

HOUSE BILL REPORT

HB 2473

As Reported by House Committee On:

Health Care
Appropriations

Title: An act relating to protection against unfair prescription drug practices by pharmacy benefit managers.

Brief Description: Protecting against unfair prescription drug practices by pharmacy benefit managers.

Sponsors: Representatives Schual-Berke, Appleton, Moeller, Morrell and Cody.

Brief History:

Committee Activity:

Health Care: 1/20/06, 1/31/06 [DPS];

Appropriations: 2/4/06 [DPS(HC)].

Brief Summary of Substitute Bill

- Regulates Pharmacy Benefit Managers through the Consumer Protection Act, chapter 19.86 RCW.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Cody, Chair; Campbell, Vice Chair; Morrell, Vice Chair; Appleton, Clibborn, Green, Lantz, Moeller and Schual-Berke.

Minority Report: Do not pass. Signed by 5 members: Representatives Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander, Bailey and Condotta.

Staff: Dave Knutson (786-7146).

Background:

Pharmacy Benefit Managers (PBMs) procure prescription drugs for public and private entities and perform administrative services related to the administration of pharmacy benefits. These services may include mail order pharmacy, claims processing, payment of claims, formulary development, rebate contracting, and disease management activities. They act as an intermediary between the entities they contract with and pharmaceutical manufacturers.

Summary of Substitute Bill:

The PBMs owe a fiduciary duty to the entities they contract with. They are required to notify the entities they contract with in writing of anything that directly or indirectly presents a conflict of interest. The PBMs must follow the prescription drug substitution provision of chapter 69.41 RCW and RCW 70.14.050; the state preferred drug list. In addition, a substitution of a more expensive drug for a cheaper drug may be made for medical reasons that benefit the covered individual. The PBMs must disclose any benefit or payment received to the contracted entity that may result from a drug substitution.

Violations of this act will be treated as a violation of the Consumer Protection Act (Act), chapter 19.86 RCW.

Substitute Bill Compared to Original Bill:

Health Maintenance Organizations are exempted from the provisions of the Act. The PBMs will disclose benefits or payments they receive rather than passing along the entire benefit or payment.

Appropriation: None.**Fiscal Note:** Available.**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.**Testimony For:** There have been cases where the PBMs have not acted in the best interests of their clients. There is a lack of transparency in the dealings between a PBM and a pharmaceutical manufacturer.**Testimony Against:** The PBMs and their clients have a contractual relationship. A client can require a PBM to disclose any information they want through the contract.**Persons Testifying:** (In support) Representative Schual-Berke, prime sponsor; Bill Daley, Washington Citizen Action; Earl Lui, Consumers Union; Bruce Reeves, Senior Citizens' Lobby; Rick Bender, Washington State Labor Council; and Dennis Martin, Health Care Authority.

(With concerns) Dr. Art Zoloth, Northwest Pharmacy Services; and Dan Field and Rob Ashley, Kaiser Permanente.

(Opposed) Peter Harty, Allen Horne, and Christine Almeida, Express Scripts; Rick Wickman, Premera; and Mellani McAleenan, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Health Care be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Schual-Berke and P. Sullivan.

Minority Report: Do not pass. Signed by 13 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Hinkle, Pearson, Priest, Talcott and Walsh.

Staff: Owen Rowe (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill will lead to cost savings for the consumer by increasing transparency and accountability in the market place.

(With concerns) We are concerned that the disclosure provisions in this bill may stifle competition by undercutting negotiations between providers and pharmacy benefit managers and may drive up pharmaceutical costs. Both the Federal Trade Commission and the General Accounting Office have weighed in on legislation in other states and have recommended that this legislation does not pass.

Testimony Against: The fiduciary mandates in this bill will increase the costs of doing business to pharmacy benefit managers, and as a result will increase the costs of pharmaceuticals to consumers and to the state. This bill requires the transparency of proprietary information to competitors and will remove competitive relationships between pharmacy benefit managers.

Persons Testifying: (In support) Pamela Crone, Washington Labor Council.

(With concerns) Carrie Tellefson, Caremark Rx.

(Opposed) Charlie Brown, Medco Health Solutions,; and Mel Sorensen, Express Scripts.

Persons Signed In To Testify But Not Testifying: None.