



**WILLIAM BUSH**  
STATE REPRESENTATIVE  
29<sup>TH</sup> District

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

COMMITTEES  
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Insurance & Commerce, Chair  
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Infrastructure  
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## House Economic Development, Banking, Insurance & Commerce Committee

4.17.19

Chair Bush called the meeting to order at 3:21 p.m. Members present include Chair Bush, Vice-Chair Bennett, Reps. Griffith, Dorsey Walker, Johnson, Baumbach, Matthews, Ramone, Smith, Spiegelman, and Yearick. For a complete list of guests, refer to the attendance list below.

Rep. Spiegelman motioned to suspend the rules and Rep. Bennett seconded; motioned carried. Yes=11 (Chair Bush, Vice-Chair Bennett, Reps. Griffith, Dorsey Walker, Q. Johnson, Baumbach, Matthews, Ramone, Smith, Spiegelman, and Yearick), No=0, Absent=2 (Reps. Seigfried, Hensley). Committee rules were suspended for the discussion of HS 1 to HB 105.

Rep. Minor-Brown introduced **HS 1 to HB 105, AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE CONTRACTS**. Rep. Minor-Brown explained that the bill took steps to guide the use of step therapy, a process in which an insurer denies coverage of a drug until other drugs are tried first. She stated that insurers use step therapy to control costs but the process can have adverse effects on patients. Rep. Minor-Brown explained that HS 1 to HB 105 adds definitions of step therapy and step therapy protocol to the Delaware Code, allows health care providers to review step therapy protocol, requires expeditious determination to suspend step therapy requirements, and ensures that these provisions cover both individual and group plans. She noted that the bill would become effective as health insurance contracts are renewed by the State and that the bill does not cover the state employee health insurance plan and Medicaid.

Rep. Yearick asked how many cases this bill would apply to annually. Rep. Minor-Brown replied that she did not have an exact number. Rep. Yearick asked if there are any medical illnesses particularly effected by step therapy. Rep. Minor-Brown replied mental health conditions, diabetes, and autoimmune diseases a typically prescribed to a step therapy treatment. She explained that she knew a patient with schizophrenia who was required to undergo step therapy despite the knowledge that he could be prescribed a drug proven to treat his condition; because he was not given the adequate medication, the patient took his own life.

Rep. Yearick asked why the state employee health insurance plan is not covered. Rep. Minor-Brown explained the state would have to develop their own plan to address step therapy. Rep. Yearick asked if other self-insured entities are excluded from this bill as well. Rep. Minor-Brown replied yes.

Rep. Ramone asked Rep. Minor-Brown to clarify the purpose of the substitute bill. She clarified that the substitute bill was intended to clarify that the state plan and Medicaid are not included in the original bill.

Rep. Baumbach asked if the bill excludes state employee plan because it would require a fiscal note and because the plans are renegotiated every three years. Rep. Minor-Brown explained the state employee plan was excluded because it would require a fiscal note.

Rep. Gray thanked Rep. Minor-Brown for bringing this bill forward and noted that this bill is important to the mental health community.

Rep. Dorsey Walker explained that she has gone through step therapy and that she understood the adverse effects the treatment can have on a patient. She thanked Rep. Minor-Brown for bringing this bill forward.

Mary Bartlett, from the Arthritis Foundation, supported the bill, stating that the treatment process should be based on medical evidence rather than medical costs. She believed this bill will provide doctors with the power to care to patients effectively.

Cara Wiley, speaking on behalf of her daughter, voiced her support for the bill. Her daughter was diagnosed with rheumatoid arthritis at the age of 28. She explained that it takes up to one month for a failed medicine to leave the body, which slows the progress of treatment. She noted that approximately 800 children in Delaware affected by rheumatoid arthritis and undergo step therapy.

Amy Prentice, from the National Psoriasis Foundation, voiced her support for the bill. She explained that step therapy could adversely affect patients; often patients face symptom flares, and loss of efficacy of treatments that worked for them. She added that step therapy is an administrative burden for doctors and creates an additional two hours of administrative work per patient.

Lisa Albany, the Director of Policy for the American Academy of Dermatology Association, voiced her support for the bill. She explained that step therapy slows the treatment process but approximately 75 percent of insurers employed step therapy programs in 2014. She noted that Oklahoma, Washington, and Virginia have all recently passed similar step therapy legislation.

Dr. Nancy Fan, president of the Medical Society of Delaware, voiced her support for the bill. While she does not oppose step therapy, she acknowledged the harm that can be done because of it. She voiced her support for a cost effective and efficient evidence-based process to treat patients.

Julie Price, from the League of Women Voters, expressed her agreement with previous public comments and voiced her support of the bill.

Dr. Sara Moghaddam, speaking on behalf of the American Academy of Dermatology, explained that step therapy requirements prevented doctors from prescribing drugs they knew would be beneficial to patient. She voiced her support for the bill.

Pam Price, speaking on behalf of Highmark Blue Cross Blue Shield Insurance, explained that several of Highmark's concerns with original bill were addressed in HS 1. She would like to see the allowance of double step therapy within the same drug class included in the bill, which many medical experts agree is helpful. She noted that Highmark has a step therapy exemption process, which may be used when a doctor deems exemption necessary. She expressed Highmark's concern that the guidelines will result in higher insurance costs.

A motion was made by Rep. Smith and seconded by Rep. Bennett to release HS 1 to HB 105; motion carried. Yes=11 (Chair Bush, Vice-Chair Bennett, Reps. Griffith, Dorsey Walker, Q. Johnson, Baumbach, Matthews, Ramone, Smith, Spiegelman, Yearick), No=0; Absent=2 (Reps. Spiegelman, Hensley). HS 1 to HB 105 was released from committee with a F=1, M=9, U=0 vote.

Chair Bush asked Speaker Schwartzkopf to introduce **HB 125, AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO CRAFT ALCOHOLIC BEVERAGES.**

Speaker Schwartzkopf explained that this bill changes the maximum volume a craft brewery can produce from 2 million barrels to 6 million barrels. An amendment will be introduced to remove language related to the Brewers Association from the bill. Speaker Schwartzkopf expressed his hope that the bill be released from committee, but not heard on the House Floor until after the concerns of stakeholders have been addressed. He explained that the intent is to support craft breweries in the Delaware, noting that Dogfish Head Brewery has 400 employees.

Rep. Ramone noted that the bill would be great for small businesses; he thanked Speaker Schwartzkopf for bringing the bill forward and his commitment to address the concerns surrounding the bill.

Rep. Smith thanked Speaker Schwartzkopf for his work on the bill and expressed his appreciation of the Speaker's willingness to address the concerns surrounding the bill.

Commissioner John Cordrey, from the Office of the Delaware Alcoholic Beverage Control Commissioner, explained that the bill increases the amount a craft brewery can brew to 6 million barrels, which is equivalent to approximately 3 percent of the domestic alcoholic beverage market. Under the current law if several breweries were to merge to produce less than 2 million barrels per year, their off premise sales would be limited to five cases per person per day. If they were to produce more than 2 million barrels, the brewery can no longer sell their product on their brewery premise; they would have to sell to their beverages through a wholesale distributor.

Rep. Ramone asked if this would affect out of state sales. Commissioner Cordrey explained that this bill affects the combined production of all locations, both within Delaware and in other states.

Erin Goldner, from Hope Street Delaware, voiced her opposition to the bill. She explained that the expansion of breweries will result in the gentrification of neighborhoods and urged legislators to focus on treatment of alcohol addiction. She expressed her desire to see greater diversity among brewery owners and support of other healthy, non-alcohol-related options for communities.

Robert Byrd, from the Byrd Group, spoke on behalf of Anheuser Busch. He noted that liquor laws are difficult because they are different in each state. He thanked Speaker Schwartzkopf for his willingness to address stakeholder concerns with the bill. He expressed his concern with the affect the bill would have on micro-breweries and larger beverage companies in other states.

Sam Calagione, founder and president of Dogfish Head Craft Brewery, voiced his support for the bill. He explained that Dogfish Head was once the smallest commercial brewery in the country. Since he founded Dogfish Head, the craft brewing market has grown significantly while overall beer consumption is declining. Mid-size breweries are losing market share to both large- and micro-breweries. Mr. Calagione explained that Dogfish Head currently has a 0.1 percent share of the beer market; he would like to partner with other micro-breweries to improve the scale of production and cut costs. In order to do so, the current Delaware statutes must be amended to allow these companies to scale their production. States such as Maryland and Virginia already allow breweries to do this. Mr. Calagione emphasized that this does not change the 3-tier system, but allows breweries to sell more through the system.

A motion was made by Rep. Spiegelman and seconded by Rep. Yearick to release HB 125 from committee; motion carried. Yes=9 (Chair Bush, Vice-Chair Bennett, Reps. Griffith, Dorsey Walker, Q. Johnson, Ramone, Smith, Spiegelman, Yearick); No=0; Absent=4 (Reps. Baumbach, Seigfried, Matthews, Hensley). HB 125 was released from committee with a F=3, M=6, U=0 vote.

Chair Bush adjourned the meeting at 4:07 p.m.

Respectfully submitted by:

Nicholas Konzelman

**Attendance List:**

- John H. Cordrey (Office of the Alcoholic Beverage Control Commissioner)
- Erin Goldner (Hope Street Delaware)
- Jan White (American Cancer Society)
- Mary Bartlett (Arthritis Foundation)
- Carol Reilly
- Amy Prentice (National Psoriasis Foundation)
- Lisa Albany (American Academy of Dermatology Association)
- Dr. Nancy Fan (Medical Society of Delaware)
- Julie Price (League of Women Voters)
- Shauna Barnes (Dogfish Head Craft Brewery)
- Sam Calagione (Dogfish Head Craft Brewery)
- Dr. Sara Moghaddam (American Academy of Dermatology Association)
- Pam Price (Highmark Blue Cross Blue Shield)
- Robert Byrd (Byrd Group)