

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER
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DESCRIPTION

1256

2007 HOUSE HUMAN SERVICES

HB 1256

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1256

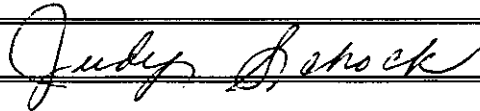
House Human Services Committee

Check here for Conference Committee

Hearing Date: January 15, 2007

Recorder Job Number: 1059

Committee Clerk Signature



Minutes:

**Chairman Price:** Open HB 1256.

**Representative Weisz, District 14:** This is a simple bill. This is a bill creating a drug registry that will allow people to donate unused drugs for people who can not afford them. The bill will also say what qualifies. This will be handled through the Board of Pharmacy. There is an appropriation of \$22,000. I have been assured it is a one time appropriation. Currently it is on a first come first serve bases.

**Senator Randy Christmann, District 33:** Many people do not have Insurance or Medicare part 3, so this will be a way to help others. I am also here in support of the bill. My Mother recently died, but I was amazed at what the physicians could do for her with drugs to make her life better while she was here. Many people do not have insurance, or the Medicare coverage they need for the drugs, and can not afford the drugs she was able to.

**Ken Tupa, Lobbyist for Great West Division of the American Cancer Society:** See attached testimony along with purposed amendments. Only containers not opened and non expired may be dispensed. I would like to see the physicians play a big roll in this, they would feel that a particular patient may be a candidate for this program, and take a look in the depository to see if the drug is available.

**Howard Anderson, Executive Director of the ND State Board of Pharmacy:** See attached testimony. We included all drugs, not just cancer drugs. The intention is we create this registry. A pharmacist decides to participate, they register with us, and say, I am going to be a recipient of these drugs. They then follow our guide lines about keeping them stored and keeping records. Practitioners may participate too. The cancer society has a list and they can make this known and where to be able to get them, A legend drug is one that is prescription. We need pharmacists and physicians to participate.

**Deborah Knuth, ND Director of Government Relations for the American Cancer Society:** See attached testimony. Some people can not afford the cost of cancer drugs, and so many people decide to just not take them. Even with insurance and their drugs are \$6,000.00, they still need to pay \$4,000 out of pocket. Not many people can afford to do this.

**Ellen Schafer, oncology nurse:** When my mother died from cancer. Many drugs were prescribed while she fought her illness, and never used. We could not return any and they were flushed down the toilet. Some one could have used them. On behalf of my Mom please support the bill.

**Joel Gilbertson:** We support this bill, and programs.

**John Frank, citizen:** My parents died from lung cancer. I watched them die with much pain. The current system forces us to dispose of unused drugs. We took a super value bag half full of drugs never opened. We need to donate the unused drugs to those who can not afford them.

**Maynard Bronstein, Medical oncologist:** We have many patients with left over drugs. We encourage your consideration of the bill.

**Chairman Price:** Any others in favor of the bill or opposing the bill. If not we will close HB 1256.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1256

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 15, 2007

Recorder Job Number: 1134

Committee Clerk Signature

*Judy Schock*

Minutes:

**Chairman Price:** Let's open HB 1256. Again we have proposed amendments.

**Representative Weisz** motion to move amendments, second by **Representative Damschen**, all in favor no nays.

**Chairman Price:** Any other amendments? There was discussion and question on the fact of prioritizing and distribution. Hopefully that won't be a problem and we get enough drugs.

Representative Kaldor move a do pass as amended rereferred to Appropriations.

Representative Schneider I second the motion. 12 yeas, 0 nays 0 absent. Representative

Weisz to carry,

**House Amendments to HB 1256 (70574.0101) - Human Services Committee 01/16/2007**

Page 2, line 18, replace "bears an" with "has reached its"

Page 2, line 19, remove "beyond the date it was donated or dispensed"

**House Amendments to HB 1256 (70574.0101) - Human Services Committee 01/16/2007**

Page 3, line 17, replace "A" with "In the absence of intentional misconduct, a", replace "not liable" with "immune from civil or criminal liability", replace "or" with an underscored comma, and after "injury" insert ", death, or loss to person or property"

Page 3, line 18, remove "donation or" and after "transfer" insert ", donation, dispensing or acceptance"

Renumber accordingly

Date: Y15  
Roll Call Vote #: 1

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB 1256 Committee \_\_\_\_\_

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken made amendments from Tim Keupa

Motion Made By Rep Weisz Seconded By Rep Damschen

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman			Kari L Conrad		
Vonnie Pietsch – Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglen					
Robin Weisz					

Total (Yes) "Click here to type Yes Vote" No "Click here to type No Vote"

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 4/15  
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB 1256 Committee

Check here for Conference Committee

Legislative Council Amendment Number 70574.0100

Action Taken No pass as amendment

Motion Made By Rep Kaldor Seconded By Rep Schneider

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman	✓		Kari L Conrad	✓	
Vonnie Pietsch - Vice Chairman	✓		Lee Kaldor	✓	
Chuck Damschen	✓		Louise Potter	✓	
Patrick R. Hatlestad	✓		Jasper Schneider	✓	
Curt Hofstad	✓				
Todd Porter	✓				
Gerry Uglen	✓				
Robin Weisz	✓				

Total (Yes) 12 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 0

Floor Assignment Rep Weisz

If the vote is on an amendment, briefly indicate intent:

ER/APP



REPORT OF STANDING COMMITTEE

HB 1256: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1256 was placed on the Sixth order on the calendar.

Page 2, line 18, replace "bears an" with "has reached its"

Page 2, line 19, remove "beyond the date it was donated or dispensed"

Page 3, line 17, replace "A" with "In the absence of intentional misconduct, a", replace "not liable" with "immune from civil or criminal liability", replace "or" with an underscored comma, and after "injury" insert ", death, or loss to person or property"

Page 3, line 18, remove "donation or" and after "transfer" insert ", donation, dispensing or acceptance"

Re-number accordingly

2007 HOUSE APPROPRIATIONS

HB 1256

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1256

House Appropriations Committee

Check here for Conference Committee

Hearing Date: 1/29/07

Recorder Job Number: 2089

Committee Clerk Signature

*Chanya Voegele*

Minutes:

Chairman Svedjan opened the meeting on House Bill 1256.

Rep. Weisz described the bill and stated its purpose.

**Chairman Svedjan:** As drugs or other things are donated to this fund and as physicians or pharmacists become aware of their availability. They can somehow access them for one of their patients, is there an additional charge? You mentioned a dispensing fee but is there a charge for the drug again?

**Rep. Weisz:** No there is not. The person will donate the drugs, they do not get paid. It will then go into a registry that the pharmacists or doctors look it up and if that particular drug shows he can then get it for free and give it to the patient. The pharmacists would get a dispensing fee and that is the total cost.

**Rep. Kreidt:** Would this also apply to someone that is using a pharmacist that is on medical assistance so there would be a savings on that side?

**Rep. Weisz:** It could but really what this would be intended for is if Medicaid is paying for it already it is not an issue of having to look and see if we can find some drugs. It is intended to help those who either have a very high deductible or maybe don't have insurance and don't qualify for Medicaid. This is an opportunity to access some of these.

**Rep. Kreidt:** In that situation though, we would be looking at a savings to the state.

**Rep. Weisz:** You could be but I doubt it would be utilized at least up front for Medicaid patient because again they are going to get paid and they are qualified so the odds of the doctor, the pharmacist or even the patient saying I cant afford the drug because if it is covered they probably wont go online to look for this.

**Chairman Svedjan:** It is conceivable that it could happen.

**Rep. Metcalf:** I have a question concerning the liability. These medicines are kept in a person's home until they are turned over. They could be contaminated or whatever else. I am sure they are checked very closely but who carries the responsibility if something would happen or if someone would report an illness or something by reason of taking one of these drugs?

**Rep. Weisz:** The bill is very specific that only sealed and unopened untampered with drugs can be donated. If you had a bottle of pills and you opened the bottle even if you never used the pills if you opened the bottle you cant donate it. That is the key. There is a liability section that says if the doctor and pharmacist does do diligence they would not be held liable for anything.

**Rep. Wald:** If you look at page three under liability that is very broad. Was this heard in another committee?

**Chairman Svedjan:** It was heard in Human Services.

**Rep. Wald:** Was there discussion in regard to the liability section in this bill?

**Rep. Weisz:** Yes there was. The reason this language is, as you say, broad is that there is no requirement that anybody participate in this program and for it to be successful and have any doctor or pharmacist be willing to do this you have to protect them from liability. They don't gain from doing this. They are doing this as a service to their patients and to the system. It was intentionally made broad so that we would get participation. The only way this program will

work is if the pharmacists and doctors participate. Other states have done this but they have set it up different and they have very low participation because nobody wants to go through the hassle. They have very complicated programs and this is broad and it is intended that way because if it is going to work we want doctors and pharmacists to participate.

**Chairman Svedjan:** What are the wishes of the committee?

**A motion was made by Rep. Klein, seconded by Rep. Pollert to DO PASS House Bill 1256. The committee voted 22 Yeas, 0 Nays, 2 Absent and Not Voting. The bill will be carried by Rep. Weisz.**

Date: January 29, 2007  
 Roll Call Vote #: 1

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1256**

House Appropriations Full Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Klein Seconded By Pollert

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleason	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 22 No 0

Absent 2

Floor Assignment Rep. Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
January 30, 2007 9:46 a.m.

Module No: HR-19-1497  
Carrier: Weisz  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HB 1256, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)  
recommends **DO PASS** (22 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).  
Engrossed HB 1256 was placed on the Eleventh order on the calendar.

2007 SENATE HUMAN SERVICES

HB 1256



## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1256

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 2-26-07

Recorder Job Number: 3849, 3890

Committee Clerk Signature

*Mary K Monson*

Minutes:

Chairman Senator J. Lee opened the hearing on HB 1256 relating to the creation of a legend prescription drug and device donation and repository program; and to provide an appropriation.

Senator Randy Christmann (District #33) introduced HB 1256 and gave a little personal perspective on this type of drug sharing (meter 00:50). He felt it was a wonderful opportunity to work together and save some costs for some people in need.

Senator Warner didn't see a definition for legend drug in the definition section and asked him if he could give one.

Sen. Christmann said he couldn't give a definition.

Representative Robin Weisz (District #14) testified that he was the sponsor on HB 1256 which basically sets up a clearing house for donor drugs. This bill will allow people who have unused drugs to donate them to the board of pharmacy so those in need can get them from the pharmacist or physician. He went on to explain how this would work and emphasized that they would have to be unopened and tamper free (meter 03:50). The service is free but the pharmacist would be able to charge up to 250% of the dispensing fee they currently get to handle the transaction. There are protections in the bill for liability. There is a direct

appropriation of \$22,000 that would go to the board of pharmacy to set up the procedure. It is a one time expense.

Senator J. Lee asked him to explain a little about "device".

Rep. Weisz replied that it would be any type of device that would be for dispensing a drug. It would include individual packs. The key for donating would be that they are tamper proof and sealed.

Senator Dever asked if there were changes made in the House.

Rep. Weisz said it was a minor change.

Ken Tupa (American Cancer Society) See attachment #1 in favor of HB 1256.

(Meter 15:04) He talked about the amendments that were made in the house.

Senator Warner asked if the repository was a virtual repository—just a data base of where the stuff is or is it all collated in one common location.

Mr. Tupa said it is not one central repository. The participants can be practitioners or pharmacies across the state but the tool that will make this work is that they can post the drugs/devices that are donated to the web site (meter 17:20).

Senator Warner indicated concern with continuity with supply or continuum of treatment.

He also asked how this relates to the insurance program.

Mr. Tupa said this is a separate program and didn't see that it would relate to the program for free drugs that the insurance commissioner would have information on. He wasn't sure how to answer the concern about continuity of prescription drugs and care (meter 19:20).

The program is on a first come first serve basis because of expiration dates on certain drugs.

The process of accessing these donated drugs was discussed (meter 21:16).

A tax incentive for donating large dollar amounts of drugs was also discussed with questions on how other states address it.

Howard Anderson (Executive Director, ND Board of Pharmacy) testified in support of HB 1256.

(Attachment #2) There is no fiscal note. The goal was to make a program that was fairly simple and included all drugs and had a website available so the patients and practitioners could access where the drugs are. There would be a form for the patient to sign so they are notified that the drugs are donated and that they are willing to accept that. Those people who donate the drugs will also sign a form so there is a tracking mechanism.

Senator Warner asked if there is an issue with refrigeration of drugs and exposure to heat when out of the pharmacist's possession.

Mr. Anderson replied that there is. The physician, the practitioner, or the pharmacy receiving those drugs is going to have to be responsible.

Senator Warner asked if there is an existing website that provides security both for the entry and access of information.

Mr. Anderson said there is a public access website now. This is intended to be a public access website only to access the information of availability. Entries will be made by the board of pharmacy based on the forms they receive from the practitioner or pharmacy that took the drugs in.

Dave Peske (ND Medical Association) testified in support of HB 1256.

There was no opposing or neutral testimony.

The hearing on HB 1256 was closed.

#### **JOB #3890**

Chairman Senator J. Lee opened HB 1256 for discussion.

Attachment #3 included e-mails with answers to questions about the definition for "legend drugs" and tax incentives for donating large dollar amounts of drugs. These topics were discussed by the committee.

Also discussed was used equipment such as wheel chairs and walkers. IPAT deals with used equipment. Medicare won't pay for used equipment.

Senator Heckaman moved a Do Pass on HB 1256 and rerefer to appropriations.

The motion was seconded by Senator Pomeroy.

Roll call vote 6-0-0. Motion carried. Carrier is Senator Heckaman.

Date: 2-26-07

Roll Call Vote #: 1

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1256

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass and refer

Motion Made By Sen. Heckaman Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Heckaman

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

HB 1256, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1256 was rereferred to the Appropriations Committee.

2007 SENATE APPROPRIATIONS

HB 1256

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1256

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 03-09-07

Recorder Job Number: 4748

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on HB 1256.

Senator Randel D. Christmann, District 33, Hazen, introduced HB 1256 indicating he signed on to the bill after he experienced a long illness of his mother. He often thinks about families who pay big ticket prices for medications when they don't have insurance coverage. This bill is a great way in certain instances to help people with their medications.

Ken Tupa, American Cancer Society, presented written testimony in support of HB 1256 indicating this bill would create a prescription drug and device donation and repository in North Dakota. He indicated unused prescription drugs are often discarded and the American Cancer Society is often contacted about donating unused drugs for use by other patients. This would be medications that are individually wrapped. He then indicated that once this program is established, this will be a cooperative effort. The person would contact a pharmacy to donate the drug, the pharmacy would then post that med to the public web site, which tells where the particular drug is. The liability protections are also in place.

Senator Tallackson asked that more detail be provided like how the repository would know the medications were not touched by hands of the diseased person. The response was they need to be individually wrapped.



Senator Bowman indicated that after his last heart attack he had a full bottle of medication that had never been used or opened.

Howard Anderson, Executive Director, Board of Pharmacy testified in support of HB 1256.

He indicated the idea is that these meds are individual unit doses. There will be a form tracking who donated the drugs, who received the drugs and the individual receiving the drug will sign a form indicated they know the drugs are donated.

Senator Roberson asked if the industry is moving toward individually packaged drugs. The response was yes and currently the more expensive are prepackaged. This particular program does not include controlled substance drugs.

Senator Lindaas indicated he was under the assumption that all drugs are controlled. The response was all prescription drugs are legend drugs or controlled drugs. Controlled drugs are addictive.

Senator Kilzer indicated that on page 1, line 18 you will contract with a third party. Are there any prospects in mind. The response was the Cancer Society found out this was a program not in place. The Cancer Society would be the third party.

Senator Krebsbach asked who would be in control of the drugs, how do people find out about where to turn in the drugs. The response was if the local pharmacy is not participating, the pharmacy would still help individuals and would know who is participating and they can take it in to the pharmacy or physician and it will still get to someone who needs it.

Chairman Holmberg closed the hearing on HB 1256.

The OMB indicated the State Board of Pharmacy is not considered a state agency to receive appropriations and our recommendation would be to put the money in the DHS budget and it would be granted to the State Board of Pharmacy.

The Legislative Council indicated it is unusual for an appropriation to be made to an occupational board. It has been done in the past, though rarely. It would be cleaner to give it to an agency to give it as a grant.

Senator Christmann indicated that perhaps we should work on an amendment to get this through.

Chairman Holmberg indicated there seems to be a consensus the committee wants to vote on the bill, the mechanism is our problem, not the board of pharmacy problem.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1256

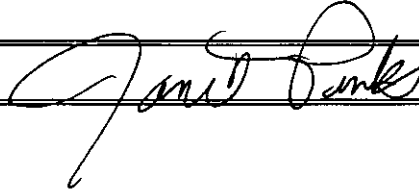
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 03-21-07

Recorder Job Number: 5381

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on HB 1256 indicating this bill refers to a private organization receiving funds and it was determined it is cleaner to have the funding go through an agency. Then the agency could give it to the occupational board as a grant. The bottom line is the occupational board will receive the grant and it would be logistically cleaner to have this as a grant. The amendment was distributed.

Senator Christmann indicated this is a legend drug and equipment bill and because of the concern about granting to an occupational board, the amendment puts the appropriation from the Board of Pharmacy to the State Health Department and they provide the funds to the Board of Pharmacy.

Senator Christmann moved amendment 0201, Senator Robinson seconded. No discussion was held. An oral vote was taken resulting in a do pass of the amendment.

Senator Robinson moved a DO PASS as Amended, Senator Christmann. No discussion was held. A roll call vote was taken resulting in a do pass with 14 yes, 0 no 0 absent. Senator Holmberg will carry the bill.

Chairman Holmberg closed the hearing on HB 1256.

*ACB*  
3-21-07

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1256

Page 4, line 20, replace "board of pharmacy" with "department of health" and after the third "of" insert "providing a grant to the state board of pharmacy for"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Dept. 301 - State Department of Health**

SENATE - This amendment changes the appropriation from the Board of Pharmacy to the State Department of Health and provides that the State Department of Health provide the funds appropriated to the Board of Pharmacy as a grant.

Date: 3/21  
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. ~~1286~~ 1256

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DP as amend

Motion Made By Robinson Sec<sup>onded</sup> By Chris

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Holmberg Hunserv ?

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

HB 1256, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1256 was placed on the Sixth order on the calendar.

Page 4, line 20, replace "board of pharmacy" with "department of health" and after the third "of" insert "providing a grant to the state board of pharmacy for"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Dept. 301 - State Department of Health**

SENATE - This amendment changes the appropriation from the Board of Pharmacy to the State Department of Health and provides that the State Department of Health provide the funds appropriated to the Board of Pharmacy as a grant.

2007 HOUSE HUMAN SERVICES

CONFERENCE COMMITTEE

HB 1256

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1256

House Human Services Committee

Check here for Conference Committee

Hearing Date: April 5, 2007

Recorder Job Number: 5763

Committee Clerk Signature

*Judith Dehock*

Minutes:

**Chairman Hatlestad:** With the roll and everyone present I will ask the senate to explain the changes on the bill and the reasoning.

**Senator Erbele:** We moved the appropriation of the board of pharmacy to the state department of health.

**Senator Lee:** In the appropriations committee they discussed with legislative council whether or not one generally appropriated directly to a board, such as the board of pharmacy, and the answer was not very often; not that it is not possible, but infrequent. The appropriation committee decided to have the appropriations go to the department of health and then be moved to the board of pharmacy.

**Representative Weisz:** I think from the house perspective the whole intent was not to set up any additional bureaucracy. We were very comfortable with giving it directly to the board of pharmacy. I would still be comfortable doing it that way. I thought it was simple and clean. I guess you were told to do this and add a code to the board of pharmacy, you can look at the amendments. See attached amendments.



**Senator Lee:** I like your way better too. Any way we can do it without it being truly a unique situation. I just want to be assured by OMB that we were not doing anything goofy. The alternative than is to do it your way, and I just like to get the money where it is suppose to go.

**Chairman Hatlestad:** I visited with legislative council and they said basically because OMB didn't have a code for the pharmacy they preferred to go through the Health department. I think that part is expectable to us; we just wanted to insure that there are not any snags along the way.

**Representative Weisz:** With you conversation with legislative council, where did that OMB come to, they didn't prefer or didn't want to.

**Chairman Hatlestad:** He told me they didn't have the code and I got the impression they couldn't.

**Representative Conrad:** I think it is best to keep things in the department, and it keeps things accountable. I would think this sound like a good way to make sure the money gets to where it needs to and does what we want it to do.

**Senator Lee:** I would move that the Senate recede the amendments and we would amend 70574.0202 onto HB 1256, seconded by **Representative Weisz**. The roll was 6 yeas, 0 nays, and 0 absent. **Chairman Hatlestad** will carry the bill to the floor, and he adjourns the meeting.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1256

That the Senate recede from its amendments as printed on pages 1157 and 1158 of the House Journal and pages 928 and 929 of the Senate Journal and that Engrossed House Bill No. 1256 be amended as follows:

Page 4, line 20, replace "board of pharmacy" with "department of health" and after the third "of" insert "providing a grant of \$22,000 to the state board of pharmacy for"

Page 4, line 22, after the period insert "The state department of health may not impose a fee for providing the grant nor impose any condition on the issuance of the grant other than that the state board of pharmacy is required to use the funds to establish and administer a legend prescription drug and device donation and repository program in accordance with section 1 of this Act."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1256 (, as (re)engrossed):

Date: 4/5/07

Your Conference Committee House Human Services

*acceded*  
For the Senate:

For the House:

	YES / NO	<i>abstained</i>		YES / NO
<i>Sen Erbele</i>	<input checked="" type="checkbox"/>		<i>Chairman</i> <i>Rep. Hatterstad</i>	<input checked="" type="checkbox"/>
<i>Sen Lee</i>	<input checked="" type="checkbox"/>		<i>Rep. Weisz</i>	<input checked="" type="checkbox"/>
<i>Sen Heckaman</i>	<input checked="" type="checkbox"/>		<i>Rep Conrad</i>	<input checked="" type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1156 -- 1158

, and place 1256 on the Seventh order.

, adopt (further) amendments as follows, and place 1256 on the Seventh order:

, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: 4/5

CARRIER: Hatterstad

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Lee

SECONDED BY: Weisz

VOTE COUNT 6 YES 0 NO 0 ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**HB 1256, as engrossed:** Your conference committee (Sens. Erbele, J. Lee, Heckaman and Reps. Hatlestad, Weisz, Conrad) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1157-1158, adopt amendments as follows, and place HB 1256 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1157 and 1158 of the House Journal and pages 928 and 929 of the Senate Journal and that Engrossed House Bill No. 1256 be amended as follows:

Page 4, line 20, replace "board of pharmacy" with "department of health" and after the third "of" insert "providing a grant of \$22,000 to the state board of pharmacy for"

Page 4, line 22, after the period insert "The state department of health may not impose a fee for providing the grant nor impose any condition on the issuance of the grant other than that the state board of pharmacy is required to use the funds to establish and administer a legend prescription drug and device donation and repository program in accordance with section 1 of this Act."

Renumber accordingly

Engrossed HB 1256 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1256

# House Human Services Committee

January 15, 2007

Ken Tupa – Testimony Supporting

HB 1256

*Same given to Senate Human Services*

Madam Chairman Price and members of the House Human Services Committee: good morning. My name is Ken Tupa; I am a registered lobbyist for the Great West Division of the American Cancer Society. I appear today before your committee to offer testimony in support of HB 1256 which would create a prescription drug and device donation and repository in North Dakota.

In my testimony this morning I would like to address why ACS approached the Board of Pharmacy to propose creating this repository program, and the bill itself and how the program could benefit patients in North Dakota.

Each year in North Dakota unused prescription drugs for the treatment of cancer and other diseases are disposed of that otherwise might benefit patients in need. Such unused prescriptions can range from small to large quantities and minimal to significant in terms of cost. At times, prior to disposing of the drugs, an individual will contact a pharmacy, health care provider, or even the American Cancer Society to inquire about donating the drugs for another patients' use. Because of these situations, the American Cancer Society approached the board of pharmacy in the summer of 2006 to discuss the possibility of creating a donation and repository program in ND. In our discussions we reviewed programs in other states and concluded that such a program in ND could be created through a partnership with the regulatory board, interested practitioners and pharmacies, and nongovernmental organizations, bringing together the regulatory, practitioner and advocacy components.

The program we discussed and envisioned was one where the board of pharmacy would develop the general and specific criteria for the establishment of the program and register voluntary participants for the intake of donated items as well as for the dispensing of items. Upon registration, participants (practitioners, pharmacies) would then be authorized to post and remove donated prescription drugs, devices or supplies from the central program web-database where patients and providers could query and access contact information to inquire about the items.

HB 1256 - overview

Subsection one on page one defines "Donor," "Participant," "Program," and "Supplies."

Subsection two on pages one and two authorizes the board of pharmacy to establish the legend drug donation and repository program and to develop a participant registry. Additionally, the board is authorized to contract with a third party for program establishment (i.e., web-database & maintenance) and work with nongovernmental organizations (like the ACS) to maintain a web-based list of legend drugs, devices, or supplies available and participants from which the items are available.

Subsection three, page two authorizes the board to create criteria for program participation and lines eight-nine prohibit drugs, devices or supplies from being donated directly to a specific patient or from being resold. Additionally, only participants in the program may dispense donated items.

Subsection four, page two sets conditions for accepting, prescribing or dispensing donated drugs and requires that items must be inspected by a pharmacist to determine the drugs, devices or supplies are not adulterated or misbranded.

Subsection five, pages two-three address storage, distribution and dispensing and sets the fee a participant may charge for dispensing donated items not to exceed two hundred fifty percent of the Medicaid dispensing fee. Additionally, a dispenser of donated items may not submit a claim or seek reimbursement from a third party payer for the cost of the items.

Subsection six on page two addresses liability protections for the donor, participant, and manufacturers.

Subsection seven on pages three-four sets criteria for recordkeeping for receipt, distribution and dispensing of donated items.

And finally, the appropriation to the board of pharmacy is for the establishment of the program.

Madam Chairman Price and members of the House Human Services Committee:

Thank you for your time this morning and I ask for your favorable consideration of HB 1256.

**Proposed Amendments:**

Page 2, line 18, remove "bears an" and insert "has reached its"

Page 2, line 19, remove "beyond the date it was donated or dispensed"

Renumber accordingly

Would read (added language in bold):

2. A drug may not be accepted or dispensed under the program if the drug **has reached its** expiration date or if the drug is adulterated or misbranded as determined under subsection 3.

**Proposed Amendments:**

Page 3, replace line 17 with "In the absence of intentional misconduct, a pharmaceutical manufacturer shall be immune from civil or criminal liability for any claim, injury, death or loss to person or property arising from"

Page 3, line 18, remove "donation or" and after "transfer" insert ", donation, dispensing or acceptance"

Renumber Accordingly

Would read (added language in bold):

2. **In the absence of intentional misconduct, a pharmaceutical manufacturer shall be immune from civil or criminal liability for any claim, injury, death or loss to person or property arising from transfer, donation, dispensing or acceptance** of any legend drugs, devices, or supplies under this chapter, including liability for failure to transfer or communicate product or consumer information regarding the transferred legend drugs, devices, or supplies as well as the expiration date of the legend drugs, devices, or supplies under the program.





BOARD OF PHARMACY  
State of North Dakota

John Hoeven, Governor

*Sumo  
given to  
Senate  
Human  
Services*

OFFICE OF THE EXECUTIVE DIRECTOR  
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Bismarck  
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Jamestown  
William J. Grosz, Sc.D., R.Ph.  
Wahpeton, Treasurer

TESTIMONY ON HOUSE BILL No. 1256  
PRESCRIPTON DRUG & DEVICE REPOSITORY

HOUSE HUMAN SERVICES COMMITTEE  
9:30 AM - FORT UNION ROOM - MONDAY- JANUARY 15<sup>TH</sup>, 2007

Chairman Price and members of the House Human Services Committee, for the record I am Howard C. Anderson, Jr, R.Ph, Executive Director of the North Dakota State Board of Pharmacy. Thank you for the opportunity to speak with you today.

The North Dakota Chapter of the American Cancer Society came to us and Ken Tupa's agency, APT, with the idea for a bill for a Cancer repository, for the donation of cancer drugs in North Dakota. I researched this situation with various other states who had passed laws similar to this. I discovered that because the Boards of Pharmacy in most of those state were not enthusiastic about it, it was usually placed with the health department or some central agency, and the rule development process was extremely slow with implementation sometimes not even occurring.

The idea is a great one, but if we never make use of it, we have not accomplished much. In talking with other states, the main barrier to the effectiveness of the program was that practitioners and pharmacies were not always enthusiastic about participating. Additionally, there is some difficulty in matching the drugs with patients who actually need them and getting them to the place where the patient who needs them resides.

My suggestion to the Cancer Society and APT was that we include all drugs and that a website be created so that practitioners and/or pharmacies who receive donations could post the availability of those medications and then, in turn, offer a place where patients or their caregivers could search for the appropriate medications for those patients and make use of them before they become outdated and are wasted anyway. APT said they could develop such a website, which would work for this purpose. Therefore, I felt that the situation would be worth a try.

Our Board has looked at it and we feel that it is a workable solution, provided of course, that practitioners and pharmacies are willing to participate. We believe that there will be at least some who work closely with cancer patients and others, with acute illnesses, who will participate, if we give them a good, easy to use way, to list and find available products.

Remarks to the North Dakota Legislature's  
House Human Services Committee  
Delivered by Deborah Knuth  
North Dakota Director of Government Relations for the American Cancer Society  
January 15, 2006

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GOOD MORNING, CHAIRPERSON PRICE AND MEMBERS OF THE COMMITTEE. THANK YOU FOR THE OPPORTUNITY TO ADDRESS YOU TODAY.

MY NAME IS DEBORAH KNUTH, NORTH DAKOTA DIRECTOR OF GOVERNMENT RELATIONS FOR THE AMERICAN CANCER SOCIETY HERE IN NORTH DAKOTA. I AM HERE TODAY ON BEHALF OF THE CANCER SOCIETY AND ITS THOUSANDS OF SUPPORTERS, VOLUNTEERS, AND ADVOCATES THROUGHOUT THE STATE TO SPEAK IN SUPPORT OF THE PASSAGE OF HOUSE BILL 1256, IN ORDER TO CREATE THE PRESCRIPTION DRUG AND DEVICE DONATION AND REPOSITORY PROGRAM.

THE AMERICAN CANCER SOCIETY BELIEVES THAT IT IS IMPERATIVE FOR ALL CANCER PATIENTS TO HAVE ACCESS TO THE APPROPRIATE CANCER TREATMENT DRUGS NECESSARY. FACILITATING AND ENHANCING ACCESS TO CANCER TREATMENT IS ONE OF THE PRIMARY PILLARS AMONG OUR ORGANIZATIONS MISSION LEADERSHIP ROLES.

THE AMERICAN CANCER SOCIETY HAS UNDERTAKEN SUPPORT OF LEGISLATIVE AND REGULATORY EFFORTS IN A NUMBER OF STATES AIMED AT IMPROVING NEEDY CANCER PATIENTS' ACCESS TO PRESCRIPTION DRUGS BY

**ALLOWING THE DONATION AND REDISTRIBUTION OF UNUSED CANCER MEDICATIONS. SUCH AN OPTION WOULD PREVENT THE NEEDLESS WASTE OF UNTOLD QUANTITIES OF PRESCRIPTION DRUGS NOW RELEGATED TO THE TRASH BIN OR OUR WASTEWATER TREATMENT SYSTEMS EACH YEAR.**

**MANY UNINSURED AND UNDER-INSURED CANCER PATIENTS ARE UNABLE TO AFFORD THE CANCER PRESCRIPTION DRUGS THEY NEED TO WIN THEIR BATTLE WITH THE DISEASE.**

**SIGNIFICANT QUANTITIES OF PRESCRIPTION DRUGS AND MEDICAL SUPPLIES ARE DESTROYED EACH YEAR AFTER A CANCER PATIENT NO LONGER NEEDS THEM, OR IS UNABLE TO USE THEM. HOUSE BILL 1256 WOULD ALLOW THE CREATION OF A PRESCRIPTION DRUG AND DEVICE DONATION AND REPOSITORY THAT WILL ENABLE CANCER PATIENTS AND THEIR FAMILIES TO DONATE UNUSED, UNOPENED PRESCRIPTION DRUGS AND MEDICAL SUPPLIES FOR USE BY THE MEDICALLY UNINSURED AND UNDER-INSURED.**

**WE AT ACS URGE THAT RECOGNITION BE GIVEN TO THE FACT THAT DRUGS FROM MANY DIFFERENT THERAPEUTIC CATEGORIES ARE PRESCRIBED AS PART OF CANCER TREATMENT. DRUGS USED TO TREAT NAUSEA AND STIMULATE APPETITE, ANTIBIOTICS USED TO FIGHT INFECTION, DRUGS USED TO TREAT ANXIETY AND DEPRESSION, PAIN MANAGEMENT DRUGS, AND MEDICATIONS USED TO FIGHT ANEMIA ARE JUST A FEW EXAMPLES. THESE AND OTHER PRESCRIPTION DRUGS ARE KEY COMPONENTS OF CANCER**

TREATMENT AND HAVE A SIGNIFICANT IMPACT ON A CANCER PATIENT'S ABILITY TO FIGHT THEIR DISEASE, THEREBY, DIRECTLY IMPACTING TREATMENT OUTCOMES.

ON BEHALF OF ACS AND ITS THOUSANDS OF VOLUNTEERS, CLIENTS AND PATRONS STATEWIDE, I RESPECTFULLY ASK FOR YOUR CONSIDERATION OF PASSAGE OF HOUSE BILL 1256 NOW BEFORE YOU SO THAT COUNTLESS CANCER PATIENTS CAN OBTAIN THE MEDICATIONS THEY SO DESPARATELY NEED TO SURVIVE.

THANK YOU ONCE AGAIN, CHAIRPERSON PRICE AND MEMBERS OF THE COMMITTEE, FOR THIS TIME TO SPEAK WITH YOU THIS MORNING.

I WOULD BE HAPPY TO ENDEAVOR TO ANSWER ANY QUESTIONS YOU MAY HAVE.

**NDLA, S HMS**

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**From:** Lee, Judy E.  
**Sent:** Monday, February 26, 2007 12:59 PM  
**To:** NDLA, S HMS  
**Subject:** FW: SB 1256

Mary -  
Please add this note to the testimony. We don't need copies for our books, since everyone has received the message.

---

**From:** NDLA, Intern 02  
**Sent:** Monday, February 26, 2007 12:55 PM  
**To:** Lee, Judy E.; Erbele, Robert S.; Warner, John M.; Dever, Dick D.; Heckaman, Joan M.; Pomeroy, Jim R.  
**Subject:** SB 1256

Senators, I spoke with the Tax Department regarding whether donated drugs under SB 1256 would be tax deductible. I was told that if it was a company donating, then it could be written off as a business expense. However, an individual would not be able to write it off as a medical deduction, as they would need to expend some money before receiving a deduction.

Chris

**To:** ndboph@btinet.net  
**Cc:** Warner, John M.  
**Subject:** FW: SB 1256

Howard - Can you answer this question from Sen. Warner?

---

**From:** Warner, John M.  
**Sent:** Monday, February 26, 2007 1:04 PM  
**To:** NDLA, Intern 02; Lee, Judy E.; Erbele, Robert S.; Dever, Dick D.; Heckaman, Joan M.; Pomeroy, Jim R.  
**Subject:** RE: SB 1256

I should have asked Howard Olson but I wonder if the adjective "legend" modified only the first word following, "drugs" or did it also apply to devices and supplies. Would hospital beds and non-prescription supplies be covered under this? John

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**From:** NDLA, Intern 02  
**Sent:** Monday, February 26, 2007 12:55 PM  
**To:** Lee, Judy E.; Erbele, Robert S.; Warner, John M.; Dever, Dick D.; Heckaman, Joan M.; Pomeroy, Jim R.  
**Subject:** SB 1256

Senators, I spoke with the Tax Department regarding whether donated drugs under SB 1256 would be tax deductible. I was told that if it was a company donating, then it could be written off as a business expense. However, an individual would not be able to write it off as a medical deduction, as they would need to expend some money before receiving a deduction.

Chris

**NDLA, S HMS**

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**From:** Lee, Judy E.  
**Sent:** Monday, February 26, 2007 4:23 PM  
**To:** NDLA, S HMS  
**Subject:** FW: SB 1256

**From:** Howard Anderson [mailto:ndboph@btinet.net]  
**Sent:** Monday, February 26, 2007 2:35 PM  
**To:** Lee, Judy E.  
**Cc:** Warner, John M.; kyle.schwandt@ndsu.edu  
**Subject:** RE: SB 1256

Senators Warner and Lee:

The adjective Legend applies only to those Drugs and Devices meeting this or the similar federal definition in NDCC 45-15-01

"Prescription drug or legend drug" means a drug which, under federal law is required, prior to being dispensed or delivered, to be labeled with one of the following:

- a. "Caution: Federal law prohibits dispensing without prescription";
- b. "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; or
- c. Rx only; or a drug which is required by any applicable federal or North Dakota law or rule to be dispensed on prescription only or is restricted to use by practitioners only.

"Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory, which is required under federal or North Dakota law to be prescribed by a practitioner and dispensed by a pharmacist.

Non legend drugs, devices and supplies are not specifically included in this bill, because their is no prohibition against donating them under current law. They could certainly be donated, if the participants wanted to take them in, store them and make them available to patients, as that is not now prohibited.

Sincerely,

Kyle Schwandt, Pharmacy Intern and

Howard

Howard C. Anderson, Jr.  
Executive Director  
North Dakota Board of Pharmacy  
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P.O. Box 1354  
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3/27/2007

Senate Appropriations Committee

March 9, 2007

①

Ken Tupa – American Cancer Society

HB 1256

Chairman Holmberg and members of the Senate Appropriations Committee: good morning. My name is Ken Tupa representing the American Cancer Society. I appear today before your committee to offer testimony in support of HB 1256 which would create a prescription drug and device donation and repository in North Dakota.

Each year in North Dakota unused prescription drugs for the treatment of cancer and other diseases are discarded that otherwise might be made available to patients in need. Such unused prescriptions can range from small to large quantities and minimal to significant in terms of cost. At times, prior to disposing of the drugs, an individual will contact a pharmacy, health care provider, or even the American Cancer Society to inquire about donating the drugs for another patients' use. Because of these situations, the American Cancer Society approached the board of pharmacy in the summer of 2006 to discuss the possibility of creating a donation and repository program in ND. In our discussions we reviewed programs in other states and concluded that such a program in ND could be created through a partnership with the regulatory board, interested practitioners and pharmacies, and nongovernmental organizations, bringing together the regulatory, practitioner and advocacy components.

HB 1256 authorizes the board of pharmacy to establish the program and to contract with a third party for this establishment and administration. Once created, the repository would be managed by the board and nongovernmental organizations like ACS (HB 1256 allows the board to cooperate with nongovernmental organizations to maintain the program).

With respect to the requested appropriation amount, it is important to also understand what HB 1256 does not do. It does not create an additional state agency program requiring perpetual funding; once established, this program is truly an ongoing cooperative effort between the board of pharmacy, voluntary participants, and advocacy organizations.



## HB 1256 - overview

Subsection one on page one defines “Donor,” “Participant,” “Program,” and “Supplies.”

Subsection two on pages one and two authorizes the board of pharmacy to establish the legend drug donation and repository program and to develop a participant registry. Additionally, the board is authorized to contract with a third party for program establishment (i.e., web-database & maintenance) and work with nongovernmental organizations (like the ACS) to maintain a web-based list of legend drugs, devices, or supplies available and participants from which the items are available.

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Subsection four, page two sets conditions for accepting, prescribing or dispensing donated drugs and requires that items must be inspected by a pharmacist to determine the drugs, devices or supplies are not adulterated or misbranded.

Subsection five, pages two-three address storage, distribution and dispensing and sets the fee a participant may charge for dispensing donated items not to exceed two hundred fifty percent of the Medicaid dispensing fee. Additionally, a dispenser of donated items may not submit a claim or seek reimbursement from a third party payer for the cost of the items.

Subsection six on page two addresses liability protections for the donor, participant, and manufacturers.

Subsection seven on pages three-four sets criteria for recordkeeping for receipt, distribution and dispensing of donated items.

Section 2 on page four is the appropriation to the board of pharmacy is for the establishment of the program.