

MINUTES
HOUSE HEALTH & WELFARE COMMITTEE

DATE: Thursday, March 09, 2023

TIME: 9:00 A.M.

PLACE: Room EW20

MEMBERS: Chairman Vander Woude, Vice Chairman Erickson, Representatives Blanksma, Kingsley, Mitchell, Dixon(24), Gallagher, Healey, Redman, Wheeler, Chew, Rubel, Roberts

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheet will be retained in the committee secretary's office; following the end of session the sign-in sheet will be filed with the minutes in the Legislative Library.

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

H 270: **Rep. Jordan Redman**, District 3, presented **H 270**, legislation addressing the auditing pharmacy records and the overreach of Pharmacy Benefit Managers (PBMs). He declared Rule 80, stating a possible conflict of interest.

Pam Eaton, Idaho Retailers Association, Idaho Pharmacy Association, further presented **H 270**. She explained **RS 30624** is the same legislation with the addition of negotiated changes to clarify audit exceptions, requirements, and provide oversight for conformity. Direction is made regarding contracts, notices, audit procedures, reporting findings, fines, and appeals.

Responding to questions, **Ms. Eaton** explained should the specifying language for clerical errors be insufficient, future legislation can be brought forward. Clerical error fines was the top complaint by the pharmacies. Stipulation is made for equality between pharmacies, including PBM-owned pharmacies.

Douglas Fuchs, Pharmacy Owner, testified **in support of H 270**. Audits should be random and include lower priced drugs. His last audit reviewed only drugs costing \$100 or more, which is a small percentage of their overall sales. If an audit of this type is lost the resulting revenue loss could be over \$20k.

Tyler Higgins, Idaho State Pharmacy Association, Pharmacy Owner, testified **in support of H 270**. He shared his opinion the on-site audit costs are paid from expected fines. Similar legislation in another state has cleaned up the audit process and eliminated on-site audits.

Donald Smith, Pharmacist, Pharmacy Owner, testified **in support of H 270**. He said a recent audit of fifty prescriptions included twenty high-cost insulin prescriptions.

Rob Geddes, Albertson's Companies, Pharmacist, testified **in support of H 270**. He explained the PBM audits calculate patient usage differently than the pharmacies. This results in a reported clerical error and an audit exception. Large pharmacies have teams dedicated to dispute the audit findings. Independent pharmacy owners do not have that support. This legislation assures a healthy market.

Jason Reading, Pharmacy Owner, testified **in support** of **H 270**. Currently the PBM can recoup the total cost of the prescription when there is a minor clerical error, even when it was handled as requested by the physician. Records must be kept in a variety of ways to address audits by different PBMs. This legislation will keep it fair for all involved.

Marcus Hurst, testified **in support** of **H 270**. He helped the oldest pharmacy in Idaho close its doors on December 1, 2022, due to the losses from negative reimbursements and excessive PBM audits. PBM contracts do not allow pharmacists to reach out to insurance companies.

Brian Stewart, Independent Community Pharmacist, testified **in support** of **H 270**. He said the PBM audits focus on expensive medications under the guise of patient safety. Almost all audit discrepancies can be corrected in thirty seconds through electronic re-billing and have no impact on patient care or safety.

MOTION: **Rep. Healey** made a motion to **HOLD H 270** in committee. **Motion carried by voice vote.**

MOTION: **Rep. Healey** made a motion to introduce **RS 30624** and recommend it be sent directly to the Second Reading Calendar. **Motion carried by voice vote.** **Rep. Redman** will sponsor the bill on the floor.

H 224: **Rep. Brooke Green**, District 18, presented **H 224** to codify the best practices for pelvic exams for unconscious individuals. One existing practice, which is not used in Idaho, allows a medical student to conduct a physician supervised pelvic exam for educational purposes. Specification is made to caveats and holding physicians accountable.

MOTION: **Rep. Healey** made a motion to send **H 224** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Green** will sponsor the bill on the floor.

H 244: **Rep. Julianne Young**, District 30, presented **H 244**. This legislation replaces **H 64** and addresses concerns raised during the previous hearing. The change stipulates facilities cannot implement precautions more stringent than required of their staff. Residents have the ability and protection to decide who visits and if they are vaccinated.

MOTION: **Rep. Redman** made a motion to send **H 244** to the floor with a **DO PASS** recommendation.

A committee member stated support for in-person visitation but expressed concern regarding statute limitations which may hinder the health of these fragile individuals during a time of genuine need.

VOTE ON MOTION: **Chairman Vander Woude** called for a vote on the motion to send **H 244** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Roberts, Rubel, and Chew** requested they be recorded as voting **NAY.** **Rep. Young** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 9:52 a.m.

Representative Vander Woude
Chair

Irene Moore
Secretary