

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 17, 2016
TIME: 3:00 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Martin, Lee, Harris, Schmidt and Jordan
ABSENT/EXCUSED: Senators Hagedorn
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 3:09 p.m.

S 1294 **Relating to the Practice of Pharmacy.** **Pam Eaton**, Executive Director of the Idaho State Pharmacy Association, presented this bill.

Ms. Eaton stated that this bill amends Idaho Code to provide that pharmacists may prescribe and administer immunizations for individuals who are six years of age or older; current statute authorizes pharmacists to prescribe and administer immunizations for individuals who are 12 years of age or older. **Ms. Eaton** emphasized that this bill: (i) does not take away a parent's choice as to whether or not they immunize their child, (ii) does not take away an individual's choice of who administers an immunization, (iii) does not require pharmacies or pharmacists to provide and administer immunizations, and (iv) does not require pharmacies or pharmacists to lower the age to six years.

Ms. Eaton stated that Idaho has one of the five lowest vaccination rates among states in the U.S. She noted this low rate is partly due to parental choice. **Ms. Eaton** also indicated that Idaho has a low rate for children's influenza (flu) shots; children are part of the "high risk" population for contracting the flu. The main goal of this bill is to provide easier access for parents to obtain flu shots for their children, if they wish to do so. **Ms. Eaton** noted that the change is convenient, cost effective and increases access. She stated that 41 states allow pharmacists to administer vaccines to children under 12 years of age. Of these 41 states, 30 states allow pharmacists to administer vaccines to children under six years of age, and 26 of which set no age restrictions regarding pharmacists vaccinations.

Ms. Eaton then addressed questions and concerns that have been raised regarding this bill. First, **Ms. Eaton** indicated that individuals have voiced concern that pharmacists are not reporting into Idaho's Immunization Reminder Information System (IRIS). **Ms. Eaton** stated that 65 percent of Idaho pharmacies are reporting to IRIS. Pharmacies that were not reporting to IRIS were asked why this was the case; pharmacies responded that they either (i) did not realize they should report or (ii) they never learned how to register or report. Idaho State Pharmacy Association (ISPA), the Idaho Retailers Association and the Board of Pharmacy are currently conducting an educational campaign to inform pharmacists about IRIS reporting. **Ms. Eaton** reminded the Committee that the Board of Pharmacy has established record keeping requirements (see attachment 1). Second, **Ms. Eaton** addressed a concern regarding double vaccination because a pharmacist does not have access to the child's full medical record. She stated that IRIS is meant to prevent this from happening. **Ms. Eaton** discussed potential circumstances in which physicians and

nurses may also administer a double dose of a vaccine. She indicated that if a double dose of a vaccine was administered, there is no additional danger to the patient. Third, **Ms. Eaton** spoke to the concern of parental consent. She indicated that a survey of pharmacy consent forms across the State shows each form requires a parent or guardian signature. Consent forms are required to be completed before any immunizations are administered. Under the record keeping rule, pharmacies are required to keep completed informed consent forms. Pharmacists must follow all informed consent statute.

Ms. Eaton remarked that all pharmacy graduates are highly trained in immunization techniques. The Idaho State University School of Pharmacy teaches immunization techniques and guidelines during the course of their studies. Pharmacists are required to complete one hour of continuing education (CE) credit on this topic every year. She noted there has not been a single complaint since pharmacists have been allowed to administer immunizations in Idaho. Pharmacists administer approximately 25 to 30 million immunizations each year, nationally. She reiterated that this bill does not take away choice, but it is designed to bring convenience to parents.

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

Senator Martin asked why the age of six was chosen instead of another age. **Ms. Eaton** responded that age 6 was in line with statutes in many other states and was chosen because that is when kids normally begin school. **Senator Martin** asked what types of vaccines may be offered by pharmacists. **Ms. Eaton** replied that pharmacists primarily distribute influenza (flu) shots. She stated that there is one set of vaccinations recommended for children at 10 years of age that pharmacists would be allowed to administer. **Ms. Eaton** noted that pharmacists follow Centers for Disease Control (CDC) recommendations regarding the appropriate age for administering the various vaccinations.

Vice Chairman Nuxoll commented that federal law recognize vaccines kill and disable some recipients; the U.S. Supreme Court has recognized that vaccines may cause injury or death for some recipients; the U.S. government has paid more than \$3 billion dollars to victims of vaccine injury; and hundreds of thousands of individuals experience adverse reactions to vaccinations. She asked whether pharmacists make sure parents understand (i) the voluntary nature of vaccinations and (ii) the possible negative consequences from receiving vaccinations. **Vice Chairman Nuxoll** indicated that she has received comments from constituents who oppose vaccinations. She mentioned that her concern is that pharmacists may not know the medical history of the patient and may not follow-up with the patient. She reiterated her questions regarding whether parents understand the voluntary nature of vaccines and whether parents are properly notified of potential adverse effects. **Ms. Eaton** responded vaccinations are voluntary. She commented that vaccination consent forms do address Vice Chairman Nuxoll's concerns. She noted that anyone who administers an immunization is required by law to disclose the side effects of that immunization and any other risks. She stated that she believed pharmacists might do a better job of informing their patients than physicians because pharmacists are trained to counsel patients regarding medications. **Vice Chairman Nuxoll** asked what happens if there is an adverse reaction immediately upon vaccination. **Ms. Eaton** answered that pharmacists instruct the patient to follow-up with them and their physician. She noted that most people go to the same pharmacy and therefore pharmacists have more records of allergies and medication reactions than physicians. **Vice Chairman Nuxoll** asked if vaccination consent forms expressly state that vaccinations are voluntary and could result in adverse reactions. **Ms. Eaton** answered that pharmacists review those questions during the counseling portion of the treatment. She indicated that most forms have some language regarding adverse reactions. **Ms. Eaton** distributed examples of pharmacist vaccination consent forms for review by the Committee (see attachment 2).

Senator Jordan asked if the Idaho Childhood Immunization Policy Commission has reviewed this bill and if it had any recommendations. **Ms. Eaton** replied that this bill was not sent to the Commission, however the Immunization Coalition was aware of this bill. There was no specific attempt to ask any group, board or coalition for support of this bill.

Senator Harris asked when most children receive their first set of vaccinations. **Ms. Eaton** responded that most children receive their first set of vaccinations at approximately three months old. **Senator Harris** asked who administers the first set of vaccines. **Ms. Eaton** answered that, in her experience, a nurse in the physician's office administered vaccinations.

TESTIMONY: **Chairman Heider** invited testimony.

Misty Gardner stated that she was speaking on behalf of Leslie Manookian, the NVIC Advocacy, Health Freedom Idaho, Vaccination Liberation, Vax Rights Idaho, Naturopathic Doctors, Chiropractors and over 1,000 citizens who are opposed to **S 1294**. She argued that pharmacists are not following the current Idaho Code § 39-4804, requiring health workers to notify parents that vaccines are not mandatory in Idaho and that participation in IRIS is voluntary. However, she stated that the Board of Pharmacy rules do not require parents to be notified of the same. **Ms. Gardner** stated that vaccine makers and health care providers who administer vaccines have no liability for injuries and death caused by vaccines. She noted that federal and State law require all health care providers report adverse reactions to the Vaccine Adverse Reporting System (VARS). **Ms. Gardner** indicated that three pharmacists informed her that they do not report to VARS. **Ms. Gardner** illustrated her concerns by reporting that (i) the U.S. Supreme Court has recognized that vaccines are unavoidably unsafe and may cause injury or death for some recipients and (ii) the U.S. government has paid out more than \$3.5 billion to the victims of vaccine injury. She told the Committee that children currently receive 69 doses of vaccines for 16 different viral and bacterial illnesses and the safety of this schedule has never been proven. **Ms. Gardner** described conversations she had with a local pharmacist who indicated that they would not report vaccinations to either her primary care physician or VARS. She reiterated her belief that pharmacists were violating Idaho Code. In conclusion, **Ms. Gardner** stated that pharmacists should not be allowed to administer vaccines to children between the ages of 6 and 12.

Recognizing Ms. Gardner's general concerns regarding vaccinations, **Senator Martin** asked Ms. Gardner to address her specific concerns with allowing pharmacists to administer vaccinations to children age 6 to 12. **Ms. Gardner** responded vaccines may cause harm and should be discussed between a patient and physician.

Also recognizing Ms. Gardner's general concerns regarding vaccinations, **Senator Schmidt** asked if Ms. Gardner has had her children immunized at a pharmacy. **Ms. Gardner** replied that the first of her four children had an averse reaction to a vaccine. She stated she is not against vaccines, but people should have choice and be properly informed to make an educated decision regarding vaccinations. Regarding Ms. Gardner's testimony that pharmacists are violating Idaho Code, **Senator Schmidt** stated that reporting to IRIS is not required unless pharmacists are using State-sponsored immunizations. He stated that, based upon specific scenarios illustrated in her testimony, it was unclear whether pharmacists in those scenarios were violating the law.

Ms. Eaton followed-up the previous testimony with a few remarks. She indicated that the act of bringing a child into a pharmacy is voluntary and thus acknowledges the voluntary nature of vaccines. She stated her belief that pharmacists are informing patients about the voluntary nature of vaccines. She reiterated that reporting to IRIS is voluntary. In conclusion, **Ms. Eaton** reiterated that there have been no problems or complaints reported since the time that pharmacists have been allowed to administer immunizations.

Chairman Heider reminded the Committee that this bill only changes the age from 12 years old to 6 years old and does not change other provisions related to vaccinations in Idaho.

With the permission of the chairman, **Senator Lodge** asked Alex Adams, the Executive Director of the Idaho Board of Pharmacy, if he knew of any reports of pharmacists violating the laws that have been mentioned. **Mr. Adams** answered that the law in question has been in place since 2011. He noted that the Board of Pharmacy's compliance staff reported to him that there have been no complaints regarding pharmacists administering immunizations. **Senator Lodge** asked if pharmacists have access to the medical history or records of patients. **Mr. Adams** replied that pharmacists are required by State statute to keep an electronic record of certain information. This information includes allergy history, medication history and other related records. He stated that the Health Insurance Portability and Accountability Act (HIPAA) would not apply because if a pharmacist is acting in the usual course of practice for patients under her care, that information could be shared from another medical professional. He noted that the informed consent forms contain a series of questions relating to allergies. The answers to these questions would filter out patients who might have adverse reactions to vaccines and would prompt further questions from the pharmacist to determine whether someone was an appropriate candidate to receive a vaccine.

MOTION:

There being no further questions, **Senator Martin** moved to send **S 1294** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion.

Vice Chairman Nuxoll commented that her questions had not been sufficiently addressed. She stated that the Idaho Department of Health and Welfare and school districts make vaccinations appear to be mandatory when Idaho Code states that they are voluntary. People do not know that these vaccinations are voluntary. She noted that there is concern among some parents. **Vice Chairman Nuxoll** reiterated her concern that less can be done if a physician is not present during an adverse reaction to a vaccine. She stated her opposition to the bill.

Senator Jordan indicated that she would be more comfortable with this change if it had been vetted by the Idaho Childhood Immunization Policy Commission and through the review process established in Idaho Code. She is concerned that the modification proposed in the bill is retail driven. She stated her preference to hold the bill until it can be properly reviewed.

**SUBSTITUTE
MOTION:**

Senator Jordan moved to hold **S 1294** in Committee until the proposed changes are reviewed under Idaho Code § 39-4805. **Vice Chairman Nuxoll** seconded the substitute motion. The substitute motion failed by **voice vote**.

**VOTE ON
ORIGINAL
MOTION:**

Chairman Heider returned to the original motion to send **S 1294** to the floor with a **do pass** recommendation. The original motion carried by **voice vote**. **Vice Chairman Nuxoll** and **Senator Jordan** asked to be recorded as voting nay. Senator Martin will carry the bill on the floor of the Senate.

S 1268

Relating to the Council on Developmental Disabilities. **Christine Pisani**, Executive Director, Idaho State Council on Developmental Disabilities (Council), presented this bill.

Ms. Pisani began by discussing the role of the Council. This bill seeks to change Idaho Code § 67-6704 regarding Council membership. Individuals applying for certain council positions would no longer be restricted because they work for a State agency or local organization that receives funds for or provides services to persons with developmental disabilities, except as limited by federal law. **Ms. Pisani** stated that this proposed change will address the Council's current recruitment and retention issue. She indicated that the proposed changes were vetted with the Council's attorney general and the Governor's office.

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

Senator Schmidt asked why Idaho Code has a prohibition like this for membership on the Council. **Ms. Pisani** answered that the original statute was written in 1975 and the original concern was a conflict of interest. She noted that people who have experience with developmental disabilities are well suited to assist others in similar situations.

Senator Lee commented that it is difficult to find people to serve on boards. She indicated her concern regarding potential conflicts of interest. She asked if the Council had considered other outreach efforts to broaden the Council's perspective. **Ms. Pisani**

Pisani replied the Council does not conduct a lot of outreach. She stated that Council members themselves are heavily relied on to recruit those who they think would be good Council members. She noted that the intent of this bill is to remove the restrictions on applications. She remarked that the Council could place language in its bylaws and rules that would limit the number of members serving on the Council and working in the field of developmental disabilities.

MOTION: There being no more questions, **Senator Harris** moved to send **S 1268** to the floor with a **do pass** recommendation. **Senator Jordan** seconded the motion.

Vice Chairman Nuxoll stated her concern that this change would make the communication with the public more difficult. She stated she was also concerned that this Council would become a board of State agency employees. She indicated she would not be voting in favor of the bill.

The motion carried by **voice vote**. **Vice Chairman Nuxoll** and **Senator Lee** asked to be recorded as voting nay. Senator Jordan will carry the bill on the floor of the Senate.

H 0373 **Relating to Legend Drugs.** **Ross Edmunds**, Administrator of the Division of Behavioral Health in the Department of Health and Welfare (Department), presented this bill.

Mr. Edmunds reviewed the prescription assistance program. This program allows the Department to match patients who utilize psychotropic medications with pharmaceutical companies that provide these medications for free based on income and certain demographics. He indicated that this program saves the State approximately \$4 million dollars a year. He gave a straw man scenario as an example. He explained that this bill modifies the Legend Drug Act to allow the Department to donate leftover medications that have been maintained under Department control. This bill also allows the Department (through its regional behavioral health clinics) to receive donations of these drugs. This process does not currently comply with Board of Pharmacy regulations. The Department has worked with the Board of Pharmacy in order to get a stay from the regulations in order to put together this legislation.

Mr. Edmunds explained that being able to donate medications to itself saves the Department and the State of Idaho \$1.5 million a year.

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

Chairman Heider asked who the prescribers of these types of drugs are in this scenario. **Mr. Edmunds** answered that physicians and psychiatrists who are either employed or contracted by the Department are the prescribers, as well as the mid-level prescribers, which include physician assistants and nurse practitioners. **Chairman Heider** asked if this bill conflicts with the Board of Pharmacy regulations. **Mr. Edmunds** replied that the Department presented this bill to the Board of Pharmacy and the Board of Pharmacy approved it.

Senator Jordan asked if there is a prescribed time period in which a patient is required to pick up a prescription before it is deemed unneeded. **Mr. Edmunds** responded that there is no rule or statute for this issue. However, **Mr. Edmunds** described the typical practice of the Department and noted that approximately 60 days is allowed to pass before medication is even considered for use for another patient. **Mr. Edmunds** declared that every effort is made to contact the original patient.

Vice Chairman Nuxoll asked if the medications are contained in closed bottles. **Mr. Edmunds** replied that the medication has to be kept in its original packaging. This is most often individually wrapped.

MOTION: There being no more questions, **Vice Chairman Nuxoll** moved to send H 0373 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.

ADJOURNED: There being no further business, **Chairman Heider** adjourned the meeting at 4:15 p.m.

Senator Heider
Chair

Karen R. Westbrook
Secretary

Michael Jeppson
Assistant