

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, March 07, 2024

TIME: 3:00 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator Harris

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 3:00 p.m.

MINUTES APPROVAL: **Senator Harris** moved to approve the Minutes of February 5, 2024. **Senator Zuiderveld** seconded the motion. The motion passed by **voice vote**.

MINUTES APPROVAL: **Senator Bjerke** moved to approve the Minutes of February 7, 2024. **Senator Wintrow** seconded the motion. The motion passed by **voice vote**.

S 1389

PHARMACY BENEFIT MANAGERS - Amends existing law to establish provisions governing pharmacy benefit managers. **Senator Cook** explained Pharmacy Benefit Managers (PBM) were third party administrators under contract by health or prescription plans, employers, and government entities to manage prescription drug programs for health plan recipients. They were created to help manage the prescription drug benefits, conduct billing, and negotiate better prices for consumers. **Senator Cook** explained the changes included updated and new definitions, changes in allowable charges, and defined who would receive manufacturer rebates. Idahoans would be allowed to choose their pharmacy and be provided 90 days notice when drug prices were revised. Provided pharmacies with a dispensing fee that reasonably covered the cost of dispensing. He added pharmacies were given a reasonable administrative appeal procedure and the PBM was required to report the total number of appeals received and denied, with an explanation for each denial, to the Department of Insurance every 90 days.

TESTIMONY IN FAVOR: **Marcus Hurst**, Idaho Pharmacist Organization and Pharmacy Director, Broulim's Pharmacy; **Melinda Merrill**, Northwest Grocery Association; **Richard de Blaquiere**, White Cross Pharmacy; **Jason Reading**, multiple pharmacies; **Dr. Catherine Cashmore**; **Reece Christiansen**, Heartland Pharmacy; **Korey Kreider**, Medicine Man Pharmacy; **Timothy Allen**; and **Pam Eaton**, Idaho Retailers Association and Idaho State Pharmacy Association; testified in favor of **S 1389**.

TESTIMONY IN OPPOSITION: **Steve Thomas**, Idaho Association of Health Plans; **Tim Olson**, American Health Insurance Plans; and **David Root**, Prime Therapeutics;

- The fiscal note did not include the cost of insurance premium increase when the PBM redirected manufacturers rebates to pharmacies instead of insurance plans.
- The addition of dispensing fees would increase the cost of prescriptions.
- This undermined the ability of insurers to control drug costs and manage their pharmacy networks.
- The term "reasonable dispensing fee" was not quantifiable.
- The bill banned how employer groups, governments, unions, and health plans could structure payment for services.

MOTION: **Senator Lee** moved to send **S 1389** to the floor with a do pass recommendation. **Senator Wintrow** seconded the motion.

DISCUSSION: **Senator Lee** believed the bill provided some good options and would fully support it being amended on the floor if necessary. The bill also sent a message that change was needed. **Senator Bjerke** thought the fair pharmacy audit bill from the previous session would have had greater effect. He stated change with the PBM's needed to happen in Idaho and he would support the bill.

VOTE: The motion passed by **voice vote**.

S 1395 **MEDICAL RECORDS - Adds to existing law to establish costs and a timeline for the provision of medical records.** **Senator Ricks** stated the bill dealt with medical records and the cost associated for a patient to get copies of their own medical records. Idaho was one of a few states that did not provide much guidance. Patients had been charged as much \$1.24 per page. **Senator Ricks** stated the bill set fees depending on paper or electronic records being requested. If the needed records were related to social security benefits there was a measure to provide one free copy, which was common amongst many of the states.

TESTIMONY: **Matt Andrew**, Idaho Trial Lawyers Association, stated an excessive amount of charges being were being paid by his clients for their records. He provided details on several charges in excess of \$1,000 for medical records. The information could not be retrieved any other place and patients were forced to pay these fees.

Doug Taylor, Independent Doctors of Idaho, stated he represented about 700 independent health care practices. He stated the regulatory burden or administrative burden placed on small independent practices was a big deal and it was hard to absorb the costs.

Taylor Mossman Fletcher stated her clients were primarily Social Security disability clients who were appealing their denied claims. The judges relied on the objective medical evidence that was only written in the full copies and every single page of those was needed. She brought examples from companies like MRO to show the costs. Most of her clients are low income and cannot afford the high cost of these records.

Greg Ferch stated his concern in having the State setting a fixed price. He had never known the cost of paper and toner and labor to go down after a certain number of copies. There was a cost for the software to make the medical records available. If there were fixed fees in State code, it did not give the opportunity to have the increasing inflationary costs covered.

Matt Rommel stated the problem came from third party providers that typically were out of state. One provider told him they could charge whatever they wanted because Idaho was not regulated.

Elizabeth Criner, Idaho State Dental Association, stated that dentists were not required to have electronic records. She stated setting fees in code was very challenging to change and felt this could be better handled via rule.

In closing, **Senator Ricks** did not believe this to be a problem with small businesses, but rather from large companies that had third party providers. He was not opposed to amendments.

MOTION: **Senator Lee** moved to send **S 1395** to the floor with a do pass recommendation. **Senator Wintrow** seconded the motion.

DISCUSSION: **Senator Zuiderveld** stated she would not support the bill without amendments. **Senator Bjerke** stated he would support the bill but desired to have it amended.

VOTE: The motion passed by **voice vote**. **Senator Zuiderveld** voted nay. **Chair VanOrden** stated **H 577** would be moved to the next Committee meeting.

ADJOURNED: There being no further business at this time, **Chair VanOrden** adjourned the meeting at 3:38 p.m.

Senator VanOrden
Chair

Lena Amoah
Secretary