

HB 2388 A STAFF MEASURE SUMMARY

Carrier: Rep. Nosse

House Committee On Health Care

Action Date: 03/29/17

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 9-0-0-0

Yeas: 9 - Alonso Leon, Buehler, Greenlick, Hack, Hayden, Kennemer, Keny-Guyer, Malstrom, Nosse

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Sandy Thiele-Cirka, LPRO Analyst

WHAT THE MEASURE DOES:

Grants authority to Department of Consumer and Business Services (DCBS) to deny, revoke or suspend a pharmacy benefit manager (PBM) registration. Specifies conditions by which the registration can be denied, revoked or suspended. Adds the definition of pharmacy. Directs DCBS to adopt rules for a process where the pharmacy or a pharmacy representative can file a complaint against a PBM. Removes the fee cap that DCBS may charge PBMs for registration or registration renewal. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Background on PBM registration laws
- 2016 budget note (HB 5701) directing DCBS to convene a work group to develop PBM recommendations and report
- Current PBM statutory framework
- DCBS's enforcement and oversight authority
- Review of the recommendations: registration and enforcement
- Issues not addressed by the work group
- Proposed amendments

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

Pharmacy benefit managers (PBMs) are intermediaries in a contractual relationship between wholesalers and manufacturers and health insurers or employers to administer drug benefit programs. Some PBM services include processing and analyzing prescription claims, contracting with a network of pharmacies, and developing and managing formularies and prior authorization programs. Currently, there are more than 40 entities registered as a PBM to do business in Oregon. Nationally, PBMs manage the drug benefits for an estimated 95 percent of all patients with drug coverage.

Senate Bill 5701 (2016) contained a budget note directing the Department of Consumer and Business Services (DCBS) to convene a work group to develop recommendations for rulemaking regarding PBM compliance.

Recommendations presented:

- **Registration** – The registration fee in statute reflects a limited role for the department in acting as a registrar of active PBMs in the state. The registration fee should be commensurate with actual program costs that are consistent with expenses involved in conducting investigations and enforcement actions. The department recommends the registration and renewal fee be set by rule.
- **Enforcement** – The department recommends minimal rule and legislative changes regarding enforcement. The work group expressed that it was clear the department has the tools under existing law to pursue enforcement

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of PBMs and preferred the department retain its flexibility and discretion in taking enforcement action. However, a statutory change would be necessary to grant the director the power to suspend or revoke a PBM's registration with respect to violations of the statute or of rules implementing the statute.