

MINUTES
HOUSE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 04, 2020

TIME: 9:00 A.M.

PLACE: Room EW20

MEMBERS: Chairman Wood, Vice Chairman Wagoner, Representatives Vander Woude, Gibbs, Blanksma, Kingsley, Zollinger, Christensen, Lickley, Remington, Chew, Rubel, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Larry Johnson, CVS Health; Tim Olson, AHIP; Melissa Starry, Albertsons; Anthony Hollis, HFP; James Hollis, Hollis Family Pharmacy; Eric Schlerf, Custom Rx Pharmacy; Doug Fuchs, Dick's Pharmacy; Rob Geddes, Albertsons Pharmacy; Melinda Merrill, NW Grocery Assoc.; Dean Cameron, Director; Lee Flinn, Id. Primary Care Association

Chairman Wood called the meeting to order at 9:00 a.m.

MOTION: **Rep. Lickley** made a motion to approve the minutes of the January 15 and 27, 2020, meetings. **Motion carried by voice vote.**

H 386: **Pam Eaton**, President, CEO, Idaho Retailers Association and Idaho State Pharmacy Association, presented **H 386**. Prescription Benefit Managers (PBMs), third party administrators, contract to manage prescription drug programs. The current PBM practices have led to the need for transparency and fair business practices.

This legislation requires annual PBM registration with the Department of Insurance (DOI), using existing processes. The registration fee is \$80. Gag clauses are prohibited to allow pharmacists to inform patients how to pay less for prescriptions. Transparency is ensured for maximum allowable costs (MAC) determinations and regular price change updates are required. Retroactive claim denial or reduction of reimbursements, except for legitimate reasons, are prohibited. This provides transparency over regulation and recognizes the unusual retail channel of pharmacies.

Answering committee questions, **Ms. Eaton** said the existing DOI process is used for other healthcare and prescription entities. If issues arise the pharmacy can contact the DOI, who would then contact the PBM. Similar legislation in other states shows a positive impact for pharmacies and their ability to stay in business. Patients with mail order prescriptions turn to their pharmacists when they have questions.

Larry Johnson, CVS Health, testified in **opposition** to **H 386**, expressing concerns regarding the low percentage of interactions this impacts, unclear registration language, the fee limit, inadequate amount of time listed for reimbursement claims, and the effect on performance contracts.

Tim Olson, American Health Insurance Plans, testified they are **neutral** to **H 386**, requesting language clarification. They agree with the concerns expressed by **Larry Johnson's** testimony. This is a complex issue.

Anthony Hollis, Pharmacy Owner, testified **in support of H 386**. He shared his experience with the PBM enrollment process, the \$1,200 application fee, ten to twelve week time frame, lack of response from the enrollment department, and a call for help to **Sen. Fulcher's** office. In comparison, Medicaid enrollment took seven days and there was no fee. The resulting wait caused a delay opening his pharmacy. Answering a question, Mr. Hollis stated neither he nor Sen. Fulcher's office received a response, although they suddenly received their contract.

Eric Schlerf, Pharmacist, Custom Rx Pharmacy, testified **in support of H 386**. It used to be rare to be reimbursed for medication at a lesser amount than they paid. Now it is common, forcing pharmacies to make up the difference by cutting their labor force and using other methods, such as charging for deliveries.

Doug Fuchs, Pharmacist, Pharmacy Owner, testified **in support of H 386**. The PBM formulary lists name brands instead of generics, which may not be covered by insurance. Big pharmacies are paying to have their products on the formulary. Difficult to understand PBM contracts are not negotiated. The PBM-owned pharmacies can fill prescriptions at a higher quantity than allowed to independent pharmacies, with no price difference. Imposed refill limitations encourage customers to go to the PBM-owned pharmacies. The PBMs do not give any explanation when MAC payments are below the pharmacy's cost and not within the Star Rating.

Rob Geddes, Abertsons Pharmacies, Director, Pharmacy Legislative and Regulatory Affairs, testified **in support of H 386**. These steps protect the pharmacies and assure the rural pharmacies do not become pharmacy deserts. He shared an example of two PBMs merging and changing the MAC list. The subsequent appeals would require 400 hours and two full-time employees. Claims are denied, even during the two-step submission process, without any basis or support information.

MOTION: **Rep. Lickley** made a motion to send **H 386** to the floor with a **DO PASS** recommendation.

Melinda Merrill, Northwest Grocery Association, testified **in support of H 386**. This strong bill has been sparsely designed on purpose. Existing processes can be used without further legislation.

For the record, no one else indicated their desire to testify.

SUBSTITUTE MOTION: **Vice Chairman Wagoner** made a substitute motion to send **H 386** to General Orders.

AMENDED SUBSTITUTE MOTION: **Rep. Zollinger** made an amended substitute motion to **HOLD H 386** in committee.

ROLL CALL VOTE: Roll call vote was requested. **Amended substitute motion failed by a vote of 3 AYE and 10 NAY. Voting in favor** of the amended substitute motion: **Reps. Wagoner, Zollinger, Christensen. Voting in opposition** to the amended substitute motion: **Reps. Wood, Vander Woude, Gibbs, Blanksma, Kingsley, Lickley, Remington, Chew, Rubel, Davis.**

ROLL CALL VOTE: Roll call vote was requested. **Substitute motion failed by a vote of 4 AYE and 9 NAY. Voting in favor** of the substitute motion: **Reps. Wagoner, Blanksma, Zollinger, Christensen. Voting in opposition** to the substitute motion: **Reps. Wood, Vander Woude, Gibbs, Kingsley, Lickley, Remington, Chew, Rubel, Davis.**

VOTE ON MOTION: **Chairman Wood** called for a vote on the original motion to send **H 386** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Vander Woude** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 10:21 a.m.

Representative Wood
Chair

Irene Moore
Secretary