

2013 HOUSE JUDICIARY

HB 1072

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1072
January 14, 2013
Job 17168

☐ Conference Committee

Kristie Helgler

Explanation or reason for introduction of bill/resolution:

Criminal penalty for serving as an agent, intermediary, or other entity causing use of the internet to bring together a buyer and seller for dispensing a controlled substance or other specified drug; and to provide a penalty.

Minutes:

Testimony 1

North Dakota State Board of Pharmacy

Chairman Koppelman: Opens

Mark Hardy: ND State Board of Pharmacy is requesting a change in what is commonly refer to as "Justin's Law" to make serving as an intermediary or middleman, in facilitating the online prescribing and dispensing of controlled substances and other specified drugs currently listed in the law, illegal. We have been successful in stopping the pharmacies we know about from sending these non-valid prescriptions into North Dakota. However to this point we have not been able to stop the intermediary from soliciting the business and finding other prescribers and pharmacies to engage in this illegal activity. The Board of Pharmacy has received complaints from citizens that continually receive these solicitations to the point of harassment from these intermediaries and in tracking the telephone numbers, they often lead to a residential telephone number from out of state. This proposed change gives the Board of Pharmacy and law enforcement another tool to help stop this illegal activity and behavior, especially when it is our citizens that are being put at risk.

Rep. Klemin: Is there new penalty that would take place?

Mark Hardy: on line 20 it states that anyone in violation will be guilty of a class C felony.

Rep Klemin: So there is no change?

Mark Hardy: The change is the new language.

Chairman Koppelman: Can the amendment be explained?

Rep. Klemin: Please take a look at line 4; the addition to this bill is that there will be a penalty.

Rep. Delmore: So we are not changing the penalty, just adding a category?

Rep. Klemin: It mostly refers to the language of the bill.

Chairman Koppelman: Do we have a motion to amend?

Rep. Klemin: Motions

Rep. Delmore: Seconds

Yes votes (14) No votes (0) Absent (0)

Rep Delmore: Do pass HB 1072, as amended

Rep Maragos: Seconds

Carried by: Rep. Delmore

Chairman Koppelman: Closes

13.8008.01001
Title.02000

Adopted by the Judiciary Committee

January 14, 2013

V/K
1/14/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1072

Page 1, line 4, remove "; and to provide a penalty"

Renumber accordingly

Date: 1-14-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO.

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Klemin Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. William Kretschmar			Rep. Kathy Hogan		
Rep. Andrew Maragos					
Rep. Diane Larson					
Rep. Gary Paur					
Rep. Randy Boehning					
Rep. Karen Karls					
Rep. Roger Brabandt					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) 14 No 0

Absent 0

Floor Assignment _____

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

Voice vote approved

Date: 1-14-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1072

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Delmore Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. William Kretschmar	/		Rep. Kathy Hogan	/	
Rep. Andrew Maragos	/				
Rep. Diane Larson	/				
Rep. Gary Paur	/				
Rep. Randy Boehning	/				
Rep. Karen Karls	/				
Rep. Roger Brabandt	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Delmore

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

REPORT OF STANDING COMMITTEE

HB 1072: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1072 was placed on the Sixth order on the calendar.

Page 1, line 4, remove "; and to provide a penalty"

Renumber accordingly

2013 SENATE JUDICIARY

HB 1072

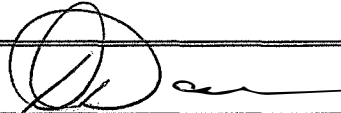
2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1072
2/25/2013
Job #19449

☐ Conference Committee

Committee Clerk Signature



Minutes:

Attached testimony

Relating to a criminal penalty for serving as an agent, intermediary, or other entity causing use of the internet to bring together a buyer and seller for dispensing a controlled substance or other specified drug.

Senator David Hogue - Chairman

Mark Hardy - Assistant Executive Director ND Board of Pharmacy - See written testimony. (1)

Senator Sitte asks Mr. Hardy to explain Justin's Law which has to do with someone getting a drug from out of state without a prescription. He explains further that when you do get a pharmacy to stop sending the drug the middleman find's another pharmacy to send it in. Senator Armstrong asks Mr. Hardy if there is a federal law regarding this. Mr. Hardy said there is the Ryan Haight Online Consumer Protection Act but that it is only for controlled substances. He gives examples of some of drugs that are not included. Senator Nelson asks Mr. Hardy about tramadol and the connection to the Indian reservation. Mr. Hardy replies that they are going to make tramadol a controlled substance in HB1070. He also says that he doesn't know why these out of state pharmacies are targeting reservations. He explains the process of mail order pharmacies. He said the first contact is usually made by internet.

Close the hearing on HB1073

Senator Armstrong moves a do pass
Senator Lyson seconded

Discussion

Tom Trenbeath, Attorney General's Office added they are in support of the bill. Senator Berry says in medical practice there are a lot patients seen looking for controlled substances. Senator Sitte says she is uncomfortable with some of the language of the bill but Senator Armstrong says he is very comfortable with the language. He believes these people who coordinate these drugs sent in are trying to circumvent ND Pharmacy law.

Vote - 6 yes, 1 no

Motion passes - Senator Armstrong will carry.

Date: 2-25-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1672

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S Armstrong Seconded By S Lyson

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	X		Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte		X	Senator John Grabinger	X	
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 6 No 1

Absent _____ motion passes

Floor Assignment S Armstrong

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

REPORT OF STANDING COMMITTEE

HB 1072, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1072 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1072



OFFICE OF THE EXECUTIVE DIRECTOR

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BOARD OF PHARMACY
State of North Dakota

E-mail= ndboph@btinet.net

www.nodakpharmacy.com

Jack Dalrymple, Governor

Mark J. Hardy, PharmD, R.Ph.
Assistant Executive Director
Howard C. Anderson, Jr, R.Ph.
Executive Director

House Bill No 1072 – Internet Prescriptions

House Judiciary Committee - Prairie Room
10:00 AM -Monday – January 14, 2013

Chairman Koppelman, members of the House Judiciary Committee, for the record I am Mark J. Hardy, PharmD, Assistant Executive Director of the North Dakota State Board of Pharmacy. I appreciate the opportunity to be here to speak to you today about an important piece of legislation.

The North Dakota State Board of Pharmacy is requesting a change in what is commonly referred to as "Justin's Law" to make serving as an intermediary or middleman, in facilitating the online prescribing and dispensing of controlled substances and other specified drugs currently listed in the law, illegal. The new proposed language was taken from the Ryan Haight Online Consumer Protection Act of 2008, which is the federal law similar to North Dakota's Justin's Law. The North Dakota State Board of Pharmacy has taken specific action against pharmacies that have engaged in these illegal activities, specifically relating to tramadol prescriptions being sent to patients on our North Dakota Native American reservations. We have been successful in stopping the pharmacies we know about from sending these non-valid prescriptions into North Dakota.

With the help of the Attorney General's Office, the North Dakota State Board of Medical Examiners has been able to bring actions against the physicians involved. Unfortunately, to this point we have not been able to stop the intermediary from soliciting the business and finding other prescribers and pharmacies to engage in this illegal activity.

The Board of Pharmacy has received complaints from citizens that continually receive these solicitations to the point of harassment from these intermediaries and in tracking the telephone numbers, they often lead to a residential telephone number from out of state.

The ND Legislature took an important step to help protect the health of its citizens with the passage of Justin's Law in 2009. This proposed change gives the Board of Pharmacy and law enforcement another tool to help stop this illegal activity and behavior, especially when it is our citizens that are being put at risk.

I will be happy to answer any question you may have.

We hope you support our effort and House Bill 1072, thank you.

Howard Anderson

From: [REDACTED]
Sent: Sunday, December 16, 2012 3:43 PM
To: 'ndboph@btinet.net'
Subject: [BULK] Fw: [BULK]
Importance: Low

Howard
I will call you yo discuss..

[REDACTED]
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Sent: Sunday, December 16, 2012 03:33 PM
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Hey [REDACTED]

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Thanks

[REDACTED]
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The Forum of Fargo-Moorhead

Published March 22, 2012, 11:34 PM

North Dakota cracking down on illegal Web prescriptions

BISMARCK – North Dakota officials are cracking down on Internet pharmacies that illegally sell painkillers to residents without a valid prescription. The North Dakota Board of Pharmacy has taken action against three out-of-state Internet pharmacies for illegally selling tramadol to residents.

By Patrick Springer, INFORUM

BISMARCK – North Dakota officials are cracking down on Internet pharmacies that illegally sell painkillers to residents without a valid prescription.

The North Dakota Board of Pharmacy has taken action against three out-of-state Internet pharmacies for illegally selling tramadol to residents.

All three have agreed to stop and are subject to fines and an assessment of costs, Howard Anderson, executive director of the North Dakota Board of Pharmacy, said Thursday.

Also, the North Dakota Board of Medical Examiners is investigating out-of-state physicians who have prescribed tramadol to residents over the Internet and without a state medical license.

Tramadol is used to relieve "moderate to moderately severe" pain. It is sold under several brand names, including Ultram, Conzip and Ryzolt.

"It does have some addictive potential," Anderson said. In the body, tramadol breaks down into morphine-like substance, he added, but is not a controlled substance under federal law.

"It certainly is a drug that is abused," said Duane Houdek, executive secretary of the North Dakota State Board of Medical Examiners. "It's not something that's prescribed lightly."

Nor should it be prescribed without an actual examination of the patient or without monitoring, he said.

If overdosed, it can result in difficulty breathing, extreme drowsiness, unconsciousness, coma or seizure, according to MedlinePlus.

An investigation by the medical examiners board so far has found cases where Internet pharmacies have sold tramadol to people around the state, including Fargo.

The prescriptions made over the Internet are written after the purchaser fills out an online survey.

"It's like a health questionnaire," Houdek said. "It's not very deep. It's very perfunctory."

The medical board's investigation has identified between 10 and 15 doctors so far, he added.

Because none of the doctors is licensed in North Dakota, the board has no direct authority to take action, Houdek said.

It can pass along information to state boards where the physicians are licensed and refer cases to local prosecutors to consider criminal charges of practicing medicine without a license, Houdek said.

But because it is a misdemeanor charge, punishable by up to 30 days in jail or a \$2,000 fine, and the doctors would have to be extradited, at county expense, prosecutions might not happen, he added.

"It's asking a lot, and the county foots the bill," Houdek said. In the future, the board of medical examiners could ask legislators for stiffer criminal penalties, he said.

"Maybe the answer is upping the ante on the criminal side," he said.

Selling prescription drugs like tramadol over the Internet is lucrative, officials said. People are willing to pay inflated prices for painkillers they otherwise wouldn't be able to obtain, Anderson said.

Administrative fines – \$1,000 in North Dakota for failure to report prescription medication sales to a drug monitoring program, for instance – pale in comparison to the potential profits, Anderson said.

The three out-of-state pharmacies facing disciplinary action in North Dakota for Internet sales of tramadol without a valid patient-physician relationship and failure to comply with a drug monitoring program are:

- Easy Clinic Lab and Rx Shop, Kahului, Hawaii, with 16 documented sales in North Dakota.
- Hellertown Pharmacy, Hellertown, Pa., with two documented sales in North Dakota. The pharmacy is also not permitted or licensed in North Dakota.
- Towne Pharmacy, Dunellen, N.J., with five documented sales in North Dakota. It isn't permitted or licensed in North Dakota, either.

Stipulations are pending with all three pharmacies, Anderson said. All have stopped Internet sales of tramadol in North Dakota, he said. Pharmacy representatives were not immediately available for comment.

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North Dakota's AG to go after Internet drug sales

Will spearhead criminal prosecutions of out-of-state docs prescribing medications

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Attorney General Wayne Stenehjem said Friday that his office has agreed to take the lead on any prosecutions, which normally would be handled at the county level.

The step is intended to send a strong signal to rogue doctors that the state is cracking down as part of a campaign to combat the "epidemic" of prescription drug abuse, which Stenehjem called the most pressing problem for state drug task forces.

"I think we need to send a message," Stenehjem said. "We'll consider bringing them here to answer for it because they're hurting our citizens."

The action was requested by the North Dakota Board of Medical Examiners, which has identified between 10 and 15 out-of-state doctors it believes prescribed tramadol, a painkiller, without a license and without personal examinations of the patient.

The board, which met Friday, voted to make up to \$20,000 available to help defray the costs of extraditing out-of-state physicians for practicing medicine in North Dakota without a license or prescribing drugs without a proper examination.

"That's a very dangerous situation," said Duane Houdek, an attorney who serves as the board of medical examiners' executive secretary.

"The board wanted to make a statement," he added. "You simply can't be practicing without a license."

Violations of laws requiring a medical license and proper patient examinations to prescribe medicine are misdemeanor crimes and usually left to counties to prosecute, Stenehjem said.

But because the prescriptions were written around the state, in multiple counties, it makes sense to streamline the investigation and prosecution, so the state will step in, he said.

An agent of the state Bureau of Criminal Investigation will interview Houdek to learn about the Board of Medical Examiners' findings and determine whether crimes were committed, Stenehjem said.

"These Internet pharmacies are getting to be a real problem," he said. Physicians should examine patients face-to-face and monitor their drug usage "for obvious and good health care reasons," Stenehjem said.

Abuse of prescription painkillers including tramadol is a huge problem in North Dakota and around the nation, he said. More people in the state die of accidental drug overdose than firearms.

"It's a wide-ranging problem," Stenehjem said. "It's much more difficult than meth," or methamphetamines. "It moves in waves across the state and is a real cause for alarm."

The North Dakota Board of Pharmacy is also taking action against three out-of-state Internet pharmacies for improperly selling tramadol in the state. All three have halted sales in the state and are subject to fines and assessment of costs.

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Tags: north dakota, news, health, crime

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- Stop Changing Your Oil (Edmunds)
- Is it ADHD? One Expert Shares His Diagnostic Secrets (Lifescript.com)
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