

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 22, 2021

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Martin, Vice Chairman Riggs, Senators Heider, Lee, Harris, Agenbroad, Zito, Stennett, and Wintrow

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Martin** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 3:00 p.m.

PAGE INTRODUCTION: **Tyler Tippets** introduced himself as the Committee's page for the second half of the Legislative Session. **Mr. Tippets** stated he graduated from high school in January, and he plans to serve a church mission prior to attending college. He remarked that his favorite pastime is skiing, and he recently took up knife building. **Mr. Tippets** commented that he is excited to be serving as a page.

GUBERNATORIAL REAPPOINTMENT: **Chairman Martin** called for the vote on the gubernatorial reappointment of Carol Mascarenas to the Board of Environmental Quality.

MOTION: **Senator Lee** moved to send the gubernatorial reappointment of Ms. Mascarenas to the floor with the recommendation that she be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

RS 28655 **Unanimous Consent Relating to Health and Welfare.** **Vice Chairman Riggs** stated the RS more clearly defines terms related to powers of the director of the Idaho Department of Health and Welfare (DHW) in Idaho Code § 56-1003. **Vice Chairman Riggs** commented that the pandemic and related emergency orders brought forth some issues requiring clarification.

DISCUSSION: **Senator Wintrow** asked what process Vice Chairman Riggs followed and with whom he worked to draft the legislation. **Vice Chairman Riggs** responded that he researched specific citations to Idaho Code included in various orders, and he thought some definitions required clarification. **Vice Chairman Riggs** said he worked with the Governor's Office, DHW Director Dave Jeppesen (Director), and the DHW Board of Health and Welfare. **Senator Wintrow** inquired about the three-day court process mentioned in the RS. **Vice Chairman Riggs** answered that under existing law, someone placed under an order of isolation by the Director has no due process rights. The RS provides for an expedited court proceeding for an affected citizen to challenge an order, he said.

Senator Stennett asked if Vice Chairman Riggs actually met with the Director and a representative from the Governor's Office, and she inquired whether any definitions presently exist in the law. **Vice Chairman Riggs** replied that he met with the Director and various staff members from the Governor's Office to better understand the existing definitions. He provided an example of the State of Idaho's definition of "quarantine," which refers to structures and places, while the definition used by the U.S. Department of Health and Human Services and the Centers for Disease Control and Prevention relates to humans. **Senator Stennett** asked if the new definitions will conflict with any other sections of Idaho Code. She added she is concerned about consistency and the need for the changes. **Vice Chairman Riggs** remarked that the definitions do not conflict with any other sections of Idaho Code.

Senator Stennett stated the three-day requirement for a court hearing seems like an odd number and mentioned it could be too short a time for some illnesses and too long for others. **Vice Chairman Riggs** explained a person under an isolation order would have three days to request a review of the order but must remain in isolation during the three-day period. He said the Director must show clear and convincing evidence of the need for the order.

Senator Stennett inquired if the bill would be returned to the Committee for a full hearing if it is printed. She commented the Legislative Session is past the halfway point and asked the reason for the delay in bringing the legislation. **Vice Chairman Riggs** responded that the bill would return to the Committee if it is printed. He said it was a lengthy process to fully research Idaho Code to determine any possible conflicts. **Vice Chairman Riggs** added that the interested parties with whom he spoke think the bill is an improvement to the Idaho Code. **Senator Stennett** asked who initiated the legislation.

Vice Chairman Riggs answered that he initiated the RS because he found deficiencies and lack of clarity in Idaho Code when reviewing emergency orders and other documents to inform his positions on various bills. **Vice Chairman Riggs** remarked that it was a lengthy task to clean up and clarify the definitions.

Senator Lee stated she supports the RS and the proposed process. She agreed the three-day period seems like a short time, but the existing law allows an unelected official to confine a person at home under penalty of a misdemeanor. **Senator Lee** compared the process to a criminal proceeding in which the arrested person is entitled to an arraignment within 48 hours. She commented that the Director has not acted arbitrarily, but there must be clear and convincing evidence that a person must not leave their place of residence. **Senator Lee** advised that a health order should be in effect based on the diagnosis and health risk, or for the time necessary to remediate a health issue. She reported that the only remedy in the existing law is to file a court case, wait for a hearing, and wait for the court to issue a ruling. **Senator Lee** said the bill will prevent illegal orders and clarify the Director's statutory duties.

Senator Harris remarked that the bill was drafted and revised several times since the beginning of the session. He added that Vice Chairman Riggs did a good job working with Legislators and the Director. **Senator Harris** opined that it is a good bill that needs to move forward.

Senator Stennett commented that she did not previously see the RS and was unaware of its history. She thanked Senator Lee for explaining the rationale for the RS. **Senator Stennett** inquired how the RS would affect the Director's ability to quarantine large groups of people due to a severe outbreak or manage a deadly situation. **Senator Lee** responded that the definitions do not contemplate the Director managing such an event. She explained this provision of Idaho law applies to individuals named in a health order. **Senator Lee** said the government's role in a health outbreak is to educate the public about symptoms and best practices to prevent infection. She likened the process to handling a recall of contaminated lettuce. **Senator Lee** advised that customers are encouraged to throw away affected product, but no one goes door-to-door to pick up the lettuce. She stated that a health order will withstand judicial review if it is based on sufficient evidence, and the new definitions will help limit the likelihood of court proceedings.

MOTION:

Vice Chairman Riggs asked unanimous consent to send **RS 28655** to a privileged committee for printing. There were no objections.

S 1092

Relating to Medicaid. **Jason Kreizenbeck**, representing Mountain View Hospital, introduced himself to the Committee. **Mr. Kreizenbeck** explained the proposed legislation would allow new Idaho hospitals to be reimbursed for Medicaid services at 91 percent of service cost for 36 months after opening and attaining Centers for Medicare and Medicaid Services (CMS) accreditation. He reported that new hospitals would work with the DHW to establish a value-based payment method for Medicaid services after the initial 36 months. **Mr. Kreizenbeck** reviewed the provisions of the bill. He reported the fiscal impact is difficult to ascertain because the Medicaid reimbursement rate could vary based on the type of hospital, location, size, and mix of services.

DISCUSSION:

Senator Agenbroad commented that the legislation makes sense. He asked whether a hospital would have the option to move to value-based reimbursement in fewer than 36 months. **Mr. Kreizenbeck** responded the bill would allow a hospital the choice to move to that reimbursement method sooner. **Senator Agenbroad** asked Mr. Kreizenbeck to review the bill to verify that is correct. **Mr. Kreizenbeck** advised the legislation would allow for but not require a 36-month period. He agreed to consider changing the language if it is unclear. **Senator Agenbroad** remarked he is content with the present language but wants to make sure a new hospital has the option.

Senator Lee mentioned she likes the legislation and wants flexibility for hospitals. She asked if a new hospital must be CMS-accredited to be eligible for Medicaid reimbursement. **Mr. Kreizenbeck** answered in the affirmative. He added that the bill's proponent chose the 91 percent figure because it is the current Medicaid reimbursement rate.

Senator Lee inquired about the average time period required for a hospital to attain accreditation. **James Adamson**, Chief Executive Officer, Mountain View Hospital, introduced himself to the Committee. **Mr. Adamson** responded that the CMS accreditation process takes 90 to 180 days. **Senator Lee** requested confirmation that a new hospital must wait 180 days before receiving Medicaid reimbursement. **Mr. Adamson** stated that a new hospital does not receive Medicaid reimbursement until the accreditation process is complete, and it is possible for a new hospital to be open for 90 to 180 days without receiving any Medicaid payments.

MOTION:

Senator Heider moved to send **S 1092** to the floor with a **do pass** recommendation. **Vice Chairman Riggs** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Newborn Screening. Senator Wintrow** introduced the presentation regarding spinal muscular atrophy (SMA), a rare genetic disease that impacts newborn babies. **Senator Wintrow** stated she met Hayley McDonald, who lost her 7-month-old daughter because her doctors did not diagnose SMA early enough. **Senator Wintrow** said she investigated the newborn screening tests conducted in Idaho and wants to raise awareness about the importance of newborn screening.

Sarah Lopez, Newborn Screening and Children's Special Health Programs Manager, DHW, introduced herself to the Committee. **Ms. Lopez** provided information on the importance of newborn screening and the types of screening conducted in Idaho. She commented that Idaho screens for 47 conditions, and newborn screening saves 20 to 30 lives per year in Idaho. **Ms. Lopez** explained the voluntary Idaho newborn screening process consists of two screenings at 24 to 48 hours after birth and then at 10 to 14 days. She provided the mission of the Idaho Newborn Screening Program (Program). **Ms. Lopez** stated that the Program will change contracted laboratories on April 1, 2021 to improve timeliness of screening.

DISCUSSION: **Senator Stennett** asked if two newborn screenings are sufficient and whether more would be better. **Ms. Lopez** answered the standard of care is two screenings. She added that some states are reverting to only one screening.

Chairman Martin asked for confirmation that SMA screening will be added. **Ms. Lopez** replied that adding the SMA screening is under consideration. **Chairman Martin** asked whether a law change is required to add a screening and why the DHW does not presently include screening for SMA. **Ms. Lopez** replied that a group of medical specialists meet quarterly to provide recommendations on newborn screenings, and DHW can add a condition without seeking a law change.

Senator Wintrow thanked Ms. Lopez for her work. She asked how Idaho differs from other states in determining the screenings to be conducted and who pays for them. **Ms. Lopez** answered that Idaho providers are responsible to pay for the screening cards in advance and then obtain reimbursement, which is the process followed in 10 percent of states. **Senator Wintrow** commented she would like the Committee to investigate best practices to pay for newborn screenings to avoid unintentionally missing lifesaving diagnoses.

Chairman Martin asked whether screening tests are required in the case of a home birth. **Ms. Lopez** replied that all birth attendants are required to purchase collection kits and provide newborn screening.

PRESENTATION: **Hayley McDonald** introduced herself and her husband, Bill McDonald, to the Committee. **Ms. McDonald** described her family's experience with their daughter Liv, who passed away from SMA in 2017 at the age of 7 months. She explained the cause and effects of SMA, and she stated Liv's life was shortened because the doctors did not immediately diagnose SMA. **Ms. McDonald** urged support for adding SMA screening to the Idaho screening panel.

Senator Stennett thanked Ms. McDonald for sharing her story. She inquired about treatment options if Liv were diagnosed earlier. **Ms. McDonald** replied that certain treatments exist that can preserve motor neurons and slow the disease's progression if administered soon after birth.

Senator Wintrow commented that she is moved by Ms. McDonald's passion and efforts to raise awareness of SMA and the need for newborn screening.

Senator Lee said she appreciates hearing Liv's story. She mentioned another group of parents who presented information on cytomegalovirus (CMV) in a previous Legislative Session, and as a result, DHW now makes CMV information available to expectant mothers.

Chairman Martin thanked the McDonalds for bringing the issue to the Committee's attention.

ADJOURNED:

There being no further business at this time, **Chairman Martin** adjourned the meeting at 3:59 p.m.

Senator Martin
Chair

Jeanne Jackson-Heim
Secretary