ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB1052

Hearing Date: Thursday January 30, 2020
Committee On: Health and Human Services
Introducer: Wishart
One Liner: Change provisions regarding the preferred drug list under the Medical Assistance Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Arch, Cavanaugh, Hansen, B., Howard, Murman, Walz, Williams
Nay:		
Absent:		
Present Not Voting:		

Oral Testimony:

Proponents:	**Representing:**
Senator Anna Wishart	Introducer
Marlene Wagner	Self
Joni Cover	Nebraska Pharmacists Association
Beth Ann Brooks	Nebraska Medical Association; Nebraska Association of Behavioral Health Organizations; Nebraska Regional Organization of Child & Adolescent Psychiatry
Opponents:	**Representing:**
Carisa Schweitzer Masek	Department of Health and Human Services
Neutral:	**Representing:**

Summary of purpose and/or changes:
LB1052 would amend the Medicaid Prescription Drug Act (Neb. Rev. Stat. Section 68-955). It would allow a health care provider to prescribe an antidepressant, antipsychotic, or anticonvulsant to a Medicaid recipient if it is deemed medically necessary. It would also prevent the department, a managed care organization, or pharmacy benefit manager from denying coverage of a non-preferred drug a patient is taking. It would also remove the requirement of a therapeutic failure to prescribe a non-preferred drug for other classes of drugs. (Green Copy, Section 1, p. 2).

Currently, a provider has to certify the non-preferred drug is medically necessary; the preferred drug has not been or is not expected to be effective or has or would cause harmful reactions; and the department must authorize the non-preferred drug prior to treatment. By moving antidepressants, antipsychotics, and anticonvulsants to their own subsection, they would only need to be deemed medically necessary to be prescribed.

Explanation of amendments:
AM 2645 amends the introduced copy of LB 1052, incorporates LB 847 and LB 887 as amended, and becomes the bill.

AM 2645 amends LB 1052 by clarifying language involving the drug utilization review process, and clarifying other language. The amendment states that neither the department nor a managed care organization shall require prior authorization for coverage for an antidepressant, anti-psychotic, or anticonvulsant prescription drug if it is deemed medically necessary by the Medicaid recipient's health care provider, and if the Medicaid recipient has a prescription history of that drug within the immediately previous 90 day period. For clarity and compliance with Federal Law, the bill specifically allows for prospective drug utilization reviews. (AM 2645, Section 4, p. 6).

The provisions of LB 1052 as amended are found in Section 4 of Committee Amendment 2645, on pages 5-6.

LB 847

The amended provisions of LB 847 are contained in the following sections of the committee amendments:

Sections 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 17, pp. 3-5; 6-13; and 14-15.

LB847 would amend the Pharmacy Practice Act (Neb. Rev. Stat. Sections 38-2826 and 38-28,107), the Healthcare Facility Licensure Act (Neb. Rev. Stat. Section 71-401), the Emergency Box Drug Act (Neb. Rev. Stat. Sections 71-2411, 71-2412, and 71-2413), and the Prescription Drug Safety Act (Neb. Rev. Stat. Sections 71-2457, 71-2458, 71-2468, and 71-2479).

LB847 would allow a credentialed individual in an assisted living facility to affix an auxiliary sticker after a drug has been dispensed, without being subject to labeling requirements of the Pharmacy Practice Act or the Prescription Drug Safety Act. (AM 2645, Section 2, p. 3). If a credentialed prescriber changed the dosage or directions of a medication, a pharmacist in a health care facility could apply an auxiliary sticker with the correct dosage or directions, or reissue the drug or device with the correct label, and make notes in the patient's medical administration record (MAR). (AM 2645, Section 8, p. 7). It would allow a pharmacist to package drugs at the request of a patient if the drugs were originally dispensed from a different pharmacy. It would change language allowing drugs to be "accepted" from a long-term care facility "by" a pharmacy, as opposed to "returned" from a long-term care facility "to" a pharmacy. (AM 2645, Section 3, pp. 4-5).

LB847 would also allow for electronic or automated emergency boxes, and mandate that the supplying pharmacy have policies and procedures to ensure proper usage. It requires that all non-electronic or automated emergency boxes be inspected by the supplying pharmacy at least once per month; and that any repacked drugs be in a tight, light-resistant container. Conversely, it would not mandate inspection for electronic or automated emergency boxes. (AM 2645, Section 10, pp. 8-10). It would also harmonize provisions as it relates to electronic or automated emergency boxes, such as allowing for electronic inventory, and equating "accessing" an emergency box to opening it. (AM 2645, Section 11, pp. 10-11).

LB847 would also define central fill pharmacy as the preparation, other than compounding, of a drug at a pharmacy other than the dispensing pharmacy, and mandate the central fill pharmacy be listed on the label of a medication. (AM 2645, Sections 14, 16, pp. 12-13).

Motion to include LB 847 as amended into AM 2645:
Vote: 7-0-0-0
Voting Aye: Senators Arch, Cavanaugh, B. Hansen, Howard, Murman, Walz, Williams
Voting Nay: None
Absent: None
Present Not Voting: None

Public Hearing (January 30, 2020) testifiers
Proponents:
Senator John Arch - Introducer

Robert Lassen - Nebraska Pharmacists Association
Mackenzie Farr - Nebraska Pharmacists Association
Ashlee Fish - Nebraska Health Care Association
Opponents:
Darrell Klein - Department of Health and Human Services
Neutral: None

LB 887

The amended provisions of LB 887 are found in Sections 1 and 16 of Committee Amendment 2645, pages 1-3 and 13-14.

LB887 would amend the Uniform Controlled Substances Act (Neb. Rev. Stat. Section 414.01), and the Prescription Drug Safety Act (Neb. Rev. Stat. Section 71-2478). It would allow a pharmacist acting with reasonable care and patient consent to do the following:

- Change the quantity of a prescribed drug if the quantity is not commercially available or if it is related to a change in dosage form.

- Change the dosage of a prescription if the change is in the best interest of the patient, and if directions are also modified to equate to the equivalent amount.

- Dispense multiple month's supply of a drug if the prescription has sufficient refills; and

- Substitute any chemically equivalent drug product for a prescribed drug, unless the prescribing practitioner specifies "no substitution," "dispense as written" or "D.A.W." to indicate substitution is not permitted. The pharmacist must notify the prescribing practitioner of the change.

(Section 1, pp. 2-3, lines 30-18; Section 2, pp. 4-5, lines 23-11).

If a pharmacist adapts a prescription he or she must document the change. (AM 2645, Sections 1, 16, pp. 2, 13-14).

Motion to include LB 887 as amended into AM 2645:

Vote: 7-0-0-0
Voting Aye: Senators Arch, Cavanaugh, B. Hansen, Howard, Murman, Walz, Williams
Voting Nay: None
Absent: None
Present Not Voting: None

Public Hearing: (January 30, 2020) testifiers
Proponents:
Senator John Arch - Introducer
Marcia Mueting - Nebraska Pharmacists Association
Robert Lassen - AARP
Jim Otto - Nebraska Retail Federation; and Nebraska Grocery Industry Association
Beth Ann Brooks - Nebraska Medical Association
Opponents:
Darrell Klein - Department of Health and Human Services
Neutral: None

Sara Howard, Chairperson