

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, March 13, 2024

TIME: 2:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chair VanOrden, Senators Lee, Harris, Bjerke, Zuiderveld, Wintrow, and Taylor

**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: **Chair VanOrden** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 2:00 p.m.

HCR 27 **HEALTH - States findings of the Legislature, directs the Department of Insurance to collect certain data, and recognizes October 9, 2024, as PANDAS/PANS Awareness Day. Representative Mathias** stated the resolution was related to pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections (PANDAS) and pediatric acute-onset neuropsychiatric syndrome (PANS) which involved a misdirected autoimmune process that affected or weakened the blood-brain barrier in children. He relayed that some Idaho insurance companies did not cover intravenous immunoglobulin (IVIG). The resolution called for the Department of Insurance to work with private insurance leaders to address the needed coverage for IVIG and report back to the Legislature before next session. The resolution also declared October 9, 2024 as PANDAS/PANS awareness Day in Idaho.

TESTIMONY: **Jenny Davis, Gina Nilsson, and Kristen Festa** testified in favor of **HCR 27**. They relayed their experiences with PANDAS/PANS and expressed the need for insurance to cover IVIG.

MOTION: **Senator Lee** moved to send **HCR 27** to the floor with a do pass recommendation. **Senator Taylor** seconded the motion. The motion passed by **voice vote**.

H 596 **PHARMACY BENEFIT MANAGERS - Amends existing law to establish provisions governing pharmacy benefit managers (PBM). Senator Cook** stated this bill amended existing law to establish provisions governing PBMs. There were three main PBMs that served more than 253 million Americans. Those three were CVS, Cigna, and United Health/Optum. The PBM's got their money through rebates, spread pricing, and claw backs.

DISCUSSION: **Senator Lee** inquired if **S 1389** and **H 596** were the same. **Senator Cook** explained that they were two separate bills.

TESTIMONY: **Marcus Hurst**, Broulim's Pharmacy, stated dispensing fees were paid by the insurers. The bill banned the PBMs from engaging in direct or incorrect spread pricing which helped increase the funds available for the insurers. The bill required PBMs to pass through 100 percent of the manufacturer rebates to the plan sponsor. He stated there would be potentially hundreds of millions of dollars going to the insurers in the State of Idaho. The bill also stated that 100 percent of the drug manufacturer rebates should offset defined cost sharing and reduce premiums of covered persons.

- DISCUSSION:** In response to questions from the Committee, **Mr. Hurst** explained the pharmacies contracted with the PBMs through a pharmacy services administration organization (PSAO). The contracts were non-negotiable. He stated that drug manufacturers paid hundreds of millions of dollars, called a rebate, to be on the formulary of the PBM. **Mr. Hurst** explained that PBMs contracted with insurers who paid them fees to process prescriptions between the pharmacy and the plan. The PBMs had created their own pharmacies and contracted to pay them higher amounts than the non-PBM owned pharmacies. He felt the insurance companies should be supporting the bill as they would be getting more of the rebates therefore lowering premiums.
- TESTIMONY:** **Adrean Cavener**, Regence Blue Shield of Idaho, explained there had been negotiations between stakeholders on PBM legislation. There were twelve changes recommended, with eleven of them being covered in **S 1389**. The key provision with a major impact was dispensing fees. She stated there were a lot of nuances involved and they did not support this stand alone bill as it had dire consequences for Idahoans.
- TESTIMONY:** **Tyler Higgins**, Idaho State Pharmacy Association, stated the laws were protective of PBMs and insurance providers, but did not protect pharmacies. That was why this legislation was critical.
- TESTIMONY:** **Norm Varin**, Pacific Source Insurance, explained that the rebates from PBMs went directly to reduce premiums. If dispensing fees were increased the insurer would have to pass that cost on to the consumer. He stated **H 596** and **S 1389** would significantly damage the insurers ability to manage costs. The largest component of health care costs were medical prescription costs and the need to be very measured and careful about the financial impact.
- DISCUSSION:** In response to Committee questions, **Mr. Varin** stated this was a multifaceted issue that needed to be broken into smaller pieces and addressed by stakeholders and not necessarily the Legislature. The dispensing fee was between the PBM and the pharmacy. The bill dictated that the cost would have to be built in which meant the insurer would have to raise rates to cover the cost. **Mr. Varin** stated premium changes to cover the cost of the dispensing fees would not occur until January, 2025 but the bills would go into effect July 1, 2025, causing the insurers to pay in the interim.
- TESTIMONY:** **Dr. Cartherine Cashmore** stated that an increasing number of pharmacies were going cash-only due to losing money through PBM contracts without a dispensing fee. This caused customers to go to two different pharmacies, one for high-cost insurance covered medications, and another for lower-priced or compounded medications. This caused a disconnect in assisting customers with drug interactions.
- TESTIMONY:** **Eric Schlerf**, Custom RX Pharmacy stated the PBMs lacked transparency and offered "take it or leave it" contracts. Pharmacies were operating at a loss due to insufficient reimbursement on prescription costs.
- TESTIMONY:** **Dr. LaGina Mendez-Harper**, Prime Therapeutics/Pharmaceutical Care Management Association stated her company was owned by eighteen Blue Cross, Blue Shield plans across the country. She explained there had been limited stakeholder engagement which, if expanded, could answer the questions being asked. This bill would increase prescription costs, the proposed single-type-of-business contract did not work for everyone involved, and 98 to 100 percent of the rebates were already going to insurers.

- DISCUSSION:** In response to Committee questions, **Ms. Mendez-Harper** explained the different types of pharmacy networks such as in -network and preferred. She provided details on how independent pharmacies were part of a PSAO which worked with the PBM to set up a contract and pricing. The rebates went to the payer and not the pharmacy. **Ms. Mendez-Harper** was willing to work with the Legislature to try to facilitate a solution.
- MOTION:** **Senator Lee** moved to send **H 596** to the 14th Order of Business for possible amendment. **Senator Harris** seconded the motion.
- DISCUSSION:** **Senator Lee** stated the need to get a bill passed this session. **Senator Zuiderveld** provided details on the largest PBMs holding a monopoly and stated she would be supporting the bill. **Senator Bjerke** inquired if Senator Lee was trying to get the best of the 2 bills. **Senator Lee** stated there would be one piece of legislation.
- TESTIMONY:** **Korey Kreider**, Medicine Man Pharmacy; **Doug Fuchs**, Dick's Pharmacy; and **Melinda Merrill**, Northwest Grocery Association, testified in support of **H 596**. They concurred with the previous testifiers.
- VOTE:** The motion passed by **voice vote**.
- ADJOURNED:** There being no further business at this time, **Chair VanOrden** adjourned the meeting at 3:23 p.m.

Senator VanOrden
Chair

Lena Amoah
Secretary