

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

March 20, 2024

1:35 p.m.

**MEMBERS PRESENT**

Senator Jesse Bjorkman, Chair  
Senator Click Bishop, Vice Chair  
Senator Elvi Gray-Jackson  
Senator Kelly Merrick  
Senator Forrest Dunbar

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 196

"An Act relating to drug and alcohol testing by employers."

- MOVED SB 196 OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 121

"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

**PREVIOUS COMMITTEE ACTION**

BILL: SB 196

SHORT TITLE: EMPLOYER DRUG AND ALCOHOL TESTING

SPONSOR(s): LABOR & COMMERCE

01/18/24	(S)	READ THE FIRST TIME - REFERRALS
01/18/24	(S)	L&C
03/08/24	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/08/24	(S)	Heard & Held
03/08/24	(S)	MINUTE(L&C)
03/20/24	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 121

SHORT TITLE: PHARMACIES/PHARMACISTS/BENEFITS MANAGERS  
SPONSOR(s): GIESSEL BY REQUEST

03/31/23	(S)	READ THE FIRST TIME - REFERRALS
03/31/23	(S)	L&C, FIN
02/08/24	(S)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
02/08/24	(S)	L&C, FIN
02/28/24	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/28/24	(S)	Heard & Held
02/28/24	(S)	MINUTE(L&C)
03/06/24	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/06/24	(S)	Heard & Held
03/06/24	(S)	MINUTE(L&C)
03/11/24	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/11/24	(S)	Heard & Held
03/11/24	(S)	MINUTE(L&C)
03/20/24	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

#### **WITNESS REGISTER**

LAURA ACHEE, Staff  
Senator Jesse Bjorkman  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided an overview of SB 196.

ED MARTIN, Co-owner  
Kee Construction LLC  
Kenai, Alaska

**POSITION STATEMENT:** Testified in support of SB 196.

SENATOR CATHY GEISSEL, District E  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 121.

JOHN ZASADA, Director  
Government and External Affairs  
Alaska Primary Care Association  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 121.

BALLARD SAUL, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 121.

PATRICIA WHITE, representing self

Sitka, Alaska

**POSITION STATEMENT:** Testified in support of SB 121.

MARK BOHRER, District Manager  
Fred Meyer Pharmacy of Alaska  
Chugiak, Alaska

**POSITION STATEMENT:** Testified in support of SB 121.

BRITTANY KARNES, representing self  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of SB 121.

LEIF HOLM, Owner  
Alaska Family Pharmacy  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of SB 121.

MARIANA SOCAL, representing self  
Baltimore, Maryland

**POSITION STATEMENT:** Testified in support of SB 121.

ARDIS WIEHL, representing self  
North Pole, Alaska

**POSITION STATEMENT:** Testified in support of SB 121.

SHAWNA KING, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 121.

KAREN MILLER, representing self  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of SB 121.

SAMATHA IRVIN, representing self  
Tok, Alaska

**POSITION STATEMENT:** Testified in support of SB 121.

ED MARTIN, Co-owner  
Kee Construction LLC  
Kenai, Alaska

**POSITION STATEMENT:** Testified in support of SB 121.

**ACTION NARRATIVE**

[1:35:49 PM](#)

**CHAIR JESSE BJORKMAN** called the Senate Labor and Commerce Standing Committee meeting to order at 1:35 p.m. Present at the

call to order were Senators Dunbar, Bishop, Gray-Jackson, and Chair Bjorkman. Senator Merrick arrived shortly thereafter.

**SB 196-EMPLOYER DRUG AND ALCOHOL TESTING**

[1:36:51 PM](#)

CHAIR BJORKMAN announced the consideration of SENATE BILL NO. 196, "An Act relating to drug and alcohol testing by employers."

[1:37:13 PM](#)

LAURA ACHEE, Staff, Senator Jesse Bjorkman, Alaska State Legislature, Juneau, Alaska, provided an overview of SB 196. She explained that SB 196 would allow employers to test employees for drug and alcohol use by taking oral fluid (saliva) samples. She stated that employers would be protected from lawsuits, provided they follow their written plan for drug and alcohol testing enacted in good faith. She noted that industry representatives would testify that SB 196 provides a convenient option, particularly in rural areas and places where restrooms are not readily available for urine testing. She recalled previous testimony that illustrated the need for alternative forms of testing and said that saliva testing would be effective in - and potentially eliminate - these situations. She added that saliva testing makes it easier to maintain a chain of custody, providing greater assurance that the sample is from the employee (which is done in a non-invasive manner).

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CHAIR BJORKMAN opened public testimony on SB 196.

[1:39:18 PM](#)

ED MARTIN, Co-owner, Kee Construction LLC, Kenai, Alaska, testified in support of SB 196. He stated that, as an employer, he supports drug testing and shared the circumstances under which he tests his employees. He emphasized that the drug testing is required by state law. He stated that he supports adding public officials and employees to the legislation.

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CHAIR BJORKMAN closed public testimony on SB 196.

[1:41:43 PM](#)

CHAIR BJORKMAN solicited a motion.

[1:41:46 PM](#)

SENATOR BISHOP moved to report SB 196, work order 33-LS1144\A, from committee with individual recommendations and attached fiscal note(s).

[1:42:05 PM](#)

CHAIR BJORKMAN found no objection and SB 196, was reported from the Senate Labor and Commerce Standing Committee.

[1:42:19 PM](#)

[At ease]

**SB 121-PHARMACIES/PHARMACISTS/BENEFITS MANAGERS**

[1:43:46 PM](#)

CHAIR BJORKMAN reconvened the meeting and announced the consideration of SPONSOR SUBSTITUTE FOR SENATE BILL NO. 121, "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."

CHAIR BJORKMAN also acknowledged the arrival of Senator Merrick.

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SENATOR CATHY GEISSEL, District E, Alaska State Legislature, Juneau, Alaska, moved to slide 2 of her SB 121 overview and briefly discussed the vertical integration of insurance companies and pharmacy benefits managers (PBMs). She directed attention to AETNA, which has CVS as its PBM, specialty pharmacy, preferred retail pharmacy, mail-order pharmacy, and provider services. She then directed attention to CIGNA, which uses Express Scripts, and United Healthcare, which uses OptumRx. She emphasized the extent to which these insurers, PBMs, and pharmacies are vertically integrated. She pointed out that they are Fortune 500 companies and the three largest (AETNA, CIGNA, and United Healthcare) control 80 percent of the pharmaceutical market in the United States and the 3 PBMs profit over \$350 billion each year. She stated that SB 121 would reign in the control that PBMs have over the state budget and listed some of the 39 organizations that are in support of this legislation. She stated that Congress is investigating PBMs and 39 states have similar legislation. The state of Alaska's PBM - Optum Rx - has been investigated in Ohio, where \$15 million in over charges were discovered. Similarly, in Louisiana, Optum Rx was sued for over charges believed to be in the billions of dollars. Massachusetts discovered \$5.8 million in overcharges. In West Virginia, Express Scripts was found to be charging 110 times the

National Average Drug Acquisition Cost (NADAC) price for a prostate cancer drug. She offered additional examples of PBMs charging similarly inflated rates - and payments were made to the PBM's own pharmacy (an example of vertical integration working to their benefit). A lawsuit in Ohio calls out Express Scripts, Humana, and others under the state anti-trust law.

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SENATOR GIESSEL directed attention to a letter from Congressman James Comer calling out the vertical integration and leverage that PBMs are exerting over federal and state budgets. She stated that the Federal Trade Commission (FTC) has an anti-trust probe into group purchasing organizations that these large PBMs have. She noted this is yet another new issue that has not been discussed previously. She briefly explained how these purchasing organizations work and noted that money is kept out of view through foreign accounts. She acknowledged that the Division of Retirement and Benefits vigorously opposes SB 121. She expressed confusion regarding this opposition and surmised that it may be due to significant staff turnover in the division over the past two years. She shared that her office has not met the person who is currently covering this issue for the division. She expressed concern that the division is not aware of how much money is being given to the PBM Optum Rx.

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SENATOR GIESSEL shared that a request for access to the contract between the state and Optum Rx was denied. However, they were able to access a small portion of the information by submitting a public information request. She noted that data comparing NADAC prices to what the state is paying was presented at the last hearing on SB 121. She explained that this only applied to the slice of data received from the PBM. She reiterated that the contracts are secret, which is a grave concern. She reiterated that DRB does not know how much money is being lost and lacks the capacity to investigate. She pointed out that DRB is currently seeking a new PBM contract and opined that this is the right time to make changes that will reign in PBMs and require transparency. She acknowledged that some smaller PBMs have transparent contracts and expressed her understanding that the Department of Labor utilizes one of these smaller PBMs. She listed the positive benefits of utilizing a PBM with transparent contracts and asserted that DRB needs to be able to do this; however, she expressed concern that the state's procurement process creates a barrier to researching and securing new contracts with other or smaller and transparent PBM's. She

commented that money lost to PBM contracts would be better utilized to fund state projects.

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SENATOR BISHOP asked if DRB has provided rebate transparency by showing the difference between what drug companies send Optum Rx and rebate amounts.

SENATOR GIESSEL replied no and added that she is not sure whether DRB has this information. She stated that this is not public information.

SENATOR BISHOP clarified that he is referring to the black box on slide 3.

SENATOR GIESSEL expressed her understanding and reiterated that she does not know if DRB has this information.

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CHAIR BJORKMAN opened public testimony on SB 121.

[1:54:55 PM](#)

JOHN ZASADA, Director, Government and External Affairs, Alaska Primary Care Association, Anchorage, Alaska, testified in support of SB 121. He stated that Alaska Primary Care Association (APCA) supports the operation and development of Alaska's 29 federally qualified community health centers and briefly described the comprehensive care and services provided to 1 in 6 Alaskans. He pointed out that Alaska health centers are required to provide pharmacy services to their patients - either in-house or contracted with outside pharmacies within the community they serve. He explained that APCA supports SB 121 because it protects patients from harmful PBM practices and guarantees them the choice of where they fill prescriptions. He stated that health centers are locally governed by the patients they serve and APCA believes that access to local pharmacies is vital. SB 121 safeguards patients from PBM practices that limit patient choice and threaten patient access to timely and safe pharmacy services and treatments. He expressed appreciation that this legislation also supports efforts to increase price transparency and access to effective and affordable prescriptions available.

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BALLARD SAUL, representing self, Anchorage, Alaska, testified in support of SB 121. He is the Clinical Pharmacy Manager at Providence Alaska Medical Center in Anchorage. He stated that

the PBMs - and the practice of "white bagging" and "brown bagging" pose a threat to patient's wellbeing. He explained that "white bagging" and "brown bagging" hinder the pharmacist's ability to ensure the delivery of safe and effective therapy to patients because they are unable to certify the integrity of the medications given to patients and provided examples. He opined that these practices can be problematic in any locale; however, they pose an increased risk in Alaska, where extreme temperatures and long delays are common.

1:59:10 PM

PATRICIA WHITE, representing self, Sitka, Alaska, testified in support of SB 121. She has been a pharmacist for over 45 years. She stated that over 300 pharmacies closed in the Alaska in 2023. She asserted that more are at risk of closing without significant PBM reform. She gave an example to show the need for local pharmacies and the unique services they provide. She stated that Alaska patients need to be the focus - not PBM profits. She explained that the Pharmacy Care Management Association (PCMA) represents PBMs and spends millions on marketing each year. She asserted that this does nothing more than increase PBM profits while putting patients at risk. She briefly discussed the control that PBMs hold over patients' prescription drug benefits. She stated that limiting the conflicts of interest that are inherent in PBM negotiations empowers patients to make their own healthcare decisions and decreases out-of-pocket costs while protecting access to community pharmacy services. She asserted that this could all be done without raising health insurance premiums. She explained that pharmacies often lose patients as a result of PBM requirements. She questioned what business can provide a service for less than it costs and added that the loss of local pharmacies will leave communities with pharmacy deserts while ensuring PBM control. She reiterated her support for SB 121.

2:01:28 PM

MARK BOHRER, District Manager, Fred Meyer Pharmacy of Alaska, Chugiak, Alaska, testified in support of SB 121. He stated that Fred Meyer is deeply committed to the state of Alaska and the wellbeing of over 3200 patients. He stated that SB 121 is a crucial step toward safeguarding patient rights by ensuring patient choice and empowering patients to make informed decisions about healthcare providers. In addition, PBMs would be subject to Alaska's Unfair Trade Practices and Consumer Protection Act. SB 121 would require fair and transparent reimbursement standards, thus protecting the longevity of local pharmacies. He explained how current PBM practices negatively

impact local pharmacies. He said that SB 121 is an opportunity to advance patient rights, improve outcomes, and promote fairness in the industry.

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BRITTANY KARNES, representing self, Fairbanks, Alaska, testified in support of SB 121. She said she is a lifelong Alaskan and gave a brief family, education, and work history. She said that she has observed how PBMs' unethical business practices destroy local pharmacies and explained that supporters of SB 121 are seeking fair regulation and fair business practices. She explained how the PBMs' reimbursement schedule is causing local pharmacies to close. She stated that drug prices have gone up, local pharmacies have had to close, and PBMs have gotten rich. She added that someone needs to "watch the watchdog." She explained that pharmacies provide additional services to patients - including when patients are forced to fill prescriptions via mail order and they have issues - and pharmacies do not receive reimbursement for any of these services. She emphasized that patients should have local prescription options and reasonable costs.

[2:06:28 PM](#)

LEIF HOLM, Owner, Alaska Family Pharmacy, Fairbanks, Alaska, testified in support of SB 121. He gave a brief business history and shared that instead of expanding, his business has had to consolidate. He explained that closure of his telehealth pharmacy was due to unfair reimbursement practices. He added that his pharmacy has experienced an employee crisis as a result of lack of capital due to consistently inadequate reimbursement. He shared that several independent pharmacies have closed in recent years and commented that this is an alarming trend. He denied the PBMs' claim that proponents of SB 121 are trying to get rich at the expense of patients. He expressed care for his customers and community and emphasized that the issues are not isolated to his business, but widespread throughout the state. He explained that costs continue to increase while reimbursements decrease and surmised that no other business has so little power to adjust costs for inflation. He emphasized that this unrealistic business model is forced on pharmacists daily.

[2:08:09 PM](#)

MARIANA SOCAL, representing self, Baltimore, Maryland, testified in support of SB 121. She said she is a physician and holds a PhD. She explained that her research has shown the incredible power held by PBMs in the US market, contributing both to the

high costs and low affordability prescription drugs. She stated that PBMs can profit above the prices negotiated on behalf of plan sponsors. They obscure prices and limit the information available to plan sponsors. She shared an example illustrating this. She asserted that adding transparency would help to resolve this issue. She stated that PBMs are not liable because they do not have fiduciary duties and added that having fiduciary duties would help to resolve this problem. She said that PBM - pharmacy integration further obscures prices and limits access. She stated that ensuring local pharmacy access and fair reimbursement would help to resolve this issue. She emphasized the need for PBM reform to reduce cost and increase prescription drug affordability.

[2:10:16 PM](#)

ARDIS WIEHL, representing self, North Pole, Alaska, testified in support of SB 121. She shared a brief personal medical history and her experience with PBMs, including negative experiences with mail order pharmacy shipments from the east coast of the United States. These shipments would arrive late and, on one occasion, her medication was shipped to Kansas instead of Alaska. She explained that the mail-order pharmacy would not send additional medication until it had tracked down the original shipment - and she was not allowed to have this prescription filled at a local pharmacy. Two weeks passed before she was able to receive her medication, at which time she experienced a reaction due to the lapse in doses. She emphasized that her experience with PBMs has caused her years of physical, emotional, and financial distress. She briefly described her experience. She urged passage of SB 121.

[2:13:25 PM](#)

SHAWNA KING, representing self, Anchorage, Alaska, testified in support of SB 121. She said she is a pharmacist at Providence Alaska Medical Center. She stated that the lack of PBM regulation allows mail-order only practices by insurance companies and results in the closure of local pharmacies. This limits access to medications, impacting the management of chronic diseases and limiting access to medicines needed to treat urgent medical issues (e.g. antibiotics). She stated that unfair trade practices mean that PBMs do not reimburse local pharmacies. In addition, PBMs claim to reduce medication costs but have failed to provide evidence of this. She expressed concern about "white bagging" which has caused several local infusion centers and infusion pharmacies to close. She stated that the infusion center at Providence Alaska Medical Center does not support this practice, as it compromises patient

safety. The unclear chain of medication custody violates the FDA Drug Supply Chain Security Act and shipping issues cause delays for patients in need of medication.

2:15:08 PM

KAREN MILLER, representing self, Fairbanks, Alaska, testified in support of SB 121. She is a community pharmacist at Denali Pharmacy in Fairbanks Memorial Hospital. She underscored her support of this legislation and shared how PBMs have negatively impacted local pharmacies in her area. She questioned how PBMs are saving money for patients and said she has seen patient co-pays increase. In addition, patients may be required to spend additional time in the hospital while doctors wait for prior authorization for medications - only to discover that the co-pay for the patient means the patient pays the majority of the cost for the medication. She questioned how putting the burden on the patient saves patients money. Providers must also spend extra time on the phone to have a pay claim approved. She stated that the PBMs are saving themselves money but questioned where the rebate money is going. She emphasized the need for transparency.

2:17:29 PM

SAMATHA IRVIN, representing self, Tok, Alaska, testified in support of SB 121. She said she works as a pharmacist and shared a brief history of her work at the local pharmacy in Tok, which opened in 2021. She expressed concern with PBM practices. She emphasized the importance of local pharmacy access for patients in rural areas. She shared some of the challenges residents faced prior to the local pharmacy opening. She stated that mail order medications and devices do not come with the necessary counseling. Residents from local and distant communities have expressed gratitude for the local pharmacy. She said that PBM practices pose a threat to local pharmacies. She stated that some PBMs require the use of their own mail order pharmacy and charge members a co-pay when they utilize the local pharmacy. She explained that Tok has an aging population, many of whom take multiple medications, and co-pays add up, forcing some residents to use mail-order pharmacies.

2:20:08 PM

ED MARTIN, Co-owner, Kee Construction LLC, Kenai, Alaska, testified in support of SB 121. He stated that Alaska Medicaid has a long list of preferred drugs. These drugs are provided by the state, through Medicaid, with Federal money. He said that this effects the State's bottom line, as Alaska has a large group of Medicaid recipients. He shared that he is on Medicare due to his age.

[2:21:52 PM](#)

CHAIR BJORKMAN closed public testimony on SB 121.

CHAIR BJORKMAN encouraged the submission of additional drug spend data and testimony. He has not received any additional data for 2023 or 2022. He explained that the committee would like to compare actual drug spend to the National Average Drug Acquisition Cost (NADAC) to get an idea of the impacts of SB 121. He emphasized that all testimony is welcome - whether in support of legislation or against. He pointed out that no one testified against SB 121 at this hearing - nor did anyone submit comments.

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SENATOR DUNBAR commented that opponents of SB 121 have testified that some portions conflict with the Employee Retirement Income Security Act of 1974 (ERISA) and that those portions are likely to be struck down in federal court. He asked whether the entire bill would be struck down in this case - or if only those portions that conflict with ERISA would be impacted. He requested an answer before the next hearing of SB 121.

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SENATOR GIESSEL replied that she would inquire with the Department of Law and Legislative Legal Services.

SENATOR DUNBAR shared his understanding that, at the federal level, a severability provision is included in legislation that may have portions struck down. He opined that it would be worth asking the Department of Law if something like this is necessary for SB 121.

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CHAIR BJORKMAN held SB 121 in committee.

[2:26:15 PM](#)

There being no further business to come before the committee, Chair Bjorkman adjourned the Senate Labor and Commerce Standing Committee meeting at 2:26 p.m.