

Senate Health and Social Services Committee Meeting

Official Minutes 150th General Assembly First Session Wednesday, March 27th, 2019 2:30 p.m. Legislative Hall - Senate Chamber

Meeting Attendance

Committee Members:

Senator Bryan Townsend
Senator Brian Pettyjohn
Senator Nicole Poore
Senator Stephanie Hansen
Senator Ernesto Lopez

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Legislators Present:

Senator Bryan Townsend
Senator Stephanie Hansen
Senator Ernesto Lopez
Senator Brian Pettyjohn

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Brian.Pettyjohn@delaware.gov

Legislators Absent:

Senator Nicole Poore

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Staff:

Read Scott
Regine Price

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Attendees:

Mary Beth Cichocki
Dave Humes
Diann Jones
Kim Robbins
Rebecca Byrd
Cody Donovan
Pam Price
Tanner Poice
Mike Morton
Wayne Smith
David Mangler
Geoffrey Christ
Debbie Hamilton

Organizations:

Support After Addiction Group
Attack Addiction
Parent
Delaware Pharmacist
The Byrd Group
Pace Inc.
Highmark
Office of Lt. Gov.
C.G.O.
D.H.A.
DW Prof. Regulation
D.P.R.
Hamilton Goodman Partners

Chris Di Pietro
Jeanne Chiquoine
Patrick Allen
Andrew Wilson
Mayvalee Gonzalez-Myers
Kim Robbins
Ken Martin
Erin Goldner

EPIC Pharmacies
American Cancer Society
H.D.A.
Morris James
H.W.M.C.
Delaware Pharmacist Society
Gardenzia
Hope Street Delaware

Agenda:

HB 61

SB 34

Senator Townsend brought the meeting to order at 2:42 pm in the Senate Chamber.

**House Bill 61 - AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE
RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.**

Original Synopsis: Benzodiazepine drugs that are approved for medical use in the United States are classified by the federal Drug Enforcement Agency as Schedule IV. Fourteen benzodiazepine drugs are currently listed on Schedule IV of the Uniform Controlled Substances Act, § 4720 of Title 16. Benzodiazepine drugs have a serious potential for abuse. This Act adds both additional benzodiazepine drugs by name and the category of benzodiazepine drugs to Schedule IV of the Uniform Controlled Substances Act so that all current and future benzodiazepine drugs are included on Schedule IV in Delaware, whether or not the specific drug is approved for medical use in the United States.

Senator Townsend asked if anyone was here to testify for HB 61 and confirmed that there were no speakers to testify for HB61. Senator Townsend proposed to circulate the bill to committee members and asked if there were any questions about the bill.

SB61 was circulated for signatures from members of the committee: Unfavorable - 0
Favorable - 0
On Its Merits – 3

**Senate Bill 34 - AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE
CREATING A PRESCRIPTION OPIOID IMPACT FUND.**

Original Synopsis: This Act creates a Prescription Opioid Impact Fund (“Fund”) through a prescription opioid impact fee (“Fee”) that is paid by pharmaceutical manufacturer. The anticipated revenue from the Fee is \$2.8 million in 2020, \$2.7 million in 2021, and \$2.5 million in 2022. 1. The fee is based on the total of the Morphine Milligram Equivalent (“MME”) in each manufacturer’s products dispensed in Delaware, based upon data already reported to the Prescription Monitoring Program (“PMP”). The PMP data contains the mandatory reports by pharmacists of every prescription opioid dispensed in the State. The PMP data does not include prescription opioids administered in hospitals, provided directly to patients by hospice, or dispensed by veterinarians. 2. The fee is assessed on manufacturers who exceed a threshold of 100,000 MMEs dispensed each quarter. 3. The Fee is calculated at a rate of either 1 penny per

MME for a name brand prescription opioid dispensed and reported in the PMP or ¼ of a penny per MME for a prescription opioid that is a generic. The Act also provides that Secretary of the Department of Health and Social Services, after receiving recommendations from the Behavioral Health Consortium, the Addiction Action Committee, and the Overdose System of Care Committee, will award grants and contracts from the money in the Fund for the following activities: 1. Opioid addiction prevention. 2. Opioid addiction services, including the following: 3. Inpatient and outpatient treatment programs and facilities, including short-term and long-term residential treatment programs and sober living facilities. 4. Treating substance use disorder for the under-insured and uninsured. 5. Emergency assistance relating to prescription opioids, including purchasing Naloxone. 6. Administrative costs of implementing the Fee and Fund, up to 15% of the amount in the Fund. Finally, this Act expires in 5 years, unless terminated sooner or extended by the General Assembly, so that the Fee is only continued if it is effective and is not creating negative unintended consequences.

Senator Townsend introduced Senator Hansen to speak about SB 34.

Senator Hansen thanked Chairman Townsend, the members, and the public for joining her today and allowing her to discuss SB 34. The number of drug overdoses in Delaware increases yearly and continues to increase. It is happening all throughout the State between males and females of all ages and socioeconomic levels. We are losing more people in the State to overdoses than automobile accidents. Most deaths occur between the age of 25 and 59. We have lost a 3-year-old child in New Castle County and a 91-year-old senior in Sussex County to drug overdoses. As a State, we are spending tens of millions of dollars every year in opioid and substance abuse services, yet the number of drug overdoses continues to rise. All the while drug manufacturers are making a record profit. Last year there were over 750,000 prescriptions written for opioids in Delaware for over 46 million individual doses, when there are fewer than a million people that even reside in the State. Senate Bill 34 is about fairness and equity. The expected revenue from the fund is approximately 2.8 million dollars. There is an amendment for the bill, so that it allows the funds to be used to support comprehensive coordinated opioid use treatment, which would then broaden the usage for the fee.

Senator Townsend asked for those who are speaking to aim for two to three minutes for a public opinion and recognized Mary Beth Cichocki for public opinion.

Mary Beth Cichocki is a part of the Support after Addiction Group, and is a parent that lost her son to an overdose from prescription pills in 2015. She deals with the problem of lack of insurance, and most do not have the financial resources to engage in treatment that could save their lives. Many times, she reached out to the State for assistance, but was told there was no funding available. There has been a total of 50 deaths already in 2019. She has reached out to other facilities in surrounding states to provide what Delaware lacks. There is no quick fix when helping people reach sobriety. Even though Delaware is addressing the epidemic, the numbers are still climbing. As we financially struggle to pay for treatment in Delaware, the Pharmaceutical industry continues to make millions of dollars in revenue as they continue to provide opioids in the State, which is what started this pandemic. The pharmaceutical industry is now profiting off of drugs that treat side effects caused by opioids. Pharmaceutical companies have profited in the amount of 9.57 billion dollars. It is time to hold the pharmaceutical industry

accountable for this epidemic. It is time we must have available funding that does not depend on a budget or Medicaid or Medicare expansion. Both New York and Minnesota are the only states that are holding the industry accountable through an opioid impact fee. Statistics show that every dollar spent on treatment saves society between \$4 and \$7 in both Criminal Justice and Health Care costs. We must have available funding that does not depend on a budget or Medicaid reimbursement. The State ranks number 5 in the nation for overdose deaths. Her son's life was priceless. It is time that Delaware stand up to this industry and let them know that we have lost enough.

Senator Townsend recognized Dave Humes for public comment.

Dave Humes stated that the trust has been broken between pharmaceutical companies and physicians. "Substance misuse and Substance use disorder have serious economic consequences costing more than 400 Billion dollars annually in crime, health and loss in productivity." The rank of Delaware's population verses the United States, the annual cost of Delaware would be approximately 1.5 billion annually. In 2014 – 2016, Delaware was ranked as the leading per capita prescriber of opioids. Since 2014, we have lost over 1,450 Delawareans to overdose deaths. Delaware needs to pass this bill to end the epidemic in Delaware.

Senator Townsend recognized Diann Jones.

Diann Jones here to support the impact fee bill. She testified that her daughter was prescribed pain pills for her shoulder, which led to addiction to pain pills and then to heroin. Long-term treatment is not something that is readily available for those who need it. The state needs additional resources and funding, and supportive budgets that would help people with their addictions and find more treatment. Thank you for your time.

Senator Townsend recognized Kim Robbins.

Kim Robbins, is the Executive Director for Delaware Pharmacist Society, and is here on behalf of the pharmacists of the State. They feel that pharmacists and consumers are going to be the ones who end up paying for the increase. Insurance companies are unlikely to increase their reimbursements to offset the opioid tax. The pharmacies will either eat the cost or stop carrying opioids all together. It is just not worth it to fill opioid prescriptions anymore. The tax will just increase the price of the medication coming into the pharmacies. The pharmacist would be behind the prescription opioid bill if there were a provision that would allow for at least the State and Medicaid to give a dispensing fee of \$10 on all opioid prescriptions that will offset the fee. Many people legitimately need opioids for chronic pain and other conditions.

Senator Townsend recognized Cody Donovan.

Cody Donovan supports the bill as a former addict and someone in recovery. The pharmaceutical industry shares responsibility for the impact of people suffering with substance abuse. There need to be more facilities available to provide help for those suffering with addiction.

Senator Townsend recognized Debbie Hamilton for public comment.

Debbie Hamilton was here to represent Pharmaceutical Research and Manufacturer Association. PhRMA recognizes that opioid addiction is a devastating issue that has affected the lives of many people in this room. PhRMA believes that no medication should be subject to a tax or fee. The bill has the potential to increase the cost of opioids to legitimate patients who need this medication for chronic diseases such as cancer patients. The bill raises ethical concerns and she urges the Senate to reconsider and table the bill. She supports equitable consideration for patients that genuinely need opioid medications.

Senator Townsend recognized Chris Di Pietro.

Chris Di Pietro is here on behalf of Epic Pharmacies and stated that the concern they have with the bill and how it is structured is that the bill does not prohibit the tax or fee from being passed down the distribution chain. The fee is then distributed in the sale of a product down the chain and some form of either patients, pharmacies, PDM, or Carriers are going to have to bear the burden of paying this tax. Mr. Di Pietro is in fact here in opposition but does agree that opioid addiction is a serious problem.

Senator Townsend recognized Jeanne Chiquoine for public opinion.

Jeanne Chiquoine is here representing the American Cancer Society (ACS) and expressed concerns about SB34. Pain is one of the most feared symptoms for cancer patients and survivors. Pain can be caused by the cancer itself or even the treatment. When given the proper attention, most pain can be treated and relieved. Opioid medications can be beneficial treatment for cancer patients as well as survivors. It is critical that cancer patients and survivors have access to the opioid treatments that they need, including opioids when clinically appropriate. ACS does not oppose opioid taxes or impact fees, as long as the cost of the tax is not passed on to patients. Please protect cancer patients and make sure they have affordable access to these treatments that they need.

Senator Townsend recognized Ken Martin.

Ken Martin has been working to treat opioids and other addictions for over 25 years. This epidemic has gone on for decades with numerous other drugs. They have particularly targeted vulnerable people such as veterans and the elderly who have never taken pain medications before. The issue is with the advertisements of these drugs. The need for treatment is involved. Also, the workforce rates are another significant concern and it provides an opportunity to have stable funding so that they have a stable workforce to treat this epidemic.

Senator Townsend recognized Erin Holder.

Erin Holder is representing Hope Street Delaware and stated that no amount of money will make people feel whole again. Opioids can help others with their quality of life. Her friend Curtis was working at a hospital helping people with addiction before passing. The pills are way too accessible, especially to our youth. Way too many young people have access to these drugs.

Permanent damage to young people using opioids has impacted many of her friends and herself. We need to protect people from getting access to these opioids, to prevent the spread of addiction in the future.

Senator Townsend recognized Rebecca Byrd for public comment.

Rebecca Byrd thanked Senator Townsend and the members of the committee. Ms. Byrd stated that she does not want to minimize any stories, however the cost of the fee throughout the chain of distribution can be high and is something the committee should consider. Based on 2017, there was an estimate that it would cost the State over a half of a million dollars.

Senator Townsend thanked everyone for being flexible and changing locations prior to the meeting and asked if speakers would sign in before leaving.

SB34 was circulated for signatures from members of the committee: Unfavorable - 0
Favorable - 1
On Its Merits – 3

Senator Townsend declared the meeting was adjourned at 3:30 pm.