

SENATE BILL REPORT

SB 6051

As of January 11, 2012

Title: An act relating to the donation and redistribution of unused prescription drugs.

Brief Description: Concerning the donation and redistribution of unused prescription drugs.

Sponsors: Senators Keiser, Conway, Kline and Frockt.

Brief History:

Committee Activity: Health & Long-Term Care: 1/11/12.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Kathleen Buchli (786-7488)

Background: At least 38 states have enacted laws to create prescription drug recycling, repository, or redistribution programs for unused medication. In general, drug redistribution programs allow the return of prescription drugs in single-use or sealed packaging from state programs, nursing homes, and other medical facilities. The medicines are then redistributed for use to needy residents who cannot afford to purchase their prescribed drugs. The scope of prescription drug programs varies by state and may include the following provisions: direct the financial terms of the donations or regulate resale; assure purity, safety, and freshness of the products; restrict the donation of expired drugs; prohibit the donation of controlled substances; require a state-licensed pharmacist or pharmacy to be part of the verification and distribution process; require patients to possess a valid prescription for the drugs they receive; limit donations to cancer drugs; limit donations to within long-term care facilities; or limit program participation to correctional facilities.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed First Substitute): Donations of unused prescription drugs to a health care facility or participating practitioner for redistribution by the health care facility or participating practitioner are permitted. The Department of Health (DOH) must adopt rules establishing the following: requirements for participating practitioners, including a prohibition on practitioners and health care facilities from participating if they have a record of disciplinary actions or a pattern of complaints involving prescribing drugs; procedures to allow the donation and redistribution of prescription drugs; standards for accepting, storing, labeling, and redistributing donated prescription drugs; standards and procedures for

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inspecting donated prescription drugs to determine that the packaging is tamper-evident and that the prescription drugs are unadulterated, safe, and suitable for redistribution; forms for the recipient and the donors; and a handling fee of up to 20 dollars. Participating practitioners may only redistribute prescription drugs that are prescribed to established patients of that practitioner's practice and donated for the purpose of redistribution to established patients of that practice. Controlled substances may not be redistributed under the program.

Before redistributing donated prescription drugs, a health care facility or participating practitioner must examine the donated prescription drug to determine that it has not been adulterated or misbranded and certify that the drug has been stored in compliance with the requirements of the product label.

Entities that donate, accept, or dispense prescription drugs under this program are immune from civil or criminal liability or professional disciplinary action of any kind for an injury, death, or loss related to the donation. This immunity does not absolve a manufacturer, distributor, or dispenser of any criminal or civil liability that would have existed but for the donation. Manufacturers are not liable for failure to transfer or communicate product consumer information or the expiration date of the donated prescription drug.

Appropriation: None.

Fiscal Note: Requested on January 9, 2012.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is an important step forward and to help people to respond to the cut in copay assistance for Medicaid Part D. Senior citizens sometimes choose between filling their prescriptions or cutting their pills in half to make them last longer. It is also important to get information about these programs out to the community. This program would help with prescription abuse prevention. This program needs to ensure the safety of participants, be voluntary, and ensure no liability to participants.

CON: There are liability risks to participating health care facilities. The program needs to ensure proper conditions of storage. Tamper-resistant packaging is not the same as tamper-proof packaging. The definition of health care facility is too broad. The immunity provided in the bill relates to reasonable care, which is a standard that might not be met under certain circumstances.

OTHER: We share the concerns about high costs of drugs and of wasted drugs and support the concept of reducing costs if safety is considered. A criteria of this program should be to protect the integrity of drugs and to track the source of drugs along with the expiration date. Handling rules should be developed, and pharmacists should be involved to evaluate drugs. Ohio has a model for liability language that the Committee should consider. We are concerned about unused prescription drugs and where donated drugs come from. It is not clear if tamper-resistant packaging is adequate to ensure safety. These programs should not

permit expired drugs. Patients need to know where their medications are coming from. Patients buy drugs and do not want those drugs to go unused.

Persons Testifying: PRO: Mary Clogston, American Assn. for Retired Persons; Carl Nelson, WA State Medical Assn.; Seth Dawson, WA Assn. for Substance Abuse Prevention.

CON: Joyce Roper, Office of the Attorney General.

OTHER: Steven Saxe, DOH; Jeff Gombosky, Pharmaceutical Research and Manufacturers of America; Cherie Tessier, Passport for Change; Robert Wardell, Passport for Change.