

HB 2388 A STAFF MEASURE SUMMARY

Carrier: Sen. Kruse

Senate Committee On Health Care

Action Date: 05/02/17

Action: Do pass the A-Eng bill.

Vote: 5-0-0-0

Yeas: 5 - Beyer, Knopp, Kruse, Monnes Anderson, Steiner Hayward

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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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 a pharmacy or pharmacy representative can file a complaint against a PBM. Removes fee cap DCBS may charge PBMs for registration or renewal. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Regulation of pharmacy benefit managers (PBMs) in Oregon
- DCBS enforcement authority of PBMs

EFFECT OF AMENDMENT:

No amendment.

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:** registration fee in statute reflects a limited role for the department in acting as a registrar of active PBMs in the state. Fee should be commensurate with actual program costs that are consistent with expenses involved in conducting investigations and enforcement actions. The registration and renewal fee should be set by rule.
- **Enforcement:** enact minimal rule and legislative changes regarding enforcement. Allow DCBS to maintain flexibility and discretion in taking enforcement action using existing tools. Propose a statutory change 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.

House Bill 2388-A provides DCBS with authority to take enforcement action and adopt a registration fee structure for PBMs in Oregon.