

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 16, 2016

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Hagedorn, Martin, Harris, Schmidt and Jordan

**ABSENT/
EXCUSED:** Senators Lodge and Lee

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 of the Senate Health and Welfare Committee (Committee) to order at 3:00 p.m.

INTRODUCTION: **Alex Adams**, Executive Director of the Idaho State Board of Pharmacy (Board) informed the Committee that he will be presenting six bills for their consideration. He noted that all six bills presented in this meeting were deliberated in a public meeting in October 2015 and were posted on the Board's website 21 days in advance.

H 0335 **Relating to Controlled Substances.** **Alex Adams**, Executive Director of the Board, presented this bill.

Mr. Adams stated that this bill reflects the Board's statutory requirement to regularly update the State's controlled substance list as the Drug Enforcement Administration (DEA) makes changes to the federal controlled substances list. The DEA recently removed ioflupane from the federal controlled substances list. Ioflupane is a radiopharmaceutical used by nuclear medicine physicians to diagnose Parkinson's disease. This bill mirrors the DEA's action on ioflupane.

Chairman Heider asked the Committee members if they had any questions.

Senator Martin asked what ioflupane is. **Mr. Adams** answered that it is a radiopharmaceutical to assist in diagnosing Parkinson's disease.

MOTION: There being no more questions, **Senator Schmidt** moved to send **H 0335** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Senator Martin will carry the bill on the floor of the Senate.

H 0336 **Relating to the Board of Pharmacy.** **Mr. Adams**, Executive Director of the Board, presented this bill.

Mr. Adams stated that this bill addresses the term limits of Board officers. He explained the difference between Board members and Board officers. Board members serve five-year terms and can be reappointed to one consecutive term. Board officers are the chairman and vice chairman. The statute currently limits these officers to a one-year consecutive term. **Mr. Adams** noted that a survey of other boards within the State revealed that the Board is one of two boards with term limits for officers. This bill would remove the statutory term limits for Board officers.

Additionally, **Mr. Adams** indicated that this bill clarifies Board member compensation. Idaho Code § 59-509 sets the honorarium for Board members. This bill will increase Board member compensation from \$50 to \$100 a day. He indicated that the compensation has not changed since 1982. Another reason for the change is that some of the Board members are small business owners who have to close their business for a day when attending to Board duties. This bill has a fiscal note of \$6,700, which would be drawn from the pharmacy regulatory fund. **Mr. Adams** noted that the fiscal note covers the honorarium and Federal Insurance Contributions Act (FICA) taxes for Board members.

Chairman Heider asked the Committee members if they had any questions.

Chairman Heider asked if Board members receive a per diem in addition to the \$100 per day honorarium. **Mr. Adams** responded that Board members do receive an additional per diem, as well as travel compensation if they travel from out of town.

MOTION:

There being no more questions, **Senator Harris** moved to send **H 0336** to the floor with a **do pass** recommendation. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**. Senator Schmidt will carry the bill on the floor of the Senate.

H 0337

Relating to Prescriptions. **Mr. Adams**, Executive Director of the Board, presented this bill.

Mr. Adams stated this bill allows coroners and medical examiners to access the State prescription monitoring program for the purpose of determining causes of death.

Chairman Heider asked the Committee members if they had any questions.

Vice Chairman Nuxoll asked why coroners and medical examiners are added to the list of those able to access the database. **Mr. Adams** replied the Idaho Coroner Association requested access to the database. He mentioned that he sees public health merits in allowing access to help determine causes of death. He noted that he does not know why these individuals were not originally included.

Senator Schmidt asked if this bill would require medical examiners or coroners to enroll in the State prescription monitoring program. **Mr. Adams** answered that statute only requires mandatory enrollment for prescribers, except veterinarians. Therefore, enrollment would be optional for coroners and medical examiners. **Senator Schmidt** asked how medical examiners and coroners would get access to the database if they were not enrolled. **Mr. Adams** responded that there are various levels at which individuals can access the prescription monitoring data. Medical examiners and coroners would register for an account and search for a patient, but, just like law enforcement personnel, these individuals would have to request the Board manually release the personal record. Only prescribers and pharmacists have real-time online access to the database. **Senator Schmidt** inquired about Health Insurance Portability and Accountability Act (HIPAA) compliance. **Mr. Adams** replied that he believed requests from coroners and medical examiners were exempted from HIPAA because the patient is deceased. Explaining his concerns regarding HIPAA compliance, **Senator Schmidt** suggested that a query in the database might return multiple people with the same name, some of which may not be deceased. However, he stated his concern was alleviated because the Board has to approve each specific request.

MOTION: There being no more questions, **Senator Schmidt** moved to send **H 0337** to the floor with a **do pass** recommendation. **Senator Harris** seconded the motion. The motion carried by **voice vote**. Senator Schmidt will carry the bill on the floor of the Senate.

H 0338 **Relating to Legend Drugs. Mr. Adams**, Executive Director of the Board, presented this bill.

Mr. Adams stated that this bill will clarify who can possess legend drugs in their usual course of business. He reported that it had come to the Board's attention that midwives had been inadvertently left off the list. Midwives can dispense prescription medication, but they are not technically prescribers and were thus not covered under the statute. This bill adds midwives to the list of individuals who may possess legend drugs. Additionally, **Mr. Adams** stated that this bill also includes home health agencies and hospice agencies, who are allowed to possess legend drugs if they are using emergency kits. These kits include such medications as epinephrine pens. **Mr. Adams** clarified that this bill does not confer any new authority prescriptive or otherwise.

Chairman Heider asked the Committee members if they had any questions.

Senator Schmidt asked if Emergency Medical Service (EMS) personnel should be included. **Mr. Adams** responded that EMS usually work under a physician or hospital and thus the Board felt that these individuals were already covered under the statute.

MOTION: There being no more questions, **Senator Hagedorn** moved to send **H 0338** to the floor with a **do pass** recommendation. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**. Vice Chairman Nuxoll will carry the bill on the floor of the Senate.

H 0339 **Relating to Controlled Substances Storage. Mr. Adams**, Executive Director of the Board, presented this bill.

Mr. Adams stated that this bill adds drug storage requirements to statute. Federal law requires pharmacies have to keep controlled substances in a substantially constructed cabinet or safe. This bill states the expectation of the Board that pharmacies store controlled substances in accordance with federal law.

Chairman Heider asked the Committee members if they had any questions.

Senator Harris asked what constitutes a substantially constructed cabinet. **Mr. Adams** answered that this is not currently defined by the DEA or the Board. He stated that compliance officers have been tasked with taking photos of these cabinets during their inspections that do not meet the expectations. He noted that the Board intends to bring legislation next year to clarify this definition.

MOTION: There being no more questions, **Senator Harris** moved to send **H 0339** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Senator Harris will carry the bill on the floor of the Senate.

H 0340 **Relating to Contraceptives and Prophylactics. Mr. Adams**, Executive Director of the Board, presented this bill.

Mr. Adams stated that this bill repeals Chapter 8, Title 39 of the Idaho Code, which related only to the sale of non-prescription contraceptives and prophylactics. The original 1939 bill required those who sold these items to register with law enforcement. In 1949, the registration was moved under the purview of the Board. In 1982, a U.S. Supreme Court ruling struck down most of the provisions in related law in New York state. **Mr. Adams** reported that the Board has not enforced this section in at least two decades.

MOTION:

There being no questions, **Senator Hagedorn** moved to send **H 0340** to the floor with a **do pass** recommendation. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**. Chairman Heider will carry the bill on the floor of the Senate.

ADJOURNED:

There being no further business, **Chairman Heider** adjourned the meeting at 3:25 p.m.

Senator Heider
Chair

Karen R. Westbrook
Secretary

Michael Jeppson
Assistant