

Minutes of the Joint Legislative Oversight Committee

March 16, 2023

Room EW42, Capitol, Boise, Idaho



Cochair Senator Wintrow called the meeting to order at 12:30 p.m. Attending the meeting were Senators Dave Lent, C. Scott Grow, James D. Ruchti, Representatives David M. Cannon (cochair) Douglas T. Pickett, Ilana Rubel, and Steve Berch. Also present were Rakesh Mohan, director, and other staff from the Office of Performance Evaluations (OPE). Audience members included the following:

Senator Carrie Semmelroth
Representative Clay Handy
Dave Jeppesen, Director, Department of Health and Welfare
Christine Pisani, Executive Director, Idaho Council on Developmental Disabilities
Mel Leviton, Executive Director, Idaho State Independent Living Council
Judy Taylor, Director, Idaho Commission on Aging
Lupe Wissel, State Director, AARP of Idaho
Robert Vander Merwe, Executive Director, Idaho Health Care Association
Kathryn Durrant, Attorney, DisAbility Rights Idaho
staff with the above organizations
members of the public who receive direct care services

Approval of committee rules

Senator Wintrow asked Rakesh to go over the Joint Legislative Oversight Committee (JLOC) rules. Rakesh explained that rules state that JLOC must release the report in a public meeting, with the exception that the report can be released on the website and not a public meeting if a majority of members, including both cochairs, approved the release. JLOC is an equally bipartisan committee, equal in both chambers, and co-chaired by both a Democrat and a Republican. JLOC has the authority to take testimony under oath. The committee selects topics for OPE to work on. All reports are confidential until the report is released. No public testimonies are taken unless the co-chairs and the majority of members invite someone from the public to testify. JLOC does take testimony from the from the governor's office and the representatives of agencies relating to the project.

Senator Ruchti motioned to adopt the JLOC rules. Representative Berch seconded the motion, and it passed by voice vote.

Report release: *Sustainability of Idaho's Direct Care Workforce*

Representative Berch motioned to release the report *Sustainability of Idaho's Direct Care Workforce*. Representative Rubel seconded the motion, and it passed by a voice vote.

Rakesh thanked all the stakeholders, providers, workers, and family care givers who participated in the report survey and interviews. There were over 900 responses to the project survey. He also thanked the Department of Health and Welfare, Commission on Aging, the Idaho State

Independent Living Council, and the Idaho Council on Developmental Disabilities for all their help throughout the project.

Amanda Bartlett, principal evaluator, said there are 23,000 people who fill direct care jobs throughout the state by Bureau of Labor Statistics estimates. Those people work to serve over 33,000 people who have disabilities or who are older in the state and who rely on those services to maintain a healthy and independent life at home.

Amanda said direct care workers are a group of paid caregivers who assist individuals with essential daily tasks so they can stay at home. Direct care work is an interdisciplinary field, with titles such as direct support, professional home health aide, personal care assistant, certified nursing assistant, and skilled instructors of various kinds. Amanda reviewed the field work and sources of data that went into the mixed-methods evaluation.

Sasha O'Connell, senior evaluator, said that national and state reports have revealed a direct care shortage across the country. Sasha said Idaho's staffing ratio of direct care workers to individuals require care was once similar to the national ratio but has drifted from national levels over time. There was a 3,000 direct care worker shortage in 2022, with that expected to triple by 2032 to 9,500. Regionally, North Idaho has the most severe staffing shortage in counties along the western border.

Home health care services in Idaho had a higher concentration of direct care workers than their national levels. Other care settings in Idaho, which have a higher share of services paid by Medicaid, had a lower concentration of direct care workers than national averages.

Sasha said many of the direct care workers who responded to the survey got into the profession because they had a relative that needed care or because they liked helping people. However, many workers were dissatisfied with their job, either because of the lack of advancement opportunities, feeling unsafe, or because they lack healthcare. A quarter of respondents said they would not be in direct care work within the next year. When asked what would keep them in their job, the highest response was higher pay. Direct care workers could potentially see an increase in pay in other sectors.

Direct care businesses said it was difficult to recruit and retain direct care workers, especially for businesses that rely on Medicaid for payments. Businesses said as a result of the worker shortage they settled for lower quality employees and limited access to their services.

The worker shortage means that often unpaid family caregivers need to step in to provide care, which impacts their ability to work a job. Direct care shortages contributed to older adults and individuals with disabilities experiencing things such as distracted or inattentive care, participating in fewer activities, and sadness and depression.

Ryan Langrill, principal evaluator, said that Idaho has long offered long-term supports to seniors and those with disabilities, even before Medicaid. Most state provided care was closely controlled by the state institutions. Over time Idaho has reduced the role of institutions in long-term care and has focused on home and community-based services to provide care.

Ryan said that since Medicaid payment is such a large part of the direct care work industry, Medicaid rates create wage ceilings for the direct care workforce. When the pay rate is set below the market rate it creates a worker shortage. For direct care, there is a target hourly wage that

the division of Medicaid wants to support, and this target is typically based on an occupation code from the Bureau of Labor Statistics or from a survey that the division does of institutions.

Ryan said Medicaid rates are closer to target wages after a cost survey of the profession is conducted but wages tend to drift over time the further it gets from the cost survey. He said the artificial wage ceiling means that the Medicaid program is not facilitating the ecosystem of autonomy and choice, and the program is not meeting the goals that the Legislature has assigned to it.

Amanda said the most direct thing the state can do to ensure there is a substantiable direct care workforce is to make sure the Medicaid rates support competitive wages. The state can use a composite of similar and competitive occupations to set target hourly wages for a more stable index over time and a better indicator of jobs that would be easy for a direct care worker to move into. The state could also adjust rates more frequently and could create region-specific rates to account for different markets.

Amanda said three components need to be considered in any solution. First, direct care worker compensation should be prioritized. Second, the strategies require collaboration, both private-public and between the different state agencies. Third, the strategy needs to be implemented well, and that requires good management capacity. Amanda said that they recommend that Medicaid increase management capacity. This has been a consistent recommendation from past OPE reports dating back to 2011.

Representative Pickett asked how the target wage is set, and how the Bureau of Labor Statistics data is relevant to the local as opposed to national. Amanda said Bureau of Labor Statistics data is reported out on the state level.

Representative Pickett asked if they looked at worker shortages in other similar professions that could be used to set the target wage. Amanda said they did not look at worker shortages for the other industries.

Representative Cannon said it sounds like there is a worker shortage, and normally in a shortage free-market forces will work to push wages up, but Medicaid creates a cap, meaning the free market that can't make an adjustment. He asked if anything has been asked at looking going away from Medicaid and expanding the function of free markets. Amanda said the challenge is that private insurance typically does not cover the cost of long-term care, meaning the individual needs to cover out of pocket until they are approved for Medicaid. Idaho has a long-term care insurance, but it is underutilized and expensive. Medicare is also looking at changing policies to cover more long-term care.

Senator Wintrow said it sounds like an income problem, if you can't afford the private insurance and pay out of pocket until you are income qualified for Medicaid. Ryan said that Medicaid has a developmental disability program for self-direction, where it creates a budget for the individual receiving care, allowing them to direct funds to whatever manner meets their needs. But it is difficult to set the wage they want to pay because the division has a hard administrative process to go through and a high burden of proof to show that the person you want to hire is worth more than the wage cap that Medicaid has set.

Representative Berch asked what the national staffing ratio of direct care workers was. Amanda said they looked at how many people required direct care services and the number of workers in

direct care occupations, and the number of workers in direct care occupations to the total workforce.

Representative Berch followed up asking if there is a number to that. Amanda said she could provide that.

Representative Berch asked from the surveys if there was a sense of what higher pay was needed? Amanda said the response was \$19 an hour, which she said is in line with the Bureau of Labor Statistics data for competitive occupations.

Representative Berch asked if the wage was \$19 an hour and the state capped it, would the state need to make up the difference between what Medicaid pays, and, if so, what would be that gap in dollar amounts. Amanda said the Medicaid rate would need to be adjusted and she could provide a dollar amount.

Representative Rubel asked what happens on the ground when a person on the ground needs services but there is no one to do the work, and how are they responding. Amanda said they heard stories of people holding on as long as they can or have a family member come in if possible. Chapter 3 of the report goes into what happens when there are not enough workers.

Senator Wintrow next asked Director Dave Jeppesen of the Department of Health Welfare to speak. Director Jeppesen said he appreciates the reports OPE has done, and every report has made the department better. He said they agree there is a shortage of direct care workers, and that there is an opportunity to adjust the rate care setting. He said there is a schedule when they look at rates, and that there were some rate increases last session, and some this year. He agrees they need more management bandwidth. He said they do not have enough individuals to do all the work that needs to be done.

Director Jeppesen said there is a direct care worker initiative that kicked off recently. They want to work with the Legislature, providers, participants and other stakeholders on how to address this issue in a meaningful and economic way that allows people to stay at their homes with the services that they need. They will be doing a listening tour in June hearing from people with developmental disabilities directly. He said they are committed to doing everything they can. He said he did job shadowing this fall, and that every person who works at the department does so because they want to help people.

Representative Rubel said she hopes there will be direct input from the DD community moving forward. Director Jeppesen said yes, it has been their practice to directly talk to those receiving the services.

Representative Berch asked how much of a target wage has the department submitted, and what is the latest in what JFAC is allocating. Director Jeppesen said last year they requested \$220 million for 11 of the 15 provider types, and this year the request was in the seven digits.

Representative Berch asked how close to \$19 an hour the department is getting. Director Jeppesen said the department provides a rate to providers but does not mandate what they pay. Pay depends on the individual providers.

Christine Pisani, executive director of Idaho Council on Developmental Disabilities, spoke next. She said JLOC is critical to the success of the state. The work of OPE helps ability to create a path forward in solving some of our biggest issues in the state.

She said she would like to support the committee for recognizing the valuable role of the direct care workforce. The council appreciates the extensive outreach OPE conducted. The council is looking forward to assisting with OPE recommendations forward.

Christine said that the council has seen situations where people are being left overnight with no support that are unable to get out of bed to get food and water. They are seeing people get 30-day notices because their providers don't have the staffing to support individuals. They end up couch surfing or homeless. People are dying, it is a serious situation.

Mal Leviton, executive director of the Idaho State Independent Living Council, spoke next. Mel said the crisis impacts all of their lives. If you live long enough you'll become disabled. You may have kids, nieces, nephews, grandchildren born with a disability or become disabled. Depending on how much money you put away and how quickly you spend it, you and your loved ones will rely on these workers. They are living breathing people, many of whom are here, many of whom have no way to get here or anywhere else, including to get their groceries and their medicines. Without access to fairly compensated and properly trained direct care workforce, they surrender choice and self-determination. Idahoans with disabilities are resilient. Surrender isn't an option. People with disabilities are dying, are suffering, are being warehoused in nursing homes that still have Medicaid beds.

Representative Berch motioned to have the Department of Health and Welfare come back in September to give an update. Senator Ruchti seconded the motion, and it passed by voice vote.

Representative Berch said September is important because that is when they start work on legislation.

The meeting adjourned at 1:35 p.m.



Idaho State Independent Living Council

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March 16, 2023

2023 Joint Legislative Oversight Committee

Re: Sustainability of Idaho's Direct Care Workforce, OPE Report

My name is Mel Leviton. I'm the Executive Director of the Idaho State Independent Living Council (SILC). The Idaho SILC is governed by a majority of people with disabilities, serving Idahoans across disabilities and lifespan.

We're grateful to the members of the committee for convening to release the report from the Office of Performance Evaluations (OPE) regarding the Sustainability of Idaho's Direct Care Workforce. We're grateful to the OPE for their thorough report addressing the many issues contributing the Idaho's direct care workforce crisis.

The direct care workforce crisis will, if it hasn't already, touch all of our lives. If you live long enough, you'll likely become disabled. You may call it "trouble getting around", "can't hear" or "can't see" - things your parents, grandparents, aunts and uncles say now. Or like some in this room, you may acquire a disability at an earlier age. You may have children, nieces, nephews, grandchildren who are either born with or become disabled. Depending on how much money you or your family, are able to put away now and how quickly you spend it down, you or your loved one will rely on direct care workers, either at home or in a facility.

We are talking about living, breathing people: family members, neighbors - Us. What price is reasonable to pay reliable and qualified humans as they help other Idahoans remain at home and engaged in our communities?

The SILC's mission promotes Independent Living for Idahoans with disabilities: choice, self-determination and access for all. Without access to a fairly compensated and properly trained direct care workforce, we surrender choice and self-determination. Idahoans with disabilities are a resilient bunch. Surrender is not an option.

OPE has done their work. JLOC is doing its work. Stakeholders, including many here today and especially people who receive or should be receiving home and community-based services are ready to work with you to fully fund and follow the recommendations of this report.

Thank you.

Mel Leviton
Executive Director
Idaho State Independent Living Council



Idaho Commission on Aging

Brad Little, Governor

Judy B. Taylor, Director

DATE: March 20, 2023
TO: JLOC
FROM: Judy Taylor, Director ICOA
SUBJECT: Testimony Related to the OPE Direct Workforce Report

From 2010 to 2020 the US census bureau reports that Idahoans aged 65 or older grew by 56%. While the commission views older Idahoans as valuable contributors to their families and communities, the reality is many will need caregivers as they age. Family caregivers are the first line of defense in preventing institutionalization which is why caregiver support is a highly prioritized strategic focus of our agency.

A reality of caregiving is that many family caregivers are employed and must rely on paid caregivers to supplement care during working hours. This important report shines a light on the fragility of the direct care workforce, and the implications it has on the ability of Idahoans to live in their own homes and communities. Again, the Commission on aging is mediating this problem by implementing a consumer directed model that allows caregivers to hire people from their own natural support network of family and friends and neighbors to provide respite, or homemaker and chore services.

Despite these efforts, we acknowledge that the direct care workforce is necessary to keep older and disabled Idahoans out of institutions, and again commend the Office of Performance Management for their fair and comprehensive report and stand ready to be part of the solution. Thank you, committee, for your dedication and interest in this topic. When Idaho unites, we can solve problems for our citizens.

Yours sincerely,

Judy B Taylor, Director