

Members

Rep. David Crooks, Chairperson
Rep. Phil Pflum
Rep. Alan Chowning
Rep. Mary Kay Budak
Rep. Woody Burton
Rep. William Ruppel
Sen. Thomas Wyss, Vice-Chairperson
Sen. John Waterman
Sen. R. Michael Young
Sen. Anita Bowser
Sen. Glenn Howard
Sen. Timothy Lanane



INTERIM STUDY COMMITTEE ON PROFESSIONAL LICENSING AND CONSUMER ISSUES

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Susan Montgomery, Attorney for the Committee
Valerie Ruda, Fiscal Analyst for the Committee

Authority: Legislative Council Resolution 04-01

MEETING MINUTES¹

Meeting Date: October 13, 2004
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 130
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. David Crooks, Chairperson; Rep. Alan Chowning; Rep. Mary Kay Budak; Rep. Woody Burton; Sen. Thomas Wyss, Vice-Chairperson; Sen. R. Michael Young; Sen. Glenn Howard; Sen. Timothy Lanane.

Members Absent: Rep. Phil Pflum; Rep. William Ruppel; Sen. John Waterman; Sen. Anita Bowser.

Chairperson David Crooks convened the meeting at 10:16 a.m..

1. Wholesale Drug Distributor Licensure

Representative Budak introduced Associate Professor Matthew Murawski of Purdue University, who furnished a copy of his presentation (Exhibit A). His belief was that there are counterfeit prescription drugs being distributed and that the wholesale drug industry is where the substitution may occur. Since the purchase price for some drugs is so expensive, the monetary gain for counterfeiters may be great.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

In response to Senator Young, Professor Murawski stated that there may be a quality problem with Canadian drugs, since Canada imports many of its wholesale drugs from undeveloped countries. After a question from Senator Lanane, a discussion concerning "lot tracking" of drugs ensued; a requirement of a record of drug pedigrees would almost ensure drug quality. Drug pedigrees can be tracked most economically in a "one forward, one back" manner; records are kept knowing where the drug came from and to whom it was transferred. In that manner, if there is an issue of impurity, the chain of transfer can be investigated.

Chairperson Crooks stated that federal legislation in this regard can solve the problem for all states. Professor Murawski responded that federal law currently does not require a drug pedigree. He stated that counterfeit drug cases investigated by the Food and Drug Administration are increasing rapidly. A discussion ensued regarding the cost of drugs in Canada and in the United States. One reason for the lower cost in Canada may be that the sole purchaser, the Canadian government, can control the sale price.

Representative Budak distributed copies of a report of the Florida Supreme Court regarding the safety of prescription drugs in Florida (Exhibit B) and an article from the October 19, 2003 Washington Post regarding the U.S. prescription drug system (Exhibit C).

Joshua Bolin, Director of the Indiana Pharmacy Board, and representing the Health Professions Bureau, commented about a drug counterfeiting case that occurred in Indianapolis. A hospital was told by the manufacturer that a drug had been counterfeited. Fortunately, the hospital was able to remove the drug from its stock before distribution to patients. Mr. Bolin believed that a proposal to require pedigrees of prescription drugs might prevent another situation like this, and that the penalty of a felony for a violation might act as a deterrent. The Board would support any legislation that could increase pharmacy safety. Representative Crooks expressed a desire for the members of the Committee to visit a drug wholesaler and Mr. Bolin agreed to attempt to set up a visit for the Committee.

Lou Belch, representing the Indiana Pharmacists Alliance, voiced support for the concept of drug pedigrees and stated that this recordkeeping would add minimal paperwork for pharmacists. In response to Representative Chowning's concern that a pedigree could also be counterfeited, Charlie Hiltunen, representing Pfizer Inc., stated that encryption techniques make the process almost infallible. The Committee discussed how a paper pedigree might be unable to be forged. Grant Monahan, representing the Indiana Retail Council, stated that the concept of a drug pedigree was a relatively new issue for its membership.

Chairperson Crooks announced that there would be no vote on proposed Preliminary Draft 3461 (Exhibit D) that had been distributed to the Committee.

Because a majority of the voting members of the Committee was no longer in attendance, the Committee could not make official recommendations concerning drug wholesalers. However, the members who were present considered the following concepts: (1) making the penalty for counterfeiting or misrepresentation of pharmaceutical drugs, at either the wholesale or the retail level, a felony; (2) encouraging further study of drug pedigrees, so that the best manner of tracking the distribution chain of pharmaceutical drugs can be determined; (3) strengthening certification for pharmaceutical wholesalers; and (4) granting rulemaking authority to the Indiana Pharmacy Board to promulgate regulations regarding wholesale pharmaceutical distributors.

2. Predatory Gas Pricing

In discussion regarding Resolution ICPL.001 regarding below cost sales of gasoline (Exhibit E), Representative Burton stated that to put a low-end price on gasoline was anti-capitalistic and that he could not support it. Senator Young stated that no proof had been presented that gasoline had been sold below cost, as earlier testimony had only included opinions that below cost sales had occurred. Senator Lanane reviewed his notes of the first meeting and found that Charles Ganus of Murphy U.S.A. had stated that at times his company's retailers had sold below cost. Representative Budak wondered why gasoline cost less in Michigan City than in other parts of northwest Indiana. Senator Wyss reminded the Committee that the issue with which the Committee had been charged was below cost sales of gasoline, and encouraged the Attorney General's office to continue to monitor gasoline prices. Chairperson Crooks decided that the Committee could not reach a consensus on this topic, but believed that the Committee's hearings showed interest in gasoline pricing. The topic may be revisited later.

In discussion, members of the Committee observed that: (1) they had heard testimony that below cost gasoline pricing has occurred; (2) such sales may have been harmful to other retailers in the same general location; and (3) they had heard that competition exists in the gasoline market. However, because a majority of the voting members of the Committee was no longer in attendance, the Committee could not make official recommendations concerning predatory gas pricing.

3. Emergency Management Organizations and Professional Emergency Managers

The Committee considered PD 3462 (Exhibit F) concerning emergency management and the amendments contained in 2005PD3462.001 (Exhibit G). Brad Gavin, General Counsel for the State Emergency Management Agency (SEMA), explained the bill and amendment to the Committee. Mr. Gavin stated that SEMA does not yet know what the standards and requirements would be for training and certification. Senator Wyss commented that the homeland security aspect of emergency management now forces emergency managers to be proactive, not merely reactive. He felt that the language of PD 3462 and its amendment is an excellent way to proceed. Although some counties might not be able to afford to have full-time county emergency managers, counties could form interlocal agreements in this regard. Because a majority of the voting members of the Committee was no longer in attendance, the Committee could not make official recommendations on this topic.

4. Minimum Mandatory Training Standards for Firefighters

No one appeared to speak for or against this issue at this meeting. The Committee took no action on it.

5. Final Report of the Committee

As a majority of the voting members were not in attendance at the termination of the meeting, the Committee could not approve the Final Report (see Legislative Council Resolution 04-02). Therefore, no vote was taken. The meeting was adjourned at 12:29 p.m.