

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 25, 2014

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the Committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting to order at 3:04 p.m., and thanked the Committee members for their comments on the Senate floor earlier in the day in discussing a bill that had been presented by a fellow Committee member, and he appreciated their support.

H 396 **Relating to Uniform Controlled Substances - amends existing law to provide that certain prescribers shall register for online access to the Controlled Substances Prescriptions Database: Representative Christy Perry** began the presentation by stating that this piece of legislation is geared to help curb the growing prescription drug abuse problem in Idaho. Deaths due to prescription drug overdose have increased and have overtaken car fatalities as a cause of death in the state. This legislation is one of a series of items that has been brought forth in the last few years by the Prescription Drug Abuse Workgroup working in conjunction with a long-term plan and a multi-prong approach to combat prescription drug abuse in Idaho. The legislation is basically ensuring that all controlled substance prescribers are to register for the Prescription Monitoring Program (PMP), both when they are being issued their license and when they are renewing their license. This step should allow for 100 percent coverage when it comes to controlled substance prescribers. She noted that the bill does not require veterinarians to register on the database.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 1).

TESTIMONY: **Elisha Figueroa**, Administrator for the Office of Drug Policy, stated the purpose of her appearance before the Committee is to give them information behind the issue at hand and the purpose of the legislation at this time. She gave the statistic that Idaho ranks 4th in the nation for pain medication abuse, and also that 20 percent of Idaho high school students reported they have abused a prescription drug. Another statistic she shared was that Idaho has experienced a 250 percent increase in drug induced deaths since the year 2000, so there is an obvious concern regarding this growing problem. She noted the previously referenced Prescription Drug Abuse Workgroup that has been formed to help plan, instigate action and implement strategies to combat the abuse issue. She stated that one of the approaches is to use, more fully than it is being used now, Idaho's "robust" PMP.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 2).

Mark Johnston, Executive Director for the Idaho Board of Pharmacy, started by giving a little history and insight to the PMP. The State's PMP was created by the 1997 Legislature and was the nation's second PMP, and there are now 49 such programs across the nation with a 50th one in progress. So Idaho has been a leader in this area and continues to be. He then went on to define the PMP through established statute, what it is, its role, and advancements through the years. He wanted to note that there will be a brand new system for the PMP that will be in place as of February 26, 2014 and they are excited for the changes and improvements this will provide.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 3).

DISCUSSION:

Senator Bock wanted to know the differences between this legislation and other similar legislation that has come before the Committee in previous sessions. **Mr. Johnston** responded that a few years ago there was a very progressive bill based on a Nevada requirement that the first time a doctor prescribes a controlled substance and annually after that, they are required to go to the PMP to check the patient, but this did not get passed. There are about 16 states that do have this mandatory use requirement, but **H 396** falls short of mandatory use, and just requires mandatory registration. There are about 13 other states that require mandatory registration as well, and it is their hope that this effort will curb the problem before having to go as strict with mandatory use.

Vice Chairman Nuxoll wanted to know what would happen if people are not required to register on the PMP, and why wouldn't it just be voluntary. **Mr. Johnston** answered that the registration on the PMP is required because with all of the efforts done over the last two years, only 38 percent of the prescribers are registered at this time for online use. It's a great tool that isn't being utilized enough and this legislation would mandate registration which is an online process that takes only minutes to do. **Vice Chairman Nuxoll** asked again why do they have to be required to register. **Mr. Johnston** stated that voluntary efforts have not worked to the level that they had anticipated in the name of public safety. **Vice Chairman Nuxoll** was curious as to what the safety issues are. **Mr. Johnston** said that every month they are able to identify at least 100 patients who have seen five doctors for the same controlled substance prescription. The record they have seen has shown one patient seeing 31 doctors in a month, which shows those 31 doctors did not go to the PMP, did not identify the illegal activity and continued to prescribe to the patient. Those drugs were not used by the one individual, but were most likely on the streets being sold to others. **Vice Chairman Nuxoll** wondered how registering on the PMP helped the problem. **Chairman Heider** stepped in to phrase it another way, that if a provider registered on the PMP yesterday, how does the doctor know a patient he has already seen is getting another prescription. **Mr. Johnston** responded that once the physician registers on the PMP for online use, then with a couple of keystrokes they can go online and look at the patient profiles for any patient in Idaho who's had a controlled substance dispensed to them, and try to determine if they are a "doctor shopper" or have inappropriately accessed controlled substances from other prescribers.

Senator Hagedorn wanted Mr. Johnston to expound on the issue of "data sharing", how that works between the different states, what kind of data is shared, etc... **Mr. Johnston** answered that this is a system that the National Board of Pharmacy has developed with 21 states sharing data between them effectively. You can choose the state(s) you wish to query and then receive back reports from those states, and it is up to those states' users to verify that the "authorized users" are in fact authorized. In all of the years of its operation there have been very few breaches because of the strong language in statute that applies criminal penalties for the misuse of wrong information as far as credentials and licenses of the registered physicians. **Senator Hagedorn** wondered with the states sharing information, what security concerns there might be on someone's personal data being compromised. **Mr. Johnston** stated that everyone shares a concern over the misuse of private data being taken, but assured the Committee that the processes are in place, technology wise, to protect the citizen's data. He said, that with all things, a breach is possible, but in the time he has been aware of this system, there have been very few issues around the country. It's up to each state to set its own standards and restrictions on security and address any abuses.

Senator Hagedorn wanted to clarify the statistic that deaths from controlled substance overdoses is greater than highway deaths, and what percentages of those deaths are due to direct prescription abuse by that individual; not from drugs the person had received from another individual who had abused the prescription system. **Ms. Figueroa** responded that she did not have that information at this time but would be happy to go back and research for the answer.

Senator Lakey wanted to clarify if the registration to the PMP is required no matter what, or just for the prescribers to obtain access to the database. **Mr. Johnston** answered that it is tied to a controlled substance registration, so if the provider wants to prescribe controlled substances in Idaho then they would also have to be registered to use the PMP, which is the same process upon license renewal on an annual basis.

Senator Martin noted that he can see how the database administrators can look at a pattern of abuse by individuals, but he doesn't understand how the doctors would be able to see it for themselves before prescribing for the same individual. **Mr. Johnston** stated that the doctor would be able to look up that individual patient to see their history and the other doctors they have been to for medications. By seeing a pattern of abuse, they can determine or decide to not fill another prescription for that person. **Senator Martin** wanted to know what percent of the doctors actually do go in and check the database before prescribing or denying. **Mr. Johnston** said that initially around 65 percent of the substances prescribed had first been looked at by someone to determine abuse, with that number being as high as 82 percent. They know that the doctors currently registered are using the system and it has been an effective tool for them. The general practitioners and dentists are the group that typically get "shopped" by abusers, and are the ones that are not using the system as much as they should be.

Vice Chairman Nuxoll stated that it was her understanding that any prescription is considered a controlled substance, and does this apply to things like vitamins and minerals if they have to be prescribed for larger dosage. **Mr. Johnston** clarified that not all prescription items are considered a controlled substance, but a small subset of prescription items are designated as controlled substances, especially those that can be abused or habit forming. **Vice Chairman Nuxoll** wanted to know if there was a specific list for those substances that would qualify for this legislation. **Mr. Johnston** responded that within the statute itself is a listing of those drugs that have been determined to be controlled substances.

TESTIMONY: **Molly Steckel**, Policy Director, Idaho Medical Association (Association), said that the Association represents about 80 percent of the physicians around the State. Since this legislation has an impact on the Association's membership, they do support it, even though there are some concerns, for the most part they are all in favor of it. She said some changes had been made to address physician concerns, and that was appreciated. She has seen that the older the physician the more resistance this system has generated since they have issues in general with getting more up to speed with advancing technology. The younger practitioners are more fully in support and see this as a great tool to use and are using it now. The Association is working to get the word out to their membership, encouraging them to use the system, and training them to get them up and going with it.

Representative Perry wanted to close by saying that she hoped the Committee members could see the value in this legislation and see that it is simply registration to keep track of what is going on. She went back to the question raised by Senator Hagedorn regarding the percentage of deaths from individuals who had gotten their own controlled substances versus people who got them from someone else. Even though she did not have that information at this time, she wanted to share some other statistics that were gathered in a two year period: 4 people died from codeine, 6 from heroin, 28 from morphine, 43 died from oxycodone, 54 from methadone, 68 from hydrocodone, and all of these are available to local school children for \$10-20 a pill. Another 92 died from drugs that were not specified. She also wanted to state that once everyone is on board and registered, then some of the medical associations and other stakeholders will be going through education efforts so people can truly understand the value.

MOTION: **Senator Martin** moved to send **H 396** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion.

Senator Bock wanted it noted that the prior legislation he had worked on with Mr. Johnston in this area was the result of two teenagers he knew, who died as a result of drug overdoses that were linked to prescriptions. For that reason, he feels this current legislation is very important and he will be supporting it.

Vice Chairman Nuxoll stated that she likes the idea but she has a problem with the privacy issues, drugs being obtained with or without the database in effect, and the fact that the registration has to be renewed each year.

Senator Guthrie said that he has a couple of grandchildren who are in high school and he has learned just enough from them to scare him, and he knows this prescription abuse is out of control. He also knows that privacy is a big issue now, but it was interesting to see that the younger physicians are supportive of this since they are more in tune with new technology, and he will be supporting the motion.

Senator Hagedorn voiced his concern over privacy, especially when connecting with other states, and not knowing how those other states will regulate the handling of personal data by others. He also knows that the prescription drug abuse is an important issue and this legislation is trying to help in those efforts. He is concerned and torn, especially since there is no real data to point to the prescription abuse and the deaths. He will be supporting the bill but wants to make sure that privacy concerns are or will be addressed.

Senator Bock also wanted to voice concern over the privacy issues with this system. His understanding of the system as it is now, is that the information is already out there for view, so this legislation is not changing anything in that regard, only mandating that providers register for the database.

Senator Hagedorn commented that he understands this legislation does not change the information that's already out there, but one of the sponsors had commented that all of the databases for the various states will be interconnected, and that is where his concern comes in.

The motion carried by **voice vote**. **Vice Chairman Nuxoll** wanted it recorded that she was voting nay. Senator Guthrie will carry **H 396** to the floor.

H 352

Relating to Public Assistance: Matt Wimmer, Bureau Chief of Medical Care at the Division of Medicaid (Division), stated that the Division is requesting this update to statute because of changes in federal funding for the small business health insurance premium assistance pilot program outlined in code for three different programs. Those programs are: Children's Health Insurance Program (CHIP) Plan A, CHIP Plan B, and the Small Business Health Insurance Pilot Program. The changes in this bill do not impact the CHIP A or CHIP B programs in any way. The changes modify only the small business health insurance pilot program. The premium assistance program was established under legislative direction in 2003. It helps purchase private insurance for individuals employed by small businesses. The Department of Health and Welfare informs and educates insurance agents and brokers about the program. These agents assist small businesses who have not previously provided health insurance benefits to enroll in the program.

Mr. Wimmer noted that this bill removes references to the Children's Access Card program, which lost federal support in September 2013. It also modifies the eligibility for premium assistance by making it available only to those with incomes of 100 percent of federal poverty or less. Individuals with incomes over that amount now have federally funded premium assistance available to them through the Idaho Health Insurance Exchange. These changes reduce the number of individuals who are covered under premium assistance, which is why there is a \$64,000 cost savings reflected in the fiscal impact statement for this bill. Those who no longer have coverage due to this change in federal funding have continuing coverage available through the Idaho Health Insurance Exchange or through other sources. The Division worked with the Centers for Medicare and Medicaid Services (CMS) to obtain a temporary extension to the federal support for those individuals. This bridge coverage allowed the individuals covered by premium assistance the opportunity to transition their coverage to the Idaho Health Insurance Exchange or other available coverage options.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 4).

Vice Chairman Nuxoll wanted to know if this legislation will put more people on Medicaid than we've had before. **Mr. Wimmer** responded that it does not. **Vice Chairman Nuxoll** asked if it puts more people on government assistance. **Mr. Wimmer** answered that it does not.

Senator Lakey pointed to the fiscal note for the legislation that states a savings of \$64,000 annually, and wanted to clarify if this legislation does not pass if that will mean an expense of the \$64,000. **Mr. Wimmer** confirmed that was correct, the \$64,000 would be needed to support the program since the federal funding is no longer in place to support it. **Senator Lakey** wanted further clarification on what might happen exactly if this legislation does not pass. **Mr. Wimmer** said there would be direction in existing statute on how to run a program that is no longer federally supported. **Senator Lakey** confirmed that there would be no federal funding but the State would still be required to run the program. **Mr. Wimmer** responded that is correct.

MOTION: **Senator Bock** moved to send **H 352** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion.

Senator Bock wanted to point out to the Committee, in taking a second look at the fiscal note, that with the \$64,000 positive impact, the reality is that if the program is continued, the State's share for Medicaid is 29 percent, which would mean the remaining 71 percent would be made up out of general fund revenues. This would then mean that the actual savings would be more than the \$64,000, and more in the neighborhood of \$180,000 if you consider that we as a state would have to spend that additional \$120,000.

The motion carried by **voice vote**. **Vice Chairman Nuxoll** wanted it recorded that she was voting nay. Senator Bock will carry **H 352** to the floor.

ADJOURNED: There being no further business to come before the Committee, **Chairman Heider** adjourned the meeting at 3:58 p.m.

Senator Heider
Chair

Linda Hamlet
Secretary

Linda Harrison
Assistant Secretary