

Minutes of the Joint Legislative Oversight Committee*
February 18, 2000
House Majority Caucus Room
Boise, Idaho

Co-chair Representative Debbie Field called the meeting to order at 7:20 a.m. Committee members Senators Marguerite McLaughlin, Atwell Parry, Grant Ipsen, and Lin Whitworth, and Representatives Robert Geddes, June Judd, and Margaret Henbest attended. Staff members Nancy Van Maren, Margaret Campbell, Ned Parrish, and Eric Milstead also were present.

MINUTES

Co-chair Field opened the meeting by reminding the committee that the minutes from the 2/10/00 meeting had been circulated to members and approved by signature of a majority.

REVIEW OF PROPOSED AMENDMENTS TO BOARD OF PHARMACY RELATED TO REGULATION OF CONTROLLED SUBSTANCES

Co-chair Field called on Mr. Mick Markuson, Executive Director, Board of Pharmacy, to address the committee regarding proposed legislation related to the board's controlled substance responsibilities. Mr. Markuson reviewed RS10079C1, related to foreign practitioners. He said the RS primarily addressed the circumstances of patients who come to Idaho after receiving medical treatment in other states. Representative Henbest asked if the RS would further aggravate prescription abuse (such as doctor shopping) if there was no way in place to track these foreign practitioners. Mr. Markuson said the board relies on pharmacists to monitor abuses.

Mr. Markuson reviewed RS10076, which provided clarification of the investigator's employment status as recommended by the performance evaluation. There were no questions from the committee.

Mr. Markuson said that RS10078 set guidelines for disseminating information collected in the prescription tracking system. It added an exemption to the public records law for prescription records maintained by the Board of Pharmacy. Representative Henbest asked what the rationale was for the apparent broad discretion given the board in reporting criminal activity as indicated by the use of "may" instead of "shall." Co-chair Field called on Mr. Kent Nelson, Deputy Attorney General for the Board of Pharmacy to respond. Mr. Nelson said it was written with "may" to avoid potential liability for the state in the event that people "fell through the cracks." While the board fully intended to report in every instance, using "shall" language may have the effect of placing an impossible burden on them. Representative Henbest said she wished to register her concern with the provision. She said it seemed to be the crux of the problem with enforcement identified by the evaluation.

In response to questions, Co-chair Field clarified that the bills came to JLOC for informational purposes only, and needed to go to the germane committees for hearing. She asked Mr. Markuson to work with Senator Ipsen to get the bills printed within the tight timeframe.

* As approved by a majority of members, Joint Legislative Oversight Committee (per attached signatures)

CONSIDERATION OF PROPOSED RS'S RELATED TO JLOC'S FUNCTIONING

Ms. Van Maren briefly reviewed the intent of the four RS's (Drafts A–D) provided to the committee. Co-chair Field invited Speaker Bruce Newcomb to address the committee on the proposed legislation. Speaker Newcomb first announced that the Office of Performance Evaluation's budget would not come before Legislative Council again and that Legislative Services had been informed of the change. He said it was the job of JFAC to hear OPE's budget.

As related to Draft A (the draft that would shift the hiring authority of OPE's director), Speaker Newcomb said that when he sponsored legislation to establish JLOC, his intent was to create an equally bi-partisan oversight committee, which his research had shown was the only structure that worked. However, he had intentionally kept some attachment of the function to Legislative Council. Senator McLaughlin asked about the 75% majority provision in current code, which the Speaker said had been added to ensure a bi-partisan decision.

In response to questions from Senator Parry about the difference in hiring and firing authority, Speaker Newcomb suggested one idea to consider for the future would be to have the co-chairs of JLOC along with a subcommittee of Legislative Council make the hiring decision. Senator Parry said he felt JLOC should have more involvement in the hiring and firing of the director, and that he felt there should be protection of the director. He said he thought this issue needed further review.

Senator Parry moved to hold the legislation for a time to give the issue more consideration. Hearing no objections, Co-chair Field said the committee would postpone consideration of the legislation.

(Senator Parry was excused from the meeting to prepare for JFAC.)

Co-chair Field asked for discussion on the other proposed RS's. Senator McLaughlin said that after reviewing the drafts, she felt most strongly that legislation was needed to protect the identities of individuals who provide information in the course of an evaluation. In response to committee questions about the current status of records, Ms. Van Maren and Mr. Eric Milstead, Performance Evaluator, clarified that records were protected while performance evaluations were underway. Also, it appeared that a provision of current law may allow protection of information in circumstances in which the public interest would suffer by disclosure. The final two bills would allow individual identities to be protected (Draft C), and reduce the administrative burden on OPE to respond to public records requests once the evaluation was complete (Draft D).

(Representative Geddes was excused from the meeting to attend JFAC.)

Representative Henbest moved to accept Drafts C and D and take them to a germane committee for printing. Senator Whitworth seconded the motion, and the motion passed unanimously by voice vote.

The meeting was adjourned at 8:00 a.m.