



HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
411 LEGISLATIVE AVENUE  
DOVER, DELAWARE 19901

**House Economic Development, Banking, Insurance & Commerce Committee Meeting**  
**Minutes**

5.9.18

Chair B. Short called the meeting to order at 2:36 p.m. Members present included Vice Chair Bennett and Reps. Paradee, Q. Johnson, Keeley, Baumbach, Matthews, Ramone, Gray, Spiegelman, and Yearick. Speaker Schwartzkopf was also present. For a list of guests present, please see the attendance list below.

Chair B. Short introduced **HB 405, AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOL**. The sponsor of the bill, Speaker Schwartzkopf, explained that the purpose of the bill is to facilitate the growth and expansion of Delaware licensed craft alcoholic liquor companies within the State by permitting them to ship product manufactured on their licensed premises to entities under common ownership and control. The bill defines common ownership to mean that the shipping and receiving licensees applying for a permit under this section manufacture and sell the same brands of alcoholic liquor that each such licensee desires to ship to directly or receive from directly the other, share at least a majority of the same directors, officers, member, or other fiduciaries, and are owned 51% or more by one person. Business owners of distilleries or breweries in Delaware who have a business in another location would be able to ship their products from where their products are made to where they are sold.

Representative Yearick asked if a restaurant in New Castle County made a beer that is not made at their location in Sussex County if they would be able to ship their beer product to their Sussex location where it is not made.

Speaker Schwartzkopf stated if a business manufactures the product and sells the product at another location they can transport the product.

Representative Yearick asked if the product had to be the same at all locations to transport it.

With the permission of the Chair, Commissioner John Cordrey, head of the Alcoholic Beverage Control Commissioner, stated the product does not have to be identical, different types of alcohols can be sold and shipped as long as the ownership is the same at all locations receiving shipments.

Representative Baumbach asked if an Iron Hill facility in Chester County produces a product if they can ship it to an Iron Hill restaurant in Delaware.

Commissioner Cordrey stated an Iron Hill Brew Hub in Pennsylvania can ship product they produce to an Iron Hill Brew Hub in Delaware, but clarified that restaurants are not an included entity.

Representative Baumbach asked how an excise tax would be applied in that situation.

Commissioner Cordrey stated that when the product is imported the excise tax would be applied and paid to Delaware.

Chair B. Short requested a motion. A motion was made by Rep. Spiegelman and seconded by Rep. Bennett to release HB 405 from committee; motion carried. Yes=9 (B. Short, Bennett, Paradee, Q. Johnson, Baumbach, Ramone, Gray, Spiegelman, Yearick); No=0; Absent=3 (Keeley, Matthews, Hensley). The bill was reported out of committee with a F=4, M=6, U=0 vote.

Chair B. Short introduced **HB 412, AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO LIMITATIONS ON PLEDGING OR HYPOTHECATING ASSETS OF BANKS AND TRUST COMPANIES**. He explained the bill is an update of Section 918 of the Delaware Banking Code which addresses banks and trust companies pledging collateral for secure borrowing. This bill would put Delaware on a level playing field with other states by creating adherence to federal guidelines for pledging collateral. He stated Delaware's Code regarding this is outdated and other states have moved well past it. The process would still be governed by federal guidelines and would be on a level playing field with other states.

Chair B. Short requested a motion. A motion was made by Rep. Spiegelman and seconded by Rep. Ramone to release HB 412 from committee; motion carried. Yes=9 (B. Short, Bennett, Paradee, Q. Johnson, Baumbach, Ramone, Gray, Spiegelman, Yearick); No=0; Absent=3 (Keeley, Matthews, Hensley). The bill was reported out of committee with a F=0, M=10, U=0 vote.

Chair B. Short introduced **HB 406, AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO SMALL EMPLOYER HEALTH INSURANCE**. He explained that Delaware currently has a floor of sixteen employees for employers to be able to self-insure which is different than the surrounding states, which have a floor of five. This bill would change the floor from sixteen employees to five employees for employers to be able to self-insure through a stop-loss policy.

Representative Q. Johnson stated that as a small employer who uses a self-insured plan he is glad this bill is making the option more accessible. He asked if there is a reason the floor stops at five.

With the permission of the Chair, Joe Winn representing Aetna stated they were in support of the bill. He explained five is the number other states use and have found to be a credible number in terms of size of employers who would want to a self-insured plan. Businesses smaller than that can lead to employers who aren't sophisticated enough to go to the next level of benefits and don't understand the policy.

Representative Q. Johnson agreed and stated that businesses with only four people would not be too concerned with benefit packages.

Representative Baumbach asked for a definition of stop-loss.

Mr. Winn explained that most self-insured businesses are large multi-sized and multi-state employers, more than 80% of employers with over two-hundred employees elect to self-insure. Stop-loss policy allows smaller employers to take advantage of self-insured policy. They will receive all the benefits of self-insurance and financial protection so if there is a catastrophic claim or combined series of claims over

the year there is no financial devastation at the end of the year so they can continue their plan and stop-loss policy.

Representative Yearick asked if stop-loss is an insurance product sold to organizations who decide to self-insure.

Mr. Winn explained that stop-loss is a type of insurance regulated at the state level and is separate from self-insured options, but stop-loss is designed to help small employers, as self-insured policies for small employers wouldn't be financially possible without stop-loss protections.

Representative Gray asked for the cost information on these plans.

Mr. Winn stated an employer may spend \$50,000 to \$60,000 on benefits a year for a small company and these policies can save employers an average of 15% to 20% a year. These plans offer an alternative to the Affordable Care Acts small group plans which gives small employers more options.

Representative Gray asked what the threshold would be for stock.

Mr. Winn stated there are individual thresholds and aggregate thresholds, which are usually a percentage. When it reaches a certain point the stop-loss policy will kick in.

Chair B. Short requested a motion. A motion was made by Rep. Spiegelman and seconded by Rep. Baumbach to release HB 406 from committee; motion carried. Yes=10 (B. Short, Bennett, Paradee, Q. Johnson, Keeley, Baumbach, Ramone, Gray, Spiegelman, Yearick); No=0; Absent=2 (Matthews, Hensley). The bill was reported out of committee with a F=0, M=9, U=0 vote.

Representative Baumbach introduced **HB 386, AN ACT TO AMEND TITLE 18, TITLE 29, AND TITLE 31 OF THE DELAWARE CODE RELATING TO COVERAGE FOR TREATMENT OF PEDIATRIC AUTOIMMUNE NEUROPSYCHIATRIC DISORDERS ASSOCIATED WITH STREPTOCOCCAL INFECTIONS AND PEDIATRIC ACUTE ONSET NEUROPSYCHIATRIC SYNDROME**. He explained this syndrome occurs most often in young under nine years of age and is triggered by an infection such as strep and negatively affects the brain, resulting in challenges for the child and their family. There is ongoing research into the condition and this bill would require individual, group, state employee, and public assistance insurance plans provide coverage for the treatment of pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute onset neuropsychiatric syndrome (PANDAS). He stated the fiscal note is large and he would be willing to work with the committee to try to get it down as some progress for assisting Delaware families struggling with PANDAS is better than no progress.

Representative Q. Johnson asked if a state employee's child currently has PANDAS if the insurance provided to them covers the treatment.

Representative Baumbach stated that insurance companies in the past have refused to cover what research shows is the most effective treatment in severe cases, intravenous immunoglobulin therapy (IVIg), which costs around \$10,000 a treatment.

Representative Keeley asked if IVIg is considered an experimental treatment.

With permission from the Chair, Dr. Josephine Elia, the Division Chief for Child and Adolescent Psychiatry at Alfred I. duPont Hospital for Children, explained that infections like strep can cause the body to react and attack healthy parts of the body along with the infection, such as the brain which causes a neuropsychiatric disorder such as PANDAS. The first course of treatment for PANDAS is antibiotics, and if the syndrome is caught early enough this is often effective and the patient will be able to return to their regular life. In more severe cases treatments like IVIg are necessary. While the cost for IVIg is high the alternative is their insurance often ends up paying for multiple stays in in-patient psychiatric hospitals, where the patients are not being treated and will continue to face dysfunction. There are no other treatments for severe cases such as these and IVIg gives patients the opportunity to return to their regular life and reduce their symptoms. She stated that IVIg is not considered experimental and is an effective treatment.

Representative Yearick asked how many children have been institutionalized in the past few years.

Dr. Elia stated she does not have the exact numbers, but that a significant number of children in psychiatric hospitals are likely misdiagnosed and have PANDAS.

Representative Yearick asked why it predominantly affects children and if patients outgrow the symptoms with age.

Dr. Elia stated it is predominantly seen in children because they are the most vulnerable. When they contract strep it makes the blood barrier around the brain vulnerable and more prone to attack, and can leave them with lifelong symptoms. The blood barrier around the brain seals in late adolescence which is why the syndrome is seen mostly in children.

Chair B. Short stated that without knowledge on how many cases of PANDAS there are he is concerned about how much the issue is understood.

Representative Baumbach asked Dr. Elia to describe the process for creating the treatment guidelines that were written for PANDAS last year.

Dr. Elia stated the treatment guidelines based on studies that have shown the treatment to be effective and are similar to treatment guidelines that exist for autoimmune diseases.

Representative Baumbach clarified that this is the process that the medical community goes through when assessing treatments for disease. PANDAS is in the stage where IVIg has enough studies and data to move its classification from an experimental treatment to the recommended treatment for PANDAS. Despite it being medically called for treatment insurance companies can still deny coverage of IVIg. He stated that there are no exact numbers but studies have shown up to one in two-hundred children are affected, but much of these cases are stopped in the early stages before it is severe enough that IVIg is needed.

Representative Keeley asked for an explanation on the fiscal note.

With permission from the Chair, Controller General Michael Morton explained the fiscal note is based off of data from the Office of Management and Budget and rates of cases nationwide that were applied to the

population of Delaware. IVIg is approximately \$10,000 per treatment and with an estimated fifty-five cases the cost would be \$550,000.

Chair B. Short asked if the cases of children with PANDAS evenly distributed across the country or are there regions with higher rates.

Dr. Elia stated it is seen evenly across the country.

Representative Keeley asked if it would be possible to talk to Blue Cross Blue Shield and Aetna and get the number of cases that requested IVIg treatment to get a more accurate count and more accurate fiscal note.

With permission of the Chair, Brenda Lakeman, the Director of Statewide Benefits and Insurance Coverage, stated they can work with Highmark Blue Cross Blue Shield and Aetna to see if they can provide numbers of cases. She also stated their office had not been made aware of any past denial at this magnitude and they have a very rigorous appeals process which involves the State Employee Benefits Committee.

Representative Keeley stated she would like to know how many cases there are where IVIg is recommended so the fiscal note is more accurate.

Ms. Lakeman stated they were aware not all cases need IVIg and based the fiscal note on one in four-hundred children in Delaware being affected. She stated if they need to remove the fiscal note further they could remove state employees from the bill, as she believes insurers would still cover the treatment for them since it is covered under other areas. She also clarified that Highmark and Aetna do consider IVIg to be experimental treatment because studies do not indicate that it is effective for treatment of PANDAS, which is why it is not covered.

Representative Baumbach stated he understands cases have gotten denied coverage because IVIg is deemed experimental treatment for PANDAS but stated the research they are basing this assessment on is from the 1990's and their research needs to be updates, as it is now the recommended treatment.

Representative Paradee stated the FDA has not yet approved IVIg for treatment of PANDAS, although it is approved for a treatment of other conditions.

Representative Baumbach asked Dr. Elia how long it takes the FDA to approve a practice after the medical community writes a recommendation for a proper treatment.

Dr. Elia stated it can take a long time for the FDA to approve a treatment, and added she doesn't know if the FDA has to approve IVIg for treatment of PANDAS because it is not a new treatment and is already routinely used for other autoimmune disorders.

Chair B. Short asked if any insurer carries have taken a stance on this bill.

Representative Baumbach clarified that Highmark stated they are neutral on this bill. He also stated that the fiscal notes calculations are based on one in four-hundred children needing IVIg, when the estimate is

that one in two-hundred children will be affected by PANDAS. He asked Dr. Elia how many cases of PANDAS get severe enough that IVIg is needed.

Dr. Elia stated that 50% is an overestimate of how many patients will need IVIg, and the real number is around 10% to 20% of cases.

Controller General Morton stated they will work with insurers to come up with a more accurate count of how many cases will need coverage of IVIg.

Chair B. Short opened up the floor for public comment.

Keith Duzan, a parent of a PANDAS patient, explained that in fall 2014 his daughter Hayley was a freshman in college with hopes of one day going to medical school. Toward the end of the semester she was diagnosed with strep throat, and the following week woke up feeling different and began battling with extreme obsessive-compulsive disorder (OCD) and anxiety. After winter break when her parents dropped her off at school she had a hard time letting them leave, and called them the next day saying she had decided to start seeing a counselor. The counselor thought that Hayley had OCD and they scheduled a follow up visit. After her follow up a week later Hayley called her parents from the emergency room where the counselor had sent her, escorted by two police officers. He explained he and his wife drove six hours to her school and met with Hayley and her psychiatrist, who had diagnosed her with PANDAS but stated she did not have enough information to treat PANDAS. Hayley stayed in the psychiatric hospital for eight days where her parents were only allowed to see her one hour a day. She was only released after her parents hired a lawyer and held court in her hospital room. Hayley was happy to arrive home, where her parents learned more about her symptoms. She had extreme OCD, anxiety, age regression, restrictive eating, brain faults, trouble sleeping, and handwriting changes. Her OCD was so strong it consumed every aspect of her daily life, as she could no longer, read, write, dress herself, comb her hair, and had to be reminded to chew when eating. He explained his wife quit her job to become a full-time caregiver to Hayley. He stated finding treatment for her has been difficult. Over the last few years they have taken Hayley to over twenty doctors of varying specialization across seven states and Washington D.C. Most private practice PANDAS specialists do not accept insurance and most insurers don't reimburse for office visits, though first time visits can cost up to \$1,500. Their out-of-pocket medical expenses to date have been over \$60,000, \$15,000 of which were for IVIg which is one of several treatment options not covered by insurance. They have been denied coverage for IVIg twice because it was considered experimental. Hayley had good results from her IVIg treatment but the affects decreased after six months and she still suffers from OCD, anxiety, and brain faults, saying she is about 65% of her pre-PANDAS self. The treatments that are available to help her live a better life are out of their reach due to cost, and they support this bill as it will help children like Hayley get the care and treatment they desperately need.

Chair B. Short thanked Mr. Duzan for sharing his experience, and asked if the insurance companies recommended a different treatment when they denied coverage for IVIg.

Mr. Duzan stated they did not.

Representative Yearick suggested tabling the bill until the fiscal note was revised.

Representative Baumbach stated he would prefer the committee to release the bill and he will work with the Office of Management and Budget, the Controller General's Office, and the committee to decrease the fiscal note before it is brought to the floor.

Representative Keeley stated that if they release the bill and the fiscal note remains the same it will have to go to the Appropriations Committee.

Chair B. Short requested a motion. A motion was made by Rep. Keeley and seconded by Rep. Baumbach to release HB 386 from committee; motion carried. Yes=9 (B. Short, Bennett, Paradee, Q. Johnson, Keeley, Baumbach, Matthews, Ramone, Gray, Yearick); No=0; Not Voting=1 (Spiegelman); Absent=1 (Hensley). The bill was reported out of committee with a F=1, M=8, U=0 vote.

Chair B. Short adjourned the meeting at 3:22 p.m.

Respectfully submitted by:

Jennifer Proebstle

**Attendance List:**

1. Commissioner John Cordrey, Delaware Alcoholic Beverage Control Commissioner
2. Joe Winn, Aetna
3. Dr. Josephine Elia, Alfred I. duPont Hospital for Children
4. Michael Morton, Office of the Controller General
5. Brenda Lakeman, Statewide Benefits and Insurance Coverage
6. Keith Duzan