MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 24, 2016

TIME: 9:00 A.M.

PLACE: Room EW20

MEMBERS: Chairman Wood, Vice Chairman Packer, Representatives Hixon, Perry, Romrell, Vander Woude, Beyeler, Redman, Troy, Rusche, Chew

ABSENT/ EXCUSED: Representative Rusche

GUESTS: Dr. Troy Rohn, Julie Foote, MD, Stephanie Benjamin, Idaho Citizens; James L. Pline, PE, Idaho Soc. of Prof. Engrs.; Keith Simila, Idaho Board of PE/PLS; Alex Adams, Idaho Board of Pharmacy; Luke Cavener and Elizabeth Criner, ACS CAN; Jeremy Chou, Givens Pursley; Ken McClure, IMA; Joe Canning, ISPE; Jeff A. Buel, Johnson & Johnson.

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

H 483: **Rep. Christy Perry**, District 11, presented **H 483**, legislation requesting notification to prescribing physicians when a pharmacist makes a substitution of a biosimilar medication. Clarification is made when the notification is not required. Definitions of biological product and interchangeable product are provided. The legislation includes a July 1, 2026, sunset date.

Dr. Troy Rohn, Professor, Boise State University (BSU), testified **in support** of **H 483**. In his activities with the BSU Alzheimer's disease research program and the treatment of neural-degenerative diseases, he routinely uses biologics. He has found very subtle differences in biosimilar potency and specificity, differences the Federal Drug Administration (FDA) may not catch. The physician needs to have the appropriate information to make the best decision for his patient. This is not too onerous for pharmacies.

Answering committee questions, **Dr. Rohn** said the patient's cost savings are minimal when comparing the trade drug and the biosimilar. The FDA panels approving the biosimilars are key, depending on how they scrutinize the product differences and their expertise.

Dr. Julie Foote, Independent Endocrinologist, testified **in support** of **H 483**. The upcoming medications may offer more patient choice and possible cost savings for a very expensive new set of drugs. When a substituted drug goes awry, the effects may be nonreversible or take months of further suffering for recovery. This becomes more complicated when no one is aware of the substitution. Daily pharmacy communications are part of the normal work process.

Dr. Foote, responding to committee questions, stated the large pharmacies have website notifications of specific overall substitutions. Fax notifications are a better daily substitution notification. Patients, unaware of a substitution, continue taking their medication, without concern until side effects occur. With any medication, physicians have the responsibility of educating their patients. This legislation is preparation for future FDA interchangeable drugs.

Luke Cavener, Director, Government Relations, American Cancer Society, Cancer Action Network (ACS CAN), testified **in support** of **H 483**. The ACS CAN recognizes biologicals and biosimilars can be very complicated. Patients need to be actively engaged in their treatment, with effective information from providers. Policies must assure patient access and affordability. Biosimilars are difficult to manufacture, are not the same, and can lead to unexpected results for uninformed providers and patients.

Ken McClure, representing both the Idaho Medical Association and Amgen, a biologic drug manufacturer, testified **in support** of **H 483**. Biosimilars hold a lot of treatment promise, although reactions may be different from the biologic. A managing care physician needs information about all patient medications. Almost all biologics, which are usually injectable, come from mail order out-of-state pharmacies. This legislation arms the physicians with sufficient information to deal with any arising complications.

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

In closing remarks **Rep. Perry** stated biosimilar differences can also be positive, providing better than expected outcomes. There has been no opposition to **H 483**.

MOTION: **Vice Chairman Packer** made a motion to send **H 483** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Perry** will sponsor the bill on the floor.

H 480: **Rep. Vito Barbieri**, District 2, presented **H 480** and **H 482**, companion legislation in response to a recent Supreme Court decision regarding governing board anti-trust immunity.

Mitch Toryanski, Legal Counsel, Idaho Bureau of Occupational Licenses, on behalf of the Office of the Governor, further presented **H 480**. The Supreme Court decision in the North Carolina Board of Dentistry v. the Federal Trade Commission (FTC) stated board members are immune to antitrust prosecution if and when they are actively supervised by the state. The decision recognizes the inherent conflict between making a living and also regulating the same profession. Of all the Idaho professional boards, three are required to hire an active market participant (AMP) as their executive director. They are the Board of Licensure of Professional Engineers and Professional Land Surveyors, the Board of Nursing, and the Board of Pharmacy. All other boards can hire a licensee or non-licensee for the position. **H 481** removes the requirement to hire an AMP licensee, providing the same flexibility as other Idaho boards.

MOTION: **Rep. Hixon** made a motion to send **H 480** to the floor with a **DO PASS** recommendation.

Jeremy Chou, Attorney, Givens Pursley, representing the American Civil Engineering Association (ACEC), testified **in support** of **H 480**, although they have concerns regarding the displacement of ratios. They expect to work through their concerns after the session.

James Pline, Engineer, testified **in opposition** to **H 480** and **H 482**, stating the executive director of the Board of Professional Engineers deals on a daily basis with engineering problems and issues a non-engineering citizen would be unable to handle. He also was concerned about the board serving at the pleasure of the Governor and the possibility of placement of someone as a political favor.

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

VOTE ON MOTION: **Chairman Wood** called for a vote on the motion to send **H 480** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Barbieri** will sponsor the bill on the floor.

H 482: **Mitch Toryanski**, Legal Counsel, Idaho Bureau of Occupational Licenses, on behalf of the Office of the Governor, presented **H 482** , also in response to the North Carolina Board of Dentistry Supreme Court case. Statutes governing more recent Idaho boards provide managerial tools to separate state boards, existing to protect the public, from private associations which promote their profession. This is accomplished by features such as board members serving at the Governor's pleasure and ensuring each board has a public member. This legislation puts all licensing boards on the same footing, which is appropriate in light of the North Carolina case.

Answering committee questions, **Mr. Toryanski** stated the Governor makes all appointments. A greater pool of talent is available when nominations come from within and outside the associations. Some associations have less than half their profession as part of their membership. This also puts more separation between the associations, who promote their professions, and the boards, who are looking out for the public.

Jeremy Chou, Given Pursley, American Consulting Engineers Council (ACEC), testified the association is not opposing the legislation, although they are conflicted with the terms. In the North Carolina case, the board tried to preclude non-licensed individuals from providing teeth whitening services. The Supreme Court said the board was not controlled by the state government and had no immunity. This legislation is an attempt to assure the state immunity exists by making the boards more like a state agency. It is their hope the Governor's office will appoint a licensed professional going forward, but they understand the need for flexibility to consider other individuals as well.

Joe Canning, Consulting Engineer, Secretary, Idaho Society of Professional Engineers (ISPE), testified **in opposition** to **H 482**. The ISPE has had little time to allow stakeholders to provide comment, study the impact of the legislation, and review the Attorney General's opinion issued in January. Adding a public member to the board is good, but they are concerned about nominations because the duties of the licensure board include tasks requiring a high level of qualification and expertise. They already strive to maintain one board member as an educator, providing updated information on their profession. The ISPE requests no action be taken this year to allow time to walk through the code and get stakeholder input.

James Pline, Engineer, testified **in opposition** to **H 482**, asking that **H 482** be held until it is properly vetted and addressed by the engineers.

MOTION: **Rep. Redman** made a motion to send **H 482** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Barbieri** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:15 a.m.

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Representative Wood
Chair

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Irene Moore
Secretary