempt to monopolize these prescriptions, all pharmacists and pharmacies have the expertise to handle these prescriptions and are regulated by the Alaska Board of Pharmacy.

DR. SEIGNEMARTIN continued the presentation with a series of charts which provided analyses of claims including

anticompetitive and unfair trade practices as well as profit margins. She then discussed "white bagging" and "brown bagging" which are described as follows [original punctuation provided]:

> ► A clinician-administered medication is required by the PBM to be shipped from their own mail-order pharmacy in the lower 48 and delivered via mail to the clinic (white bagging) or patient's home and the patient is responsible for storage and handling until they reach the clinic (brown bagging).
>
> ► The pharmacists and providers at the clinic are then responsible for preparing the drug outside of their normal medication safety procedures and ensuring integrity of the product.

DR. SEIGNEMARTIN said the impacts of these PBM practices in Alaska include crumbling public health infrastructure, increased costs, local pharmacy closures, and poor health outcomes due to delayed shipping, lack of care, and lack of oversight. Tribal health organizations (THO) are particularly impacted because patients often can't fill prescriptions at THO pharmacies or get coordination of care. Furthermore, the pharmacies face unfair practices and reimbursement rates. In the meantime, she explained, PBMs are responsible for themselves and their shareholders rather than the patients.

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DR. SEIGNEMARTIN's PowerPoint presentation included a summary of the provisions of HB 226 and [companion bill] SB 121. Slides summarizing analyses and source materials concluded the presentation.

3:51:52 PM

PALMER WETZEL, Deputy Pharmacy Director, Tanana Chiefs Conference, explained to the committee that he was a member of a working group along with Senator Giessel and Representative Sumner who met to analyze data related to SB 121 and HB 226 regarding what was spent in 2022. They contacted the Division of Retirement and Benefits and the Division of Insurance and invited participation. Senator Giessel did public record requests from the PBM OptumRx for specific data, finding that much of the data requested was considered "proprietary." The requested information was for 12 months of claims data with 13 specific fields of which 8 data fields were provided. Although

some pricing information was not included, sufficient data was provided to allow the team to draw conclusions and make recommendations.

MR. WETZEL presented the first of the working group's PowerPoint slides concerning prescription spending and pricing and concluded that if SB 121 or companion bill HB 226 were in place, it would have saved the state $4.3 million in 2022. The working group's second slide compared 2022 Division of Retirement and Benefits prescriptions charged compared to SB 121/HB 226 projected spending which showed a cost saving ranging from $588 thousand to $6.6 million. The third analysis concerned removing the PBM's mandatory mail order requirement and showed the potential positive effects on Alaska's local economies.

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CHAIR PRAX asked why the insurance companies are not sorting it out within their contracts if the current system is driving up costs.

DR. SEIGNEMARTIN responded that a model where that is actually being sorted out in contract would be a positive result. However, because of the lack of regulation or incentivization, insurance companies are not motivated to make that happen. She explained that is why there is a need for legislation. The working group also learned that pharmacies cannot negotiate in their contracts with PBMs because the PBMs essentially dictate the terms of the contracts.

CHAIR PRAX inquired whether there was an alternative and whether different insurance companies or claims processers could correct that within their contracts.

DR. SEIGNEMARTIN explained that they were allowed to build market power, so those changes are not an option without regulation in place. She also discussed how one system used to adjudicate claims from the pharmacies is owned by OptimRX, and it was hacked which resulted in an inability for pharmacies to process claims.

CHAIR PRAX referred to the issue of drugs spoiled in shipment and inquired about what recourse the recipients have.

DR. SEIGNEMARTIN replied that methods for dealing with that issue depend on contract and the networks. Some plans will help patients figure it how to get missed or spoiled prescriptions

with the nearest pharmacy, but sometimes the patient is just out of luck and must replace those drugs out of pocket. This is how the market power of the PBMs and by contrast the lack of negotiating power from pharmacies, employers, and other entities has brought about the need for legislation on this issue

4:00:38 PM

CHAIR PRAX announced the committee would hear invited testimony.

4:00:51 PM

ASHLEY SCHABER, PharmD, Chair, Alaska Board of Pharmacy, spoke in support of HB 226, urging support and quick passage. She explained that the situations described by Dr. Seignemartin and Mr. Wetzel were true. Through public testimony and pharmacists and patient input, the Alaska Board of Pharmacy became aware of the issue. The board identified the negative impact to safety in Alaska and has collaborated with the Alaska Pharmacy Association to craft language addressing these practices. Multiple other patient and healthcare organizations have been part of the process and support the effort to insure an adequate pharmacy infrastructure in Alaska. The board is unanimous in its support of HB 226 because it gives patients the right to access medications at the pharmacy of their choice; provides a framework for transparency and fair reimbursement for pharmacies; and protects patient access to clinician administered medications by restricting the practices of "white bagging" and "brown bagging." The board uses a strategic plan for decisions and actions it pursues, and it feels that this bill aligns with its strategic plan. She said HB 226 specifically addresses the board's fourth goal which is to grow Alaska's economy while promoting community health and safety. The board continues to see the negative impacts resulting from the practices addressed in the bill and recognizes change is needed quickly.

4:03:23 PM

CHAIR PRAX opened public testimony on HB 226.

4:03:28 PM

PAT SHIER, Executive Board Member, testified in opposition to HB 226. He said that he was an Alaska representative of "the 125,000 lives whose healthcare is curated and financed by working families that pay for their care through expertly run

health and welfare benefit trusts. These trusts are regulated through the Employee Retirement Income Security Act (ERISA) of 1974." The trustees elected by the workers are constrained by ERISA to act in the sole interest of the beneficiaries or face financial penalties or incarceration. He explained that his employer, the Pacific Health Coalition is a "private nonprofit trustee-governed entity that legally and ethically saved these member trusts over $600 million in health care spending last year alone."

MR. SHIER pointed to previous testimony stating that PBMs were only interested in profit and were willing to do so unscrupulously and unregulated. He opined that each of the healthcare plans that are members of the Pacific Health Coalition hire, fire, and manage PBMs on a regular basis. These vital partners provide the best pharmacists in the country in order to achieve the most effective pricing and administration of pharmaceutical commodities possible. They also have access to one of the "finest drug purchasing solutions in the United States."

MR. SHIER continued by describing National CooperativeRx (NCRX), a nonprofit coalition of healthcare plans from Wisconsin who aggressively negotiate the best possible contracts with larger PBMs, demand 100 percent rebates, audit PBM activity regularly, and self-audit annually. He said NCRX saved Alaska health plans $96 million in 2023. He said the reasons the Pacific Health Coalition opposes HB 226 include increased costs for Alaskans, additional spending without commensurate increase in patient satisfaction, and impractical and ineffective planning. He encouraged the committee to not pass HB 226 but instead work with the industry for solutions.

4:09:09 PM

REPRESENTATIVE FIELDS asked whether Mr. Shier felt like he had a sense of what the spread pricing is by different PBMs operating in Alaska.

MR. SHIER explained that the contracts are so many and so diverse that it is unknown. For the NCRX folks, the coalition discourages spread pricing though it can be used on the front end as a way to pay the per-member/per-month cost. For example, a PBM may say "$10 per member per month for us to manage your drug spend, but $9.50 if you let us use spread pricing and use that to help pay the bills." He said he cannot say what the

oversight is on those contracts, but sometimes it is actually "baked in."

4:10:04 PM

REPRESENTATIVE MINA referred to a comment Mr. Shier made, saying that only one of the measures would reduce costs and asked which measure he referred to.

MR SHIER explained that he was referring to the guaranteed fill rates tied to Medicare and noted that the language was changed to a rate set by the director of the Division of Insurance. He noted that it was unlikely to remain at or lower than its current level.

4:10:52 PM

CHAIR PRAX referred to the previous testifier who said that approximately 75 percent of the market was controlled by three or four PBM managers. He asked Mr. Shier to speak about the issue of competition.

MR. SHIER responded that there are three large PBMs. There are smaller PBMs that can be used, or a negotiating or purchasing solution such as NCRX can be hired. He further elaborated, explaining that some employees of NCRX had previously worked for the large PBMs and know "where the numbers are buried, and you can use them in their new role to do battle with some of the features of a PBM contract that do not meet the needs of your client." Specifically, NCRX takes direction from the consultants that advise the various trusts about how they can best control their drug costs. The consultants advise on such things as proper use, efficacy, alternatives, and step treatments. The consultants tell NCRX what must be in their contracts in order for them to use that service. They, in turn, "do battle with the PBMs" such as Consumer Value Store (CVS). Then those features are hammered out between the purchasing organization and the PBM. Many people do not directly deal with a PBM; it's through an insurance company, a third-party administrator (TPA), or a purchasing organization.

4:13:12 PM

REPRESENTATIVE FIELDS inquired whether NPRX is a PBM.

MR. SHIER responded that NPRX is a purchasing solution.

REPRESENTATIVE FIELDS questioned whether the Pacific Health Coalition uses PBMs right now or NPRX instead of PBMs.

MR. SHIER explained that the coalition had only one drug purchasing option in its array of contracts, and it's NCRX.

REPRESENTATIVE FIELDS asked whether it is accurate to say the coalition's concern is more about pricing to fill a prescription as opposed to regulating PBMs.

MR. SHIER responded that it's "a host of language in this bill which has many moving parts in different parts of the Alaska statutes that of a dozen of them we looked at, all of them contribute to higher pricing in one way or another." He explained that the coalition objects to the bill in general and instead would like to find non-legislative ways to confer and collaborate in order to find solutions.

REPRESENTATIVE FIELDS inquired what other provisions under HB 226, other than pricing to fill prescriptions, would have a negative impact on ERISA plans and beneficiaries.

MR. SHIER responded, "Those would include any willing pharmacy." He mentioned an eightieth percentile in terms of bringing specialty doctors to Alaska and said it actually contributed to a sharp increase in healthcare costs, such that specialty services are running five times what rates in Seattle are currently. He reiterated the phrase "any willing pharmacy" and said that essentially it removes incentive for pharmacies to contract and to agree to "initial or lightly negotiated increases in PBM features," including, for example, fill rates, reimbursement rates, and reporting requirements. He shared, "What we would expect to see in that market is pharmacies standing back and allowing somebody else to negotiate a rate, and they would negotiate a rate higher than normal, and the rest would step in the 30-day program and say, 'Okay. I'm here, now. I'd like some of that action.'" Mr. Shier then highlighted the importance of mail order, stating that the costs of mail order are typically somewhat less than having a prescription filled locally.

4:16:55 PM

BRITTANY KEENER, representing self, spoke in support of HB 226. She explained that she is the ambulatory pharmacy manager at the Alaska Native Medical Center (ANMC) and past president and president-elect of the Alaska Pharmacy Association. She

referred to and agreed with the testimony of Dr. Seignemartin, Mr. Wetzel, and Dr. Schaber. Ultimately, this bill will keep business in Alaska, protect patient safety, increase transparency, and allow patients to use the pharmacy of their choice. Ms. Keener described a circumstance in which a patient who lives in Point Hope went to Anchorage for oncology oral therapy treatment. The PBM deemed the infusion a specialty medication and would only mail the medication to the patient's address in Point Hope from the Lower 48. The patient often has delays in starting the cycle of treatment because it is time delineated, so this patient's treatment was delayed. She urged the representatives to move the bill from committee.

4:19:03 PM

BRENDA SNYDER, Director, State Government Affairs, CVS Health, spoke in opposition to HB 226. She opined that the bill would significantly increase prescription drug costs, drive up health care costs for Alaska families, increase costs for small businesses, and would do nothing to increase access to care for Alaskans. She said CVS provides a menu of options to help employers choose the best options for employee pharmacy benefits. She suggested that HB 226 eliminates the flexibility for employers and prohibits the use of cost control measures, ultimately driving up costs with a "one size fits all" model. She highlighted two measures from the bill which would affect costs: mandatory dispensing fees and pharmacy network restrictions. She referred to pricing structures that would be based on Medicaid rates which would result in increased costs to patients. Also, the restrictions on pharmacy networks inhibit the flexibility of administration of specialized medications, risking lower quality standards, access to care, and affordable health care.

4:21:54 PM

KAREN MILLER, Director, Denali Pharmacy, spoke in support of HB 226. She explained that she has been a pharmacist in Fairbanks for approximately 30 years. She is the director of Denali Pharmacy at Fairbanks Memorial Hospital. The pharmacy is contracted with PBMs and cannot negotiate the terms of the contracts. It's a take-it or leave-it situation, and if the pharmacy chooses to leave it, then a portion of the community cannot be served. As a staff pharmacist at the hospital, part of her job is to send patients safely out the door with their medications. Sometimes that is a delayed process because of where the patients must get their medications. Another concern

is fair reimbursement to the pharmacy. Because of the PBMs spread pricing, the pharmacy loses money on nearly every prescription. The pharmacy's parent organization asks how to make Denali Pharmacy sustainable. This bill will help level the playing field concerning how the pharmacy is treated by the PBMs. In addition, Ms. Miller spoke to the lack of safety precautions concerning white bagging and brown bagging medications.

4:24:57 PM

GARY STRANNIGAN, Premera Blue Cross and Blue Shield of Alaska, spoke in opposition to HB 226. He echoed the points made by Mr. Shier and Ms. Snyder. He was especially concerned with Section 14 of the bill which he believed would increase premiums by as much as 10 percent. He said the bill needed a lot of work and cautioned the committee against passing it.

4:26:26 PM

BARRY CHRISTENSEN, Owner, Island Pharmacy, spoke in support of HB 226. He explained that he is a second-generation Alaska family pharmacist. His father started Island Pharmacy in 1974. He explained that the future of his pharmacy and the patients it serves is in real jeopardy now. Island Pharmacy is the only pharmacy in Ketchikan that provides unique services such as compliance packaging and compounding of commercially unavailable medications. Since 2018, 25 percent of independent pharmacies have closed in Alaska. He expressed belief that the language in HB 226 would allow plan sponsors to save money while at the same time offering relief to independent pharmacies. He addressed Mr. Schier's comments about contract negotiations and explained that the PBM contracts are extremely complex and never favor independent pharmacies that employ Alaskans and serve the healthcare needs of fellow Alaskans. He thanked the committee for this important legislation and urged its support.

4:29:20 PM

DIRK WHITE, President, Pharmacy Association of Sitka, spoke in support of HB 226. He compared the work of his pharmacy to that of Island Pharmacy in Ketchikan with compliance packaging and compounding of medications otherwise not available. He discussed how employee health insurance has risen sharply. He then pointed to the testimony of the representatives from the coalition and the insurances companies who warned that this legislation would raise costs which then made him wonder how

rates could rise even more after such outrageous health insurance costs for employees and how much insurance rates have increased. He gave several examples of what he described as "shenanigans" by the PBMs. He closed his remarks by encouraging the committee to help keep Alaska small businesses open and support HB 226.

4:32:26 PM

CHAIR PRAX after ascertaining there was no one else who wished to testify, closed public testimony on HB 226.

4:32:34 PM

CHAIR PRAX announced HB 226 was held over.

4:32:43 PM

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at [4:33] p.m.