

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 10, 2022

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Martin, Vice Chairman Riggs, Senators Lee, Harris, VanOrden (Bair), Zito, Stennett, and Wintrow

**ABSENT/
EXCUSED:** Senator Heider

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 3:01 p.m.

MOTION: **Senator Harris** moved to send **RS 29190C1**, Exception to Final Disposition of Bodies; **RS 29253C1**, Establishes and provides for participation in the Psychology Interjurisdictional Compact; and **RS 29381**, Allows a chiropractic physician to evaluate a youth athlete for a suspected concussion to print. **Vice Chairman Riggs** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:** Chairman Martin passed the gavel to Vice Chairman Riggs.

**DOCKET
16-0000-2100** **Notice of Omnibus Rulemaking - Proposed Rule, Tamara Prisock**, Administrator, Division of Licensing and Certification, Department of Health and Welfare, also the Department Rules Review Officer, introduced herself to the Committee. Concerns were raised by developmental disabilities agency providers regarding a couple of requirements in the chapter rewrite 03.21. **Ms. Prisock** stated the department had asked Eric Brown to respond to those concerns.

Eric Brown, Program Manager for the Department of Family and Community Services, but was here as representative of the Division of Licensing and Certification as he was program manager during time the work was done on this chapter introduced himself. **Mr. Brown** stated that 16.03.21.302.01a-e related to training requirements for employees of developmental disability agencies and would standardize training for all 70 plus agencies. 16.03.21.407 related to procedures for termination of services. He noted that this section was not initially included in the draft of the rules included in the negotiated rulemaking process. He explained that the draft included a placeholder for rules relating to termination policies, but did not include those rules. This error was not caught until very late in the rulemaking process. **Mr. Brown** explained that this section provided a mechanism for agency clientele to request an agency to reconsider a decision to terminate services and allow an agency to terminate services in emergency situations where dangerous or aggressive behavior is occurring or medical situations arose that were outside of the agency's scope to manage.

DISCUSSION: **Senator Wintrow** asked to clarify her understanding that this rule required notice of termination of services which allowed the client time to find a replacement. **Mr. Brown** confirmed that was the intent of 16.03.21.407. In addition, that section allowed for an appeal of the agency's decision.

Chairman Martin asked what effect removing 16.03.21.407 would have on the department. **Mr. Brown** responded that the agencies and clients would be without the safeguards included in that section.

Senator Wintrow asked for clarification of her understanding that section 16.03.21.302.01a-e requires the following at all trainings of employees of developmental disability agencies: name of the individual conducting the training, name of the participant, description of the content of the training, the date of the training, and the duration of the training. **Mr. Brown** replied that her understanding was correct.

TESTIMONY: **Ms. Prisock** concluded her presentation by requesting that **Docket 16-0000-2100** be approved with the exception of 16.03.09.772.01c which podiatrists had expressed concern about.

Kelly Keel, who operates a developmental disability agency in Rigby, expressed his support for most of this docket. However, he had concerns regarding 16.03.21.302.01a-e and felt that the documentation requirements would require a substantial amount of time documenting subtle changes in medication and so forth.

DISCUSSION: **Mr. Brown** stated that, although there was a lot of documentation required by Medicaid, he didn't think documentation of every contact or change was required under this section.

Chairman Martin asked whether striking this section would affect the services department was able to provide.

Mr. Brown responded that it could impact the department's certification team's ability to review training documentation.

Senator Stennett asked whether removing 16.03.21.302.01a-e would affect the ability of the department to be in compliance with the requirements of documentation for Medicaid funding. **Mr. Brown** responded that he wasn't sure they would be able to meet all of the training requirements for Medicaid funding.

Senator Stennett asked to have Mr. Keel respond to the same question. **Mr. Keel** indicated that the documentation requirements in place for individual treatment plans and so forth was separate from any documentation requirements for training. He again expressed that additional documentation requirements would be a burden as confirmed by the survey team.

Senators Wintrow and Riggs asked for clarification from Mr. Brown on what types of training documentation would be required. **Mr. Brown** explained that the certification team would be examining training in the areas of safety, abuse, neglect, exploitation, ethics, participant rights, confidentiality and advocacy. It would not require documentation of what might be considered coaching.

- TESTIMONY:** **Mr. Keel** expressed concern regarding the termination procedures in 16.03.21.407 stating that they would not always be able to provide 30 days notice as a result of staff health. He reassured the committee that they would not terminate services that were beneficial to an individual they served. He expressed a concern that they would lose certification if they failed to provide notice more than once.
- DISCUSSION** **Senator Wintrow** asked Mr. Brown to address Mr. Keel's concern. **Mr. Brown** stated that the department was aware of staffing difficulties, especially in rural areas. He reassured the committee that they would not decertify an agency for a short term inability to provide services. He further indicated that 16.03.21.407 included provisions for emergency termination of services and mutually agreed upon termination of services.
- Senator Zito** asked Mr. Brown and Mr. Keel whether these rules were included in negotiated rulemaking. **Mr. Brown** responded that 16.03.21.407 was not included in the rulemaking process until after the omnibus bill draft.
- TESTIMONY:** **Mr. Keel** concluded his testimony by stating that he was in support of the docket with the exception of sections 16.03.21.302.01a-e, 16.03.21.101.04q and 16.03.21.407.
- DISCUSSION:** **Senator Zito** asked Mr. Brown to clarify whether sections 16.03.21.302.01a-e, 16.03.21.101.04q and 16.03.21.407 were included in the negotiated rulemaking process. **Mr. Brown** stated that 16.03.21.101.04q was included in the initial application and initial draft, but omitted by accident in subsequent drafts until the omnibus bill. Section 16.03.21.407 was not in any of the drafts involved in the negotiated rulemaking until the omnibus bill. He further stated that there was a placeholder for section 16.03.21.407, but that the language was never included in any draft.
- MOTION:** **Chairman Martin** moved, notwithstanding the rest of the docket, to strike section 16.03.09.772.01c. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.
- MOTION:** **Chairman Martin** moved, notwithstanding the rest of the docket, to strike section 16.03.21.302.01a-e. **Senator Harris** seconded the motion. The motion carried by **voice vote**.
- MOTION:** **Chairman Martin** moved, notwithstanding the rest of the docket, to strike section 16.03.21.101.04q. **Senator Harris** seconded the motion. The motion carried by **voice vote**.
- MOTION:** **Chairman Martin** moved, notwithstanding the rest of the docket, to strike section 16.03.21.407 **Senator Harris** seconded the motion.
- DISCUSSION:** **Senator Stennett** inquired whether, if the struck 16.03.21.407, there would still be a termination process in place. **Ms. Prisock** stated that, since the committee had just stricken the general rule regarding state agencies having policies regarding termination, which referenced 16.03.21.407, there would be no termination procedures. **Mr. Brown** suggested keeping 16.03.21.101.04q requiring agencies to have their own termination policies, but not reference 16.03.21.407.
- VOTE:** The motion carried by **voice vote**.
- MOTION:** **Chairman Martin** moved to accept **Docket 16-0000-2100** with the exception of sections previously stricken. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

HCR 29 **Health. Encourages education among certain officers, agencies and employees of the state regarding the impacts of traumatic childhood experiences and interventions.** **Senator David Nelson** presented the resolution. He explained that **HCR 29** was a recommendation of the Behavioral Health Council after working more than a year with their advisory board and input from individuals throughout Idaho. The resolution also recommended implementation of tools for identifying children who have had adverse childhood experiences (ACEs) and implement interventions and practices to help build resiliency to childhood trauma.

PASSED THE GAVEL: Vice Chairman Riggs passed the gavel to Chairman Martin.

TESTIMONY: **Roger Sherman**, Executive Director of the Idaho Children's Trust Fund, stated that this resolution was an invitation to understand the impact of ACEs and the importance of building resilience. He explained that the ACEs study began in the 1990's as a collaboration between Kaiser Permanente and the Center for Disease Control and Prevention. The study discovered a link between early childhood trauma and long term physical, mental and behavioral conditions and illnesses.

Michelle Batten, Family Engagement Director at the Idaho Federation of Families for Children's Mental Health, stated that, as the sister of an adopted sibling who had high ACEs scores, she supported the resolution. She outlined the many affects of ACEs and the importance of identification of children who have had these experiences and implementation of preventative measures.

Tyrell Stevenson, Legislative Director for the Coeur d'Alene tribe expressed his support of **HCR 29**. He shared that the tribe had recently built a youth center with a water park, gym and recreation center. The youth center was also a treatment center that used some of the tools for identifying ACEs and building resiliency identified in this resolution.

MOTION: **Senator Wintrow** moved to send **HCR 29** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion passed by **voice vote**.

S 1243 **Board of Environmental Quality - Amends existing law to revise provisions regarding composition of the Board of Environmental Quality.** **Jess Byrne**, Executive Director of the Department of Environmental Quality, explained that this bill amends Idaho Code §39-107 regarding the composition of the Board of Environmental Quality (Board). The amendment would add an additional requirement for the Board consistent with the Clean Air Act. **Mr. Byrne** explained that section 128 of the Clean Air Act required that any board or body that approves air permits or enforcement orders include a majority of members who represent the public interest and do not derive any significant portion of their income from individuals or entities subject to air quality permits. He further explained that, although this was not a new requirement, it was an issue identified as a deficiency in Idaho in a recent review by the EPA. Finally, **Mr. Byrne** noted they had shared this bill with major stakeholders and have had no objection.

DISCUSSION: **Senator Stennett** inquired about which of the members of the board represented the public interest. **Mr. Byrne** responded that all members represented the public interest and that this bill was really aimed at preventing a member of the board from earning a significant portion of income from individuals or entities subject to air quality permits.

MOTION: **Senator VanOrden** moved that **S1243** be sent to the floor with a **do pass** recommendation. **Senator Riggs** seconded the motion. The motion carried by **voice vote**. Senator Wintrow will carry the bill on the floor.

S 1259

Property Taxes - Amends existing law to revise provisions regarding the exclusion of certain Medicaid income to a certified family home provider. **Senator Wintrow** presented the bill. She explained that the circuit breaker tax relief program provided property tax relief to individuals based on age, status as a veteran, disabilities and income. **Senator Wintrow** further explained that under current law, Medicaid income received by certified family homes was included as income for purposes of determining qualification for the circuit breaker property tax relief program. This bill excluded the Medicaid income to certified home providers in the determination of income for purposes of qualification for the circuit breaker property tax relief program. **Senator Wintrow** shared that many certified family home providers were low income and would benefit from the circuit breaker property tax relief benefit.

TESTIMONY:

Jo Ann Vasko, a certified family home provider for her son with autism, shared her personal story. She stated that this bill would make a difference for hundreds of providers and allow them to stay in their homes or have sufficient income to maintain and repair their home. **Ms. Vasko** explained that this income falls under Internal Revenue Code §131 and that a memo was issued in 2014 prohibiting the inclusion of the family home provider income from gross income.

Christine Pisani, Executive Director, Council on Developmental Disabilities, expressed her support of **S 1259**. She stated that there are 2,532 certified family homes statewide serving 3,000 residents. Of those 3,000 residents, 2,384 are individuals with intellectual and developmental disabilities. **Ms. Pisani** shared that she was also vice chairman of the Community Care Advisory Council (Council) which was comprised of 20 members who are appointed by the organizations or agencies represented on the council. The Council has unanimously endorsed this legislation.

DISCUSSION:

Senator Stennett asked what would happen to the family home providers and residents if they were not eligible for the circuit breaker property tax relief, whether there was any safety net. **Ms. Pisani** responded that they fear that individuals with disabilities could end up on the streets and that they would lose more providers.

TESTIMONY:

Marilyn Sword, representing the Idaho Caregiver Alliance (Alliance) expressed their support for **S 1259**.

Francoise Cleveland, Associate State Director of Advocacy for AARP Idaho and a member of the Council, expressed support for **S 1259**. She also wanted to emphasize that aligning Idaho's definition of income with that of the IRS had two benefits. First, it allowed low income Idahoans to stay in their homes. And the cost of family homes was less than other alternatives such as institutionalization.

MOTION:

Senator Stennett moved to send **S 1259** to the floor with a **do pass** recommendation. **Senator Riggs** seconded the motion. The motion passed by **voice vote**. Senator Wintrow will carry the bill on the floor.

S 1260

Insurance - Adds to existing law to provide that health benefit plans and student health benefit plans covering prescription contraception must provide reimbursement for a 6 month supply except under certain circumstances. **Senator Wintrow** presented this bill. She explained that this bill would require insurance providers who cover prescription contraception must provide reimbursement for a 6 month supply. However, it only required coverage for a 3 month supply for new patients.

MOTION: **Senator Stennett** moved to send **S 1260** to the floor with a **do pass** recommendation. The motion passed by **voice vote**. Senator Wintrow will carry on the floor.

ADJOURNMENT: There being no further business at this time, **Chairman Martin** adjourned the meeting at 4:45 pm.

Senator Martin
Chair

Lena Amoah
Secretary