

# SENATE BILL REPORT

## SB 5075

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As of January 22, 2021

**Title:** An act relating to expanding access to pharmacy services.

**Brief Description:** Expanding access to pharmacy services.

**Sponsors:** Senators Kuderer, Short, Conway, Das, Nobles, Saldaña, Stanford and Wilson, C..

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/22/21.

**Brief Summary of Bill**

- Requires a health benefit plans or pharmacy benefit manger (PBM) to accept a retail community pharmacy into its pharmacy network under its standard terms and conditions.
- Requires a health benefit plan or PBM to allow enrollees to fill any covered prescription at any in-network retail community pharmacy.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Staff:** Greg Attanasio (786-7410)

**Background:** Many health insurance carriers contract with a pharmacy benefit manager (PBM) to manage health plan pharmacy benefits, including network development with pharmacies, processing claims, maintaining a formulary, negotiating with manufacturers for rebates, and managing mail order services.

A community retail pharmacy is a licensed pharmacy that is open to the public, dispenses prescription drugs, and offers face-to-face consultation. A nonresident pharmacy is a licensed pharmacy located outside this state that ships, mails, or delivers prescription drugs into this state.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Bill:** A health benefit plan or PBM must accept any retail community pharmacy that requests to be a part of its pharmacy network if the retail community pharmacy accepts the terms, conditions, formularies, and requirements relating to dispensing fees, payments, reimbursement amounts, and any other pharmacy services of that network.

A health benefit plan or PBM must allow an enrollee or dependent, at the enrollee's or dependent's option, to fill any covered prescription that may be obtained by mail at any retail community pharmacy of the enrollee's or dependent's choice within the pharmacy benefit manager's retail pharmacy network.

A health benefit plan or PBM may not:

- require an enrollee or dependent to exclusively obtain a prescription from a nonresident pharmacy;
- impose a copay, fee, or other condition on an enrollee or dependent for using a retail community pharmacy that is not imposed for using a nonresident pharmacy;
- subject any prescription dispensed by a retail community pharmacy to a minimum or maximum quantity limit, length of script, restriction on refills, or requirement to obtain refills not imposed upon a nonresident pharmacy;
- require an enrollee or dependent to pay, in whole or part, for any prescription dispensed by a retail community pharmacy and seek reimbursement if the enrollee or dependent is not required to pay for and seek reimbursement in the same manner for a prescription dispensed by a nonresident pharmacy;
- subject an enrollee or dependent to any administrative requirement to use a retail community pharmacy that is not imposed upon the use of a nonresident pharmacy; or
- impose any other term, condition, or requirement pertaining to the use of a retail community pharmacy that materially and unreasonably interferes with or impairs the right of an enrollee or dependent to obtain prescriptions from a retail community pharmacy of their choice.

By March 31st each year, a health benefit plan or PBM must file a report with the insurance commissioner stating that the plan or PBM is in compliance with this act. The insurance commissioner may assess a fine of up to \$10,000 for each violation of this act and order corrective action. A health benefit plan or PBM may appeal any decision made by the insurance commissioner.

Failure of a health benefit plan or PBM to comply with an agreed upon contractual retail pharmacy network agreement affects the public interest and is an unfair or deceptive act or practice in violation of the Consumer Protection Act.

**Appropriation:** None.

**Fiscal Note:** Requested on January 16, 2021.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** January 1, 2022.

**Staff Summary of Public Testimony:** PRO: People should have a choice of where they obtain their prescriptions. Limiting access to community pharmacies will result in these pharmacies closing, which will limit access to face-to-face consultations and other services, including vaccines. Pharmacists should have the ability to serve their community. PBMs favor the pharmacies they own and exclude the ones they do not. Community pharmacies can be excluded from providing care when it is needed most and local pharmacies in rural areas are sometimes the only available provider.

CON: Health plans balance access to services to control costs. Managed care is an efficient way to deliver care. Any willing provider provisions are not a good standard for health care delivery. PBMs save money for plans and the state and much of the savings come from the use of nonresident pharmacies.

**Persons Testifying:** PRO: Senator Patty Kuderer, Prime Sponsor; Frank James, citizen; Jenny Arnold, Washington State Pharmacy Association; Richard McCoy, Lopez Island Pharmacy; Rick Hughes, Ray's General Store and Pharmacy.

CON: Chris Bandoli, Association of Washington Healthcare Plans; Mel Sorensen, America's Health Insurance Plans; Bill Head, Pharmaceutical Care Management Association; LuGina Mendez-Harper, Prime Therapeutics.

**Persons Signed In To Testify But Not Testifying:** No one.