

House Health & Welfare Committee

Minutes
2005



MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 12, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd, Henbest, Martinez, Rusche

Guests See attached list.

**ABSENT/
EXCUSED:** None

Chairman Block called the first meeting of the Health and Welfare Committee to order at 1:30 P.M. and a silent roll was taken. She welcomed the members, the secretary and the page and asked that each introduce themselves. She also asked the guests to introduce themselves.

Chairman Block thanked the committee for their talents and dedication and for serving on the committee. She commented on the importance of treating each other with respect and courtesy as well as the citizens who will presenting their cases. She announced that the meetings will be called to order on time and conducted with impartiality and fairness. She asked that questions be addressed through the chair and that side conversations be avoided. She also asked that discussions be kept to the issues and not to personalities.

Chairman Block brought to the committees' attention a letter in their folders dated January 10, 2005 from the Joint Finance Appropriations Committee, listing dates and times of the budget hearing for the Department of Health & Welfare.

Chairman Block introduced **Dennis Stevenson**, Rules Coordinator, who presented the committee with an overview of the Administrative Rules. He gave each member a seven page handout entitled "Legislator Workshop – Rules Review, January 11-12, 2005 (see attached). He gave a brief explanation and definition of the rules and their policies and procedures. He briefly described the four types of rules which are Pending, Pending Fee, Temporary and Final. There were no questions from the committee.

Chairman Block explained that the rules would be divided among three subcommittees for review. A report with their recommendations will in turn be given to the full committee for a final review and vote. She announced the three Chairman and their respective members to be as follows:

- 1) Representative Garrett, Chair, Representatives Nielsen, Ring and

- Martinez, members
- 2) Representative McGeachin, Chair, Representatives Henbest and Shepherd members
 - 3) Representative Loertscher, Chair, Representatives Sali, Bilboa and Rusche members.
- She asked that each subcommittee meet for a short discussion meeting upon adjournment.

Chairman Block announced that the next meeting of the full committee will be held Tuesday, January 18, 2005.

Adjourn:

Chairman Block adjourned the meeting at 2:30 P.M.

The subcommittees met briefly after the meeting to discuss a course of action and to coordinate the next meeting time. There was no official business conducted.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE SUBCOMMITTEE

DATE: January 14, 2005

TIME: 9:00 A.M.

PLACE: Room 404

MEMBERS: Chairman Garrett, Representatives Nielsen, Ring, Martinez

**ABSENT/
EXCUSED:** None

GUESTS: See attached list

Chairman Garrett called the meeting to order at 9:00 A.M. She announced that the following rules would be reviewed at the next subcommittee meeting, Tuesday, January 18, giving the members time to preview them: 1) 16-0226-0401-CSHP, 2) 16-0203-0401-New EMT Level, 3) 16-0223-0401-Indoor Smoking. The **Chair** introduced the presenter of

16-0309-0401 **Selma Gearhardt**, Division of Medicaid, presented **Docket 16-0309-0401**. She explained that this rule will allow Idaho Medicaid to cover certain over the counter medications when they can be substituted for a more expensive prescription medication. **Ms. Gearhardt** explained that several prescribed drug products have changed status and are now available over the counter. The Department needs to be able to include these nonprescription medications in order to contain Medicaid program expenditures to meet legislative appropriation. She explained that this rule will benefit the public by allowing physicians to prescribe equally effective medications at a lower cost to the Department. The estimated savings for the first year is \$425,000.

MOTION: **Rep. Nielsen** moved that the Subcommittee report to the Full committee that they have found no reason to reject this rule. The motion was carried by a voice vote.

JoAnn Condie, Idaho State Pharmacy Association, commented that the ISPA is in favor of this program and would like to see it expanded.

16-0309-0402 **Sheila Pugatch**, Division of Medicaid, addressed the committee regarding **Docket 16-0309-0402**. She explained that these rules are being amended to allow pharmacies to be compensated for the work they incur as a result of receiving returned drugs from residential or assisted living facilities and nursing facilities. She explained that this will allow the dispensing pharmacy to receive payment from Medicaid for acceptance of returned drugs from Medicaid participants and submission of a claim reversal to Medicaid.

Ms. Pugatch yielded to **Rep. Nielsen's** question regarding the cost per

prescription to the pharmacy by explaining that the cost per claim is \$6.00, which covers the service to restock and record keeping. She explained that currently the costs are being absorbed. The issue of hazardous waste from drugs being flushed into the ground/water system was discussed by the committee. The committee was in agreement that returning unused medications will hopefully have an impact on the present situation of flushing drugs which is highly toxic to the environment.

Michelle Glasgow, representing Assisted Living Facilities of Idaho, commented that she is very pleased with this rule. Their desire is that this program does remain on a voluntary basis.

MOTION: **Representative Ring** moved that the Subcommittee report to the full Committee that they have found no reason to reject this rule. The motion was carried by a voice vote.

27-0101-0401 **Mick Markuson**, Idaho State Board of Pharmacy, addressed the committee regarding **Docket 27-0101-0401**. He explained that due to the administrative burden on pharmacists because of more stringent accountability requirements for Medicare, Medicaid, and third party payors, there is an immediate need to increase the number of pharmacy technicians per licensed pharmacist from two to three. This will help protect the public health, safety, and welfare and allow pharmacists adequate time to focus on aspects of the prescription itself and adequate time to focus on the individual patients and counseling for those patients.

JoAn Condie, ISPA, encouraged the committee to recommend to the full committee to accept the rule.

MOTION: **Rep. Martinez** moved that the Subcommittee report to the full Committee that they have found no reason to reject this rule. The motion was carried by a voice vote.

27-0101-0402 **Mick Markuson** addressed the committee regarding **Docket 27-0101-0402**. He explained that ISU, Kootenai Medical, (Coeur d' Alene) and St. Alphonsus have requested authority to commence a pilot project to use teleconferencing and high-speed internet connections to bring pharmacy expertise to Idaho's rural medical facilities. He explained that the Board believes that the pilot projects will create an immediate enhancement to the health and welfare of the target rural areas. Committee discussion followed.

MOTION: **Rep. Martinez** moved that the Subcommittee report to the full Committee that they have found no reason to reject this rule. The motion was carried by a voice vote.

JoAn Condie commented that the interested parties around the state have voiced that they are neutral on the issue at this point in time.

27-0101-0403 **Mick Markuson** addressed the committee regarding **Docket 27-0101-0403**. He explained that this rule is needed to bring the Board's rules into compliance with federal law, which makes Ephedrine products available through prescription only. These rule changes remove rules that allow Ephedrine products to be sold over the counter.

MOTION: **Rep. Nielsen** moved that the Subcommittee report to the full Committee
27-0101-0404 **Mick Markuson** addressed the committee regarding **Docket 27-0101-0404**. He explained that this rule adds specific references to standards of conduct in the practice of pharmacy for reasonable and prudent practice of pharmacy as well as the duty of licensed pharmacists to report unprofessional conduct and to cooperate with investigations by the Board of Pharmacy. This rule also denotes the violation of these standards as

MOTION: **Rep. Ring** moved that the Subcommittee report to the full Committee that they have found no reason to reject this rule. The motion was carried by a voice vote.

27-0101-0405 **Mick Markuson** addressed the committee regarding **Docket 27-0101-0405**. He explained that this rule extends the expiration date of prescriptions from one year to fifteen months. He further explained that medical professionals have indicated that an additional three months added to prescription order expiration dates is necessary to give patients time to complete annual examinations, which medical insurance providers will not pay for until after the one year anniversary from their prior examination.

MOTION: **Rep. Martinez** moved that the Subcommittee report to the full Committee that they have found no reason to reject this rule. Committee discussion followed.

JoAn Condie expressed that the majority of those she represents agree with this rule, however, there are some who are concerned with potential and necessary technological changes to the system. This may be a burden especially on the businesses who are linked to other states.

Rep. Nielsen posed the question to the Department of whether or not this rule may cause a problem with Medicaid. **Debbie Ransom**, Medicaid Division, responded by saying that she would verify with the Department whether or not there would be an issue with Medicaid.

SUBSTITUTE MOTION: **Rep. Ring** moved that the Subcommittee report to the full Committee to accept the rule, provided the Department reports back confirming that there is not an issue. Committee discussion continued.

Stan Gibson, pharmacist, addressed the Medicaid issue by explaining that there may be a problem with Prior Authorization if that authorization is changed from one year to 15 months.

Rep. Ring withdrew his motion and commented that he agrees that there should not be any impediments.

Rep. Garrett expressed that she wants to go forward with the rule but would like the Department to return to the subcommittee with additional information and clarification, for further discussion on how this might impact the Medicaid system. **Rep. Ring** expressed that he thinks this is a good idea.

**SUBSTITUTE
MOTION:**

Rep. Nielsen moved that the Subcommittee recommend to the full Committee to accept the rule, but only after the full Committee can review the forthcoming response by Medicaid. There was discussion on the motion.

Rep. Nielsen withdrew the substitute motion.

Rep. Martinez withdrew the original motion.

Chairman Garrett recommended that the rule be tabled to another day to allow the Department to return to the subcommittee with additional information and clarification for further discussion.

ADJOURN:

Chairman Garrett adjourned the meeting at 10:25 A.M.

Representative Kathie Garrett
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 18, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd, Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached list

Chairman Block called the meeting to order at 1:30 P.M. She asked the committee to review the minutes from January 14, 2005.

MOTION: **Rep. Henbest** moved that the minutes of January 14 be accepted as written.

VOTE: The motion was carried by a voice vote.

The **Chairman** asked each of the subcommittee chairman to report on the progress of their meetings.

Representative Garrett reported that her subcommittee held their first meeting on Friday, January 14. She was pleased to report that two of the rules reviewed, one dealing with over the counter drugs and the other with return of unused medications, will result in a cost-savings to the Department. The rule dealing with the expiration date of prescription drugs will be brought back to the full committee for further testimony.

Representative Loertscher reported that the first subcommittee meeting will be held upon adjournment of this meeting in the Legislative Services Conference Room.

Representative McGeachin reported that the first subcommittee meeting will be held upon adjournment of this meeting in the Caucus Room.

Chairman Block expressed to the committee that the budget issues of health and welfare are increasing at a rate that the State of Idaho cannot afford. She will be setting up a subcommittee to compile savings recommendations to be presented to JFAC.

The **Chair** welcomed the guest speaker, **Kathleen Kustra**, an expert in Medicaid reform, who has an extensive background in the Medicaid field. (See attached biography.) Ms. Kustra began her presentation by directing the attention of the committee to the power point presentation handout

they had been given. (See attached.) She explained that Medicaid is a state-federal partnership with federal matching funds at 50% to 77% of state expenditures. States have broad authority relative to rates and method of payment but limited flexibility with benefits. She emphasized that the benefit package is comprehensive, but states can limit the amount and duration of services. She explained differences between mandatory population and optional services, the latter is where most of the spending occurs. She talked about some of the challenges regarding exceeding state spending, the federal Medicaid match program ending in June '04, and budget shortfalls.

Ms. Kustra talked about principles for successful cost-containment, placing special emphasis on the necessity to get buy-in from the Legislature, the media and providers. She explained that it is very important to continually work with the providers on policy making to be sure that there is a policy in place so that initiatives can be implemented. She talked about four key strategies: (1) managing pharmacy expenditures, (2) co-payments and premium payments, (3) utilization, (4) program integrity. She addressed pharmacy costs and expenditures, emphasizing rising costs of prescriptions due in a large part to a rise in ingredient cost. She said that the states have an obligation to look at this ingredient cost factor because ingredients may or may not change, but their costs continue to rise annually.

Ms. Kustra guided the committee through the remainder of the handout talking about the co-payment/premium payment factors, management utilization, service limitations, service expenditure caps, and program integrity. She opened for discussion and questions from the committee.

ADJOURN: **Chairman Block** adjourned the meeting at 3:05 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 18, 2005

TIME: Upon Adjournment of Full Committee

PLACE: Legislative Services Conference Room - b

MEMBERS: Chairman Loertscher, Representatives Sali, Bilbao, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached list.

Chairman Loertscher called the meeting to order at 3:15 P.M. He asked if there had been any objections or concerns with any of the rules on the agenda. **Rayola Jacobsen**, Bureau Chief, explained that **Docket 24-1401-0401**, dealing with social workers had brought about concerns from two sources, one from the Department and one from a member of the public. Ms. Jacobsen explained that she would work with the Department to resolve their concerns and has agreed in good faith to begin negotiated rule making upon adjournment of the legislature. She also pledged to resolve the concerns in a positive manner. She asked the committee to accept the rule with a good faith agreement that the issues will be resolved after the session. **Ms. Jacobsen** introduced **Roger Hales** to present the rules.

24-1401-0401

Roger Hales, Attorney, Idaho Bureau of Occupational Licenses, addressed the committee regarding this docket. He explained that the purpose of the rule is to correct the web address, define supervision requirements, set guidelines for supervisor registration for those pursuing licensure as clinical social workers, allow audio tapes and internet courses as continuing education and deleting references to pastoral counselors. Clinical and independent practice as defined is being extended until July 1, 2006; supervision is being clarified as 3000 hours in not less than two years and limitations on supervisors is being outlined.

Chairman Loertscher asked Mr. Hales to review the Idaho Statue to see if this rule is in compliance and bring that information to the committee.

Daniel Harkness, PhD ACSW, BSU, spoke in opposition to the rule. He stated that if this rule is adopted as written, he would be disqualified from providing clinical social work supervision. His objections fall within the following subsections. (See attachment.)

(1) 202.01b requiring documentation of "at least two thousand (2000) hours of direct client contact as a clinical social worker within the last three years,"

(2) 202.1c requiring documentation of "fifteen (15) contact hours of education in supervisor training as approved by the Board, and

(3) 202.01.c requiring a registered clinical social work supervisor to provide supervision to no more than three individuals at one time.”

Rayman Millar, Division of Family and Community Services, addressed the committee. He explained that he is in support of the rule with the understanding that the Social Work Board has agreed to begin negotiated rulemaking after the session to address concerns about clinical supervision. He stated that FACS will be happy to participate in the session. He answered the question from a member of what the Department’s concerns are by explaining that they are concerned with the wording requiring clinical supervisors to have had 2000 hours of direct contact with clients during the previous three years, subsection 202.1b. He further explained that the Children’s Mental Health program has seasoned professionals in clinical supervisor positions, but the staff do not have significant direct client contact or carry caseloads. These staff do participate in daily and weekly clinical staffing with supervisees but do not carry actual caseloads. He also stated that these rules make no provision for how current clinical supervision plans currently approved by the Board will be recognized if staff are unable to meet these new requirements.

He answered Representative Sali’s question regarding compliance by stating that until negotiated rule making is completed and new temporary rules are put in place, the Department would be out of compliance.

MOTION: **Rep. Sali** moved that the committee defer action on **Docket 24-1401-0401** until discussion can continue with the Bureau, Dennis Stevenson and others to negotiate a rule that is workable for everyone.

VOTE: The motion was carried by a voice vote. Roger Hales will make available to the committee the original bill.

MOTION: **Rep. Sali** asked for Unanimous Consent that the subcommittees’ report to the full committee will reflect that there is no basis upon which to reject Dockets **24-0601-0401, 24-0901-0401, 24-1201-0401, 24-1501-0401, 24-1601-0401, 24-1701-0401, 24-1901-0401, and 22-0104-0401.**

There being no objection, it was so ordered.

The **Chairman** announced that the subcommittee will meet again on Thursday, January 20 and Monday, January 24 to hear the balance of the rules.

ADJOURN: The **Chairman** adjourned the meeting at 3:50 P.M.

Representative Thomas Loertscher
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE MCGEACHIN SUBCOMMITTEE

DATE: January 18, 2005

TIME: Upon Adjournment

PLACE: Room 311

MEMBERS: Chairman McGeachin, Representatives Henbest, Shepherd (8)

ABSENT/ None

GUESTS: **Sandy Evans**, Executive Director, Board of Nursing; **Michelle Glasgow**, Executive Director, Idaho Assisted Living Association; **Michelle McMullen**, Rules Specialist, Office of Administrative Rules; **Jonathan Parker**, Lobbyist; **Sarah Scott**, Idaho Commission on Aging; **Mike Sheeley**, Executive Director, Board of Dentistry; **John Thomas**, citizen.

Chairman McGeachin called the meeting to order at 3:19 p.m. The Subcommittee will ask questions and address their concerns during the presentation.

**DOCKET
15-0101-0401**

Sarah Scott, Idaho Commission on Aging, presented docket 15-0101-040Ms. Ms. Scott distributed 2005 Legislative Session Rulemaking Summary: IDAPA 15.01.01-Rules Governing Senior Services Program (Exhibit 1). She said the Commission is just putting rules in better order, removing duplication, and making language more concise. She said there were no changes of consequence this year. Ms. Scott summarized the new changes without exception, question or comment except as follows:

With regard to rule changes made to 15-0101-0401.03 (p. 14) allowing interim services to be provided by Health and Welfare during the interim waiting period before Medicaid provides services, Ms. Scott was asked if a budgetary implication could be expected. She said yes, but they would be funded from existing agency allotment: No new funds are being requested.

Ms. Scott was asked to tell the Subcommittee how the program is funded. She said funding comes from several sources, including federal money from the Older Americans Act, the Senior Services Act, United Way, and the counties. She told the Subcommittee that policy was to maintain a waiting list where clients having a greater economic need were prioritized. She said the need for services exceeded what could be provided.

Ms. Scott was asked if the release of information procedures referred to in Docket 15-0101-0401.06 (p. 20) was voluntary. She said there is always a consent form required when information is shared.

At the end of Ms. Scott's presentation, Chairman McGeachin asked for clarification regarding budgetary implications that might arise as a result of rule changes. Ms. Scott said additional costs might be accrued as a

result of providing services to clients while waiting for Medicaid services to begin. They would be incorporated in an inter-agency management process, and would come from existing budgets. She said there would be no request for new monies to cover the rule change. Ms. Scott told the Subcommittee that the Older Americans' Act required aid to be given where there was most need. Ms. Scott was asked if that meant that clients with a lesser need would be in "the Que longer." She said yes.

MOTION:

Representative Henbest made a motion that the Subcommittee sees no reason to reject Docket 15-0101-0401 and would so recommend to the full Committee.

The motion carried by unanimous voice vote.

**DOCKET
15-0102-0401**

Sarah Scott, Idaho Commission on Aging, presented docket 15-0102-0401. Please refer to 2005 Legislative Session Rulemaking Summary: IDAPA 15.01.01-Rules Governing Senior Services Program (Exhibit 1). Ms. Scott said the only substantive change was on 15-0102-0401.05 and .07 (p.28-29) referring to the definition of a valid report. She said the old definition has caused many problems. This revision comes after working with the Deputy Attorney General to arrive at a better definition.

The problem involves requiring the Adult Protection Worker to substantiate a report of abuse that is required to be referred to law enforcement. She said their concern was the safety of the individual; the Idaho Commission on Aging has no subpoena powers and they are not an enforcement agency.

Ms. Scott said the rule has been incorrect since 2003. Although Rules were approved in 2003, the relevant statutes were subsequently denied. These changes reflect the old rules before the 2003 changes.

Ms. Scott was asked if the agency was a mandated reporter. She said yes. To illustrate the problem in practice, Ms. Scott gave an example: Many cases involve elderly couples where one person is more capable than the other. There may in fact be neglect; but it is not appropriate to report to law enforcement.

Ms. Scott was asked how issues of self-neglect are handled. She said voluntary consent was necessary in order to provide services. Every attempt is made to encourage clients to accept services. Often there are referrals to community services. Some clients do refuse; and they have that right.

Ms. Scott was asked what was done if someone is not capable and will not accept services. She said a huge problem exists. Many people need guardians. There is a procedure, but it is costly. Ms. Scott said a request for an Office of Public Guardian in Idaho has been made in the past. A Study Committee on Guardianship met last summer.

The Subcommittee reviewed the process through which these rules were promulgated in conflict to existing statute.

Michelle McMullen, Rules Specialist, Office of Administrative Rules,

recommended that the Subcommittee approve the rules as changed since they are in conflict with statute.

Testimony:

Michelle Glasgow, Executive Director, Idaho Assisted Living Association, distributed a copy of a Mandatory Criminal History Check Report (Exhibit 2), issued by the Criminal History Unit of the Idaho Department of Health and Welfare.

Ms. Glasgow said she was opposed to Michelle McMullen's recommendation because Health and Welfare uses the rule in a punitive manner that results in damage to innocent people. It takes away a provider's right to due process. She said the Bureau overseeing background checks records all complaints on a personal criminal history checklist, and they can't be removed. Any disgruntled care giver or neighbor can make a complaint. There is no oversight, and no method to remove the complaint. Ms. Glasgow referred to Exhibit 2. She said the Subcommittee has an opportunity to investigate the issue.

Ms. Glasgow was asked what steps had been taken to talk with the Department of Health and Welfare to change the situation. She and Ms. McMullen both indicated that there was a serious issue that they had been unable to resolve among the parties involved. The Subcommittee was referred to Mond Warren with the Department of Health and Welfare.

Sarah Scott, Idaho Commission on Aging, agreed it is a problem that the Bureau's Criminal History Unit maintains incidents on records inappropriately. She didn't think it was necessary to hold Docket 15-0102-0401.

The Subcommittee discussed the issue. It was seen as an opportunity to clarify issues with the Department of Health and Welfare. A recommendation was made to ask for response from the Department. Representative Henbest said last year, when minor changes were needed, the agency promulgated a temporary rule, giving time to make accurate changes. Chairman McGeachin reminded the committee of their deadline date.

Chairman McGeachin recommended that no action be taken today. The Subcommittee will research the issue and report back Thursday, January 20th.

MOTION:

A motion was made by Representative Henbest to hold Docket 15-0102-0401 in Subcommittee until the meeting of January 20, 2005. The motion passed by unanimous voice vote.

**DOCKET
23-0101-0401**

Sandy Evans, Executive Director, Board of Nursing, presented Rules Presentation, Pending Rules of the Board of Nursing (Exhibit 3), following that outline for her presentation, and referring to the Administrative Rules Docket.

The Subcommittee discussed English language requirements, Docket 15-0102-0401 (p. 259-60). Idaho licensure requires proof of written and oral

English proficiency. Proficiency is generally accepted to be established when the program of education has been completed in English. Exams, not interviews, are required to establish proficiency should evaluation of proficiency be required.

MOTION: Representative Henbest made a motion that the Subcommittee sees no reason to reject Docket 15-0102-0401 and would so recommend to the full Committee.

The motion carried by unanimous voice vote.

**DOCKET
19-0101-0401**

Mike Sheeley, Executive Director, Board of Dentistry, presented Docket 19-0101-0401. He distributed a folder titled Pending Rules of the Idaho Board of Dentistry (Exhibit 4), which summarized his testimony.

There was discussion about the levels of supervision required for dental hygienists, educational requirements for endorsements, and prohibited duties. Mr. Sheeley referred to a chart included in Exhibit 4. He said the chart was widely distributed throughout the industry and clearly identified approved procedures at the various levels of licensing endorsement.

Mr. Sheeley reviewed incentives for hygienists to provide philanthropic public service.

MOTION: Representative Henbest made a motion that the Subcommittee sees no reason to reject Docket 19-0101-0401 and would so recommend to the full Committee.

The motion carried by unanimous voice vote.

**DOCKET
19-0101-0402**

Mike Sheeley, Executive Director, Board of Dentistry, presented Docket 19-0101-0402. The prior exhibit summarizes his testimony. Please refer to Pending Rules of the Idaho Board of Dentistry (Exhibit 4) for his summary.

The Subcommittee discussed the three specialties added to Specialists Licensure: Dental Public Health Endodontics, Oral and Maxillofacial Pathology, and Oral and Maxillofacial Radiology. Mr. Sheeley said they were somewhat esoteric and related to research and education rather than hands-on practice. The changes were made to reflect usage in professional organizations and to reflect standard practice within the industry.

MOTION: Representative Shepherd (8) made a motion that the Subcommittee sees no reason to reject Docket 19-0101-0402 and would so recommend to the full Committee.

The motion carried by unanimous voice vote.

ADJOURN: The meeting adjourned at 5:20 p.m.

Representative Janice K. McGeachin
Chairman

Mona Spaulding
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 20, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached list.

Chairman Block called the meeting to order at 1:30 P.M. The minutes of the January 18, 2005 meeting were reviewed.

MOTION: **Rep. Ring** moved to accept the January 18, 2005 minutes as written. The motion carried by voice vote.

Rules Subcommittee Progress Reports:

Rep. Garrett reported that the subcommittee has had their second meeting and will have the third and final meeting Friday, January 21, 2005 at 9:00 A.M.

Rep. McGeachin reported that the subcommittee met on Tuesday. The rules for that day were accepted with the exception of **Docket 15-0102-0401** from the Office on Aging dealing with adult protection. She explained that testimony of frequent reports of abuse to elderly individuals has resulted in a motion by the committee to hold the docket until a meeting can be arranged. The second subcommittee meeting will be upon adjournment of the full committee this day. The Representative reported that due to the potential budget implications with the CHIP B rules, she has asked her committee not to take any action on them. She wants the committee to be able to have more time for reviewing budget concerns before making a determination.

Rep. Loertscher reported that the subcommittee has approved most of the rules, with the exception of **Docket 24-1401-0401** dealing with the board of social work examiners. The subcommittee is waiting on a report from the Bureau of Occupational Licenses. He announced the next meeting will be held on Monday, January 24, 2005 upon adjournment of the full committee meeting.

The **Chairman** welcomed the guest speaker, **Cathy Holland-Smith**, Principal Budget & Policy Analyst, Joint Finance Appropriations Committee. Ms. Holland-Smith began by commending the work by the members of the JFAC Subcommittee and listed each by name and title. She encouraged the committee to take a look at the materials, especially

from the CD that JFAC has made available. She directed the attention of the committee to the handout they had been given. She explained that after the JFAC budget subcommittee on the Department of Health & Welfare was finished with their work, their recommendations to the full JFAC committee were the following six objectives: (1) Review the structure of the current budget process and take action at the program level. Ms. Holland-Smith commented that committee members have not been allowed to make decisions at the program level; (2) Develop an adequate time table to hear all of the Department's department-wide issues, program reviews, and decision units and increase the amount of hearing time for JFAC members; (3) Create more JFAC legislator involvement; (4) Improve communication with JFAC, germane committees, and the Department; (5) Better understand the Department's caseload analysis for requesting additional personnel; (6) Suggest to the germane committees broad areas of budget cost-containment in Medicaid. (See handout for a more complete description)

Committee discussion and questions followed. Some of the questions and comments made were: the dilemma of meeting the responsibility of caseloads and eligibility with the set of benefits available; the dilemma of budget forecasting with the rise in caseload, expenditures, and program expansion; understanding the complicated rules process.

Rep. Martinez made the comment that maybe we need to consider looking at the systematic cause for the increase in caseload, i.e., consider why these people are looking for help instead of just cutting programs.

Chairman Block recognized Ms. Holland-Smith for her outstanding record of achievements, including a graduate of the University of Texas and a member of the U.S. Air Force in accounting and finance positions. (See attached biography)

ADJOURN: The meeting was adjourned at 2:50 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE MCGEACHIN SUBCOMMITTEE

DATE: January 20, 2005

TIME: 3:08

PLACE: Room 408

MEMBERS: Chairman McGeachin, Representatives Henbest, Shepherd

GUESTS: Mary Sheridan, Robin Pewtress, Sherri Kovack, Perry Cook, Leslie Clement, Bill Walker

Chairman McGeachin called the meeting to order at 3:08. She said the minutes of the previous meeting will be approved at the next full Committee meeting. She said that she is concerned about the extent of the benefits covered, and eligibility requirements on the CHIP B rules to be heard that day. These rules bring extensive changes and additions to Medicaid for families and children. She wants the Committee to take their time and carefully review the rules. She said today's meeting would be a general overview of the rules to give background information on the legislation and the waiver program. She wanted to know more about the true fiscal impact of the rules. No action will be taken that day. They will meet again as a committee and vote on the rules.

16-0201-0401

Loan Repayment Rule. Mary Sheridan of the Department of Health and Welfare presented **Rule 16-0201-0401**. She is a supervisor for the State Office of Rural and Primary Health Care. They are asking that this rule be repealed. In 1991 the Legislature established a loan repayment program to help rural communities get and keep doctors, doctor's assistants, and nurse practitioners. In 2000 the Legislature expanded the program. The final payments for the original program were received in February, 2004 and the program has ended.

MOTION:

Rep. Henbest moved that the subcommittee report it finds no reason to reject 16-0201-0401 and recommends it to the Committee as a whole. By voice vote the motion passed.

"The CHIP (Children's Health Insurance Program) B/Access Card program was created by the Idaho Legislature in 2003 and implemented July, 2004 with the intent of providing health insurance to more low income children. The program is a public/private partnership to assist children of families whose income is between 151-185 percent of the current federal poverty level." (H & W Publication)

16-0318-0401

This Rule "defines what services are available to children using CHIP B and clarifies language about subsidy payments for children using the Access Card. These rules have been in effect since the program began in July." (H & W Publication)

Robin Pewtress, from the Department of Health and Welfare, Medicaid Division, presented. She is coordinator for CHIP. CHIP was authorized at the federal level in 1997 and gives the state the option to offer children's

insurance with Medicaid expansion, a separate program, or a combination of both. It is easier to do as an expansion of Medicaid as a CHIP A program. If the allotment isn't used up, it goes back into the federal pool to help states who overspent. There is no charge for any services to children on the CHIP A program.

CHIP B is a separate program. If a State overspends on a CHIP B program, the state has to pay the extra expense.

Ms. Pewtress said that the State's portion of CHIP B is funded by a percentage from the Insurance Premium Tax Fund. Almost every insurance policy sold in Idaho has a tax that goes to this fund.

The law specified how the program was to be funded.

16-0318-0402

Allows "The Department to establish cost sharing for CHIP B insurance for Idaho children. The rules were written to implement the Idaho Insurance Access Card Act approved by the 2003 Idaho Legislature." These rules allow "the Department to charge a premium to families whose children are enrolled in CHIP B".

Ms. Pewtress said that premium assistance for private insurance through an employer or individually, of up to \$100 per child to a maximum of \$300 is offered. Any additional health insurance costs are paid by the family, as well as the co-payments for services. Certain services are required on these policies, such as inpatient and outpatient hospital, physician services, ambulatory surgical centers, tests, drugs, hearing and vision services, outpatient mental health, dental services, and immunizations, etc.

Patents pay \$15 per month per child. In the future, co-payments may be instituted.

Ms. Pewtress said a state can submit a program to the federal government and get a waiver to implement the program. The federal government requires that any new program be at least "revenue neutral," that is, it can't cost any more than the program it replaces, and hopefully will save money. The CHIP B/Access Card program is a 1115 HIFA Waiver Program.

16-0301-0401

"These rules, in effect since July 1, 2004, implement the eligibility requirements for CHIP B/Access Card insurance..."

Ms. Pewtress said that the rule does not state the number of children eligible for this program as the Department did not know what the cost per child might be. They set the original cap and are waiting to see what the expenses will actually be. (Currently, it is 5600 children.)

In the discussion that followed, Chairman McGeachin expressed concern that these rules do not follow the Legislature's intent in regards to all the services covered. She said the legislation is vague on the types of services that are to be offered, but she questioned whether the list proposed by these Health & Welfare Rules exceeds the intent.

Leslie Clement of the Department of Health & Welfare said the Legislature didn't spell out the benefits. They gave certain limits that require them to apply to the federal government to build the program. In turn, the federal government requires that these programs offer certain benefits. She said if the state fully subsidizes the program, the state can do what ever they want in regards to the benefits offered. She said the federal government's authority is "fairly intrusive." in this area. They can't

get waivers for current programs unless the program is expanded to new populations. She then commented that CHIP B could do whatever they wanted. A CHIP A program attached to Medicaid is going to be subject to the federal review and authority. They can't make rules that are counter to federal regulations.

The Chairman said that prudent Legislators must be careful as to what rules they approved. She expressed concern about the eligibility section of 16-0301-0401 on Eligibility, expressed on page 186. She does not feel that it really complies with legislative intent. The law says there should be a cap, but a cap is not defined. This rule leaves it up to the Department to set the cap.

Ms. Clement said for the start-up, the state capped the money, and H & W capped the number. They have set the number at 5600. They hope that maybe they can expand the program. These children are fairly healthy and not as sick as the Medicaid population. Maybe they will find they can enroll 10,000. If they find the expenses are higher, they may have to take the cap down to 3000 children.

Chairman McGeachin suggested that a different wording might be more in line with the legislative intent. She wants to be able to follow the fiscal impact trail. She asked to see how the \$7 million excess money came from the Insurance Fund.

Ms. Clement said that since the language was in law, they did not put it into rule. This is a general policy.

Bill Walker, Deputy Director of Health and Welfare pointed out that rules can only be rejected or accepted. They can't change the rule now. One option is to reject the rule and come back next year with a new rule. Meanwhile, they would need a temporary rule. He suggested extending this rule contingent on the good faith promise that the Department will amend the rules next year. Co-pays are a big issue, and there is not a co-pay amount in rule. He said they can't operate without rules.

He pointed out that the amount coming from the premium tax fund caps CHIP B, which also includes federal funds, but no general state funds. He said the Budget Book the Legislators received does not specify which dedicated fund provides the money for this program.

Chairman McGeachin again commented that she wants to make sure that the funding from the state is limited to the dedicated fund money and the federal government money.

Ms. Clement said only their salaries come from the general fund. If the monies go down, they will have to cap the number of children served at a lower amount.

Chairman McGeachin quoted a speaker at JFAC that morning who said "If it is a benefit conferred on a defined population, the state has to pay the bill."

Ms. Clement said CHIP B falls under Title 22, and no state Medicaid funding goes to the project, so Medicaid rules do not apply. Also under this program is the authorization for a small business adult health coverage plan that goes into effect July, 2005.

Rep. Henbest commented that healthy children will go to CHIP B, and the sick ones will stay in CHIP A.

Chairman McGeachin asked for documentation showing what the Premium Taxes are every year. She stated that it is important for those managing the program in the future to know about the financial caps.

Ms. Clement agreed that next year they will refer back to the Premium Tax dollars as the source of the funding.

In closing, Chairman McGeachin said she will visit with Committee Chairman Block, and Kathy Holland-Smith from Legislative Services and urged the Sub-committee members to join this meeting. She commented that it is prudent, regardless of the coverage, to see that these rules fit within the budgetary restrictions.

Ms. Clement said she had no problem with that.

ADJOURN: The meeting was adjourned at 4:20

Representative Janice McGeachin
Chairman

Janet Bryant
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE
LOERTSCHER SUBCOMMITTEE**

DATE: January 20, 2005

TIME: Upon Adjournment of full Committee

PLACE: Room 408

MEMBERS: Chairman Loertscher, Representatives Sali, Bilbao, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached list.

Chairman Loertscher called the meeting to order at 3:00 A.M. The minutes of January 18, 2005 were reviewed.

MOTION: **Rep. Rusche** moved to accept the minutes of January 18, 2005. The motion carried by voice vote.

**DOCKET
16-0309-0404** **Chris Baylis**, Division of Medicaid, addressed the committee regarding **Docket 16-0309-0404**. Ms. Baylis explained that this set of rule changes eliminates language that required quarterly reviews of participants care in skilled nursing facilities. The change provides for reviews of individual care based on need – annually, or more often if appropriate. The change eliminates conflict with federal law. Ms. Baylis answered questions from the committee.

MOTION: **Rep. Rusche** moved that the report to the full committee will reflect that the subcommittee found no reason to reject **Docket 16-0309-0404**. The motion carried by voice vote.

**DOCKETS
16-0310-0401 &
16-0502-0301** **Angela Simon**, Division of Medicaid, asked the Chair if she could address **Docket 16-0310-0401** before **Docket 16-0502-0301** and he agreed. She explained that the audit rules in **Docket 16-0310-0401** are necessary to assist the Department in setting accurate Medicaid reimbursement rates and to align their rules with current practice. She explained that these changes add relevant language from “audit of providers” chapter which they are requesting to have repealed in another docket. These changes support the audits of institutional providers financial records by Medicaid’s contracted auditors. Terminology has also been added making the rules are easier to understand.

Ms. Simon explained that the rule changes in **Docket 16-0502-0301** cover the Department’s audits of institutional providers and are being repealed, as these audits are now performed by outside contractors. The portion of these rules that do pertain to the needs of the Department’s audit contractors are addressed in another docket.

MOTION: **Rep. Sali** moved that the report to the full committee will reflect that the

subcommittee found no reason to reject **Dockets 16-0310-0401** and **16-0502-0301**. The motion was carried by voice vote.

**DOCKET
16-0310-0402**

Sheila Pugatch, Division of Medicaid, addressed the committee regarding **Docket 16-0310-0402**. **Ms. Pugatch** explained that these rules reduce misunderstanding about payment methodology between the Department and nursing home providers in order to build stronger partnerships. The rule changes clarify the types of expenditures Medicaid pays for in a nursing facility and also clarify the way rates are set for Medicaid reimbursement for individuals in a nursing facility who need additional special care. (See attached for further explanation)

Ms. Pugatch answered a question by saying that there will be no fiscal impact with the implementation of these rules. The comment was made that this rule will improve the old retrospective system that was used in the past.

MOTION:

Rep. Sali moved that the report to the full committee will reflect that the subcommittee found no reason to reject **Docket 16-0310-0402**. The motion was carried by voice vote.

The meeting was adjourned at 3:20 P.M.

Representative Thomas Loertscher
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE SUB-COMMITTEE

DATE: January 21, 2005

TIME: 9:00 A.M.

PLACE: Room 404

MEMBERS: Chairman Garrett, Nielsen, Ring, and Martinez

**ABSENT/
EXCUSED:** None

GUESTS: Please refer to the Sub-committee Sign-in Sheet.

Chairman Garrett called the meeting to order at 9:04 A.M. The minutes from the January 18, 2005 Garrett Sub-committee meeting were reviewed.

MOTION: **Representative Martinez** moved to accept the January 18, 2005 Sub-committee minutes as written. The motion carried by voice vote.

Chairman Garrett informed the Sub-committee members that their rules review should be completed today, but the full committee will probably hold another hearing on Docket No. 16-0226-0401 (CSHP) next week due to the number of constituents who have voiced their concerns about this rule and about not having the opportunity to testify.

**DOCKET NO.
16-0317-0401** **Service Coordination - Plan Time Frames**
Mr. Paul Leary, Bureau Chief, Division of Medicaid, presented **Docket No. 16-0317-0401** to the Sub-committee members. Chairman Garrett requested that Mr. Leary begin by giving an overview of "Service Coordination". He explained that last year the Medical Assistant rules stood apart and are now being pulled into the Service Coordination rules. Service Coordination coordinates individual needs. **Ms. Leslie Clement**, Acting Deputy Administrator, Division of Medicaid, further explained that Service Coordination serves on behalf of the person, linking them to the proper service, arranging for that service and making sure clients get help; it does not deliver service or counseling.

He explained that these rule changes stemmed from the request of the House Health and Welfare Committee during the 2004 Idaho Legislature and are in response to a petition for rule making received from the Case Management Association of Idaho. *The rule changes made in response to these requests are outlined in detail in Attachment 1.*

Mr. Leary stressed that "the substantive changes in this docket are to assure that Medicaid participants receiving service coordination get the right services at the right time."

One comment was received from within the Department that questioned

whether the 30-day face-to-face contact between service coordinators and participants should be required. Mr. Leary said that a review of the negotiated sessions clearly showed that the intent of the group was to retain the 30-day requirement for Mental Health service coordination and that all other participant populations are based on the needs of the participant.

In response to a question about no hearings on the Service Coordination rules, Mr. Leary reiterated that these rules changes stemmed from the request of the House Health and Welfare Committee during the 2004 Idaho Legislature and are in response to a petition for rule making received from the Case Management Association of Idaho, but there is always a 21-day comment period once rules are published. Docket numbers 16-0411-0401, 16-0417-0401 and 16-0309-0403 all went through formal negotiations and deletions, and the changes were coordinated with the various Divisions.

When asked about the mandatory criminal checks, Mr. Leary indicated there is no change in the rule. **Mr. Frank Powell**, Rule Writer, Department of Health and Welfare, further indicated that the intent of the change was simply to clarify the requirements. This alignment and clarification is part of a larger effort. Another question was asked about the length of time the criminal checks have been taking and about the problems this has caused for the service providers. Mr. Powell acknowledged that there have been some problems, but said that once the requirements are met for the self-declaration, most employees can start work right away.

Ms. Leslie Clement, Acting Deputy Administrator, Division of Medicaid, also explained that a lot of work is being done in this area. Mond Warren has pursued a federal grant for an automated system to facilitate the criminal checks. She clarified that the length of time to complete the criminal checks is dependent upon the type of program, i.e. if applicant would be working with an especially vulnerable population, a full criminal check would be done while in other programs the self-declaration is adequate. With the implementation of the new automated system, no additional staff will be needed. These rule changes should have no fiscal impact.

Mr. Scott Burpee, CEO, Valley Vista Care Corporation, spoke about the mandatory background checks. He pointed out that there are three levels of checks: background, criminal and FBI. The FBI checks are more expensive, but they show much more detailed information and can help improve care. With certain background checks, information does not always show up when employees go from one type of providership to another.

MOTION:

Representative Martinez moved to report to the full committee that the Garrett Sub-committee found no reason to reject Docket Number 16-0317-0401. The motion carried by voice vote.

DOCKET NOS.
16-0309-0403
16-0411-0401
16-0417-0401

Service Coordination Rules
Mr. Paul Leary, Bureau Chief, Division of Medicaid, explained that **Dockets 16-0309-0403, 16-0411-0401 and 16-0417-0401** represent changes to rule as a result of the adoption by the 2004 Legislature of the Service Coordination rule chapter, IDAPA 16.03.17, that consolidated four sections of Medical Assistance rules pertaining to case management services. These sections of rule were consolidated to assure consistency across populations receiving service coordination and to clarify expectations for both the Department and the providers. The following dockets all represent changes to sections of rule as a result of this consolidation. No comments were received in opposition to these dockets. These dockets were discussed and voted on separately (see following paragraphs).

DOCKET NO.
16-0309-0403

Service Coordination - Alignment of Case Management Rules
Mr. Leary said that to avoid duplication and confusion, **Docket No. 16-0309-0403** deletes the sections of Medical Assistance rules that covered case management. These sections of rule are now covered in the Service Coordination Chapter (IDAPA 16.03.17). The rule change also includes new references to the Service Coordination Chapter and changes some terminology that deals with case management so it is consistent with the terminology used in the Service Coordination Chapter.

MOTION: **Representative Nielsen** moved to report to the full committee that the Garrett Sub-committee found no reason to reject Docket Number 16-0309-0403. The motion carried by voice vote.

DOCKET NO.
16-0411-0401

Service Coordination - Developmental Disabilities Agencies
Mr. Leary pointed out that in **Docket No. 16-0411-0401** terminology referring to case management has been changed to be consistent with terminology used in the Service Coordination Chapter. References to the Medical Assistance Rules are deleted and references to the Service Coordination Chapter have been added. Mr. Leary assured the Sub-committee members that there were no substantive changes.

MOTION: **Representative Nielsen** moved to report to the full committee that the Garrett Sub-committee found no reason to reject Docket Number 16-0411-0401. The motion carried by voice vote.

DOCKET NO.
16-0417-0401

Service Coordination - Residential Habilitation Agencies
Mr. Leary indicated that in **Docket No. 16-0417-0401** terminology referring to case management has been changed to be consistent with terminology used in the Service Coordination Chapter. References to the Medical Assistance Rules are deleted and references to the Service Coordination Chapter have been added. Mr. Leary assured the Sub-committee members that there were no substantive changes.

MOTION: **Representative Ring** moved to report to the full committee that the Garrett Sub-committee found no reason to reject Docket Number 16-0417-0401. The motion carried by voice vote.

**DOCKET NO.
16-0309-0405**

Ambulance Reimbursement

Mr. Paul Leary, Bureau Chief, Division of Medicaid, explained that **Docket No. 16-0309-0405** applies to the Medicaid policy for paying ground and air ambulance services. Mr. Leary stated that the Department wants to pay the right price for the right service and wherever possible assure that providers providing the same service are reimbursed consistently. The proposed amendment creates a consistent reimbursement methodology and rates for all ground and air ambulance services. These changes will align Medicaid's ambulance reimbursement methodology more closely with Medicare's methodology that is in the last year of transition to a single fee schedule for all providers. The change provides a more equitable reimbursement structure for all providers and a methodology that Medicaid can take into the future.

Two comments were received from within the Department on this rule and one comment was received from a provider who was concerned that payments would be reduced by this change.

Mr. Leary responded to the following questions about:

(1) Cost Savings? Currently non-hospital ambulances charge a fee and hospital ambulances charges are cost-based. It is anticipated that by going to a fee schedule the Department will realize about \$10,000 in savings.

(2) Impact to the Counties? Using the 2003 transports cost to calculate the impact to the counties, it was determined that the counties would realize about a \$100,000 increase.

(3) Rate Structure? There is criteria set for all types of transport and for different levels of life support. Mr. Leary will provide specific information to the Chairman.

(4) Who authorizes Non-emergency air transport and criteria used? Generally, the local EMTs and the ACLS work as a team to determine the best transport method.

Mr. Scott Burpee, CEO, Valley Vista Care Corporation, explained that in many areas volunteers provide EMT services. In these areas bonds must be passed for new equipment. He clarified that non-emergence airlift transport is generally used for patients who cannot tolerate lengthy ground travel. A doctor provides an assessment before a patient is transported by air.

MOTION:

Representative Martinez moved to report to the full committee that the Garrett Sub-committee found no reason to reject **Docket No. 16-0309-0405**. The motion carried by voice vote.

**Docket No.
16-0309-0311**

Ms. Leslie Clement, Acting Deputy Administrator, Medicaid Division, pointed out that these rules were extended by the 2004 Legislature as temporary rules based on the Department's assurance that it would continue to work with stakeholders on the amendments. (See *Attachment 2 for Ms. Clement's full presentation.*) A work group was formed including legislative representatives which allowed the Department to establish the relationships with consumers, advocates and providers that will enable working through future challenges in a collaborative manner. The work group produced amendments that achieve three

primary objectives that ensure participants receive services (1) in safe environments; (2) by qualified providers and (3) have treatment plans and services that are individualized and responsive to individual needs.

One change, a reduction in available Partial Care hours from 56 to 36 hours will not be implemented until this year's legislature approves this docket and participants have been given notice of this change and providers have been informed through Medicaid's Information Release process. This reduction is estimated to save over \$500,000 over a 12-month time frame based on current caseload and the current number of providers. The work group doesn't claim to have fixed the system, but they have made important progress.

Ms. Clement stated that the hearings were well represented and a wealth of written comments were received. The work group was comprised of members from the Legislature, the Idaho Alliance of Mentally Ill, Mental Health Provider's Association and various consumer representatives, to mention a few. Dr. Tanner also reviewed these changes.

Several questions were asked about the impact of reducing the Partial Care hours from 56 to 36. Ms. Clement explained that evidence showed that 56 hours was overwhelming, did not appear to be therapeutically helpful, and the individual and community safety are still there with less hours. It was clarified that schools do not provide Partial Care, but they do provide some psycho-social services, and it was acknowledged that there is a need to combine assessments and merge activities in planning documents.

Mr. Greg Dickerson, Social Service Administrator, Mental Health Provider Association, spoke in favor of Docket No. 16-0309-0311. He mentioned that last year his association opposed these rules in part. Several members of the Mental Health Provider Association were involved in the work group and throughout the negotiations their input went forth in good faith, everyone was heard and the evaluations were fair and consistent. He commended Leslie and Paul for their efforts.

It was pointed out that in the 1980's the Department was the only provider of Partial Care but since that time psycho-social and other programs have been added. For patients receiving both Mental Health services and Partial Care it was suggested that both types of services be combined under one plan and it was acknowledged that there is more work to be done.

Questions pertaining to duplicate billing practices and differences in service rates were asked. It was acknowledged that the acts of unscrupulous physicians and clerical errors might result in billing for both services when only one was received. Regarding service and rates, it was explained that providers have different levels of experience and education, but generally \$43 an hour is paid for one-on-one services and the rate for group services is about \$11 per hour. Mr. Dickerson said in his business the ratio of group participants is about 5 to 1, but the rule doesn't set a limit.

Ms. April Crandall, President, Mental Health Providers Association of Idaho, provided written testimony in support of **Docket No. 16-0309-0311** (*Attachment 3*).

MOTION: **Representative Ring** moved to report to the full committee that the Garrett Sub-committee found no reason to reject **Docket No. 16-0309-0311**. The motion carried by voice vote.

Docket No. 16-0309-0502 **Ms. Leslie Clement**, Acting Deputy Administrator, Medicaid Division, introduced temporary rule **Docket No. 16-0309-0502** pertaining to personal care services provided in assisted living facilities and certified family homes that are provided to individuals with cognitive and behavioral issues. She explained that these rules are intended to be published in February with a proposed effective date of March 1, 2005. To date, the Department has not received any formal written comments since the official comment period has not occurred.

At the request from the Department's Personal Services Oversight Committee, a work group was convened to re-visit the objectives of HCR 110 passed by the 2002 Legislature in an attempt to:

1. Address the needs of the mentally ill, developmentally disabled and the multiple diagnosed individual;
2. Bring funding levels for care in line with other populations in assisted living and certified family homes, and;
3. Provide additional hours of service to better manage the client's care and increase provider reimbursement.

Reimbursement for these services is based on three levels: minimum resource needs, moderate resource needs, and maximum resource needs which equates to 16 hours of personal care per week. These rules reflect a recommendation by the work group to add a fourth level that ties specific diagnoses to a rate that is no less than 12.5 hours per week up to the maximum of 16 hours. No additional service costs are anticipated as a result of these rules. (*Attachment 4 contains Ms. Clement's full presentation, including details of an analysis performed by the work group and cost offsets.*)

Ms. Michelle Glasgow, representing the Idaho Assisted Living Association, spoke in favor of **Docket No. 16-0309-0502**. She indicated that this reimbursement adjustment is necessary and has been a long time in the process. This rule change provides the help needed to help residents maintain their improved health and stability. (*See Attachment 5 for Ms. Glasgow's full testimony.*)

MOTION: **Representative Nielsen** moved to report to the full committee that the Garrett Sub-committee found no reason to reject **Docket No. 16-0309-0502**. The motion carried by voice vote.

Docket No. 16-0309-0501 **Mr. David Rogers**, Administrator, Division of Medicaid, presented **Docket No. 16-0309-0501**, explaining that this is a temporary rule and if adopted

will be effective March 2004 (retroactive). This rule change clarifies coverage for investigational and/or experimental treatment. The fiscal impact of this change is \$550,750 annually and is included in the current budget forecast for FY 2005.

Mr. Rogers said this rule was developed in response to several difficult cases. Historically, transplants have been covered even though the current rule stated that transplants “considered investigational or experimental” were excluded. There was no clear guidance in rule or operating procedures.

Attachment 6 outlines the addition of Section 064 that includes a medical review process to be used, questions required for the review and identifies three categories for treatment/care. Section 065 clarifies non-covered procedures and Section 081 clarifies coverage of multiple organ transplants. Coverage Decisions since January 2004 include approval of four Category 1 treatments; five Category 2 - 1 denied; and two Category 3 (both for rare diseases).

- In response to a question about lung transplants, Mr. Rogers stated that they are not covered for adults but they are for children. Federal law dictates that children are covered.
- When asked how the rules were put together, it was explained the Department worked with Qualis Health as cases were presented and they looked at how other states deal with changes in technology.
- When asked if they looked at university research and if we are paying for research, Mr. Rogers said they do turn to university research when there is nothing in literature on the disease and no appropriate evidence at early stages of clinical trial. There are provisions in rule for an Ethics Committee that requires an ethics review. A concern was voiced that the Department does not become a financial vehicle for university research.
- When explaining the budget process, it was clarified that the forecast for hospital expenses is roughly \$140 million which includes university costs. The aggregate for hospital expenses is looked at, not at individual items. The budget forecast is an ongoing dynamic.

MOTION: **Representative Ring** moved to report to the full committee that the Garrett Sub-committee found no reason to reject **Docket No. 16-0309-0501**. The motion carried by voice vote.

Docket No. 27-0101-0405 **Mr. David Rogers** addressed the Sub-committee’s concern about whether the proposed change in **Docket No. 27-0101-0405** extending the expiration date of prescriptions from one year to fifteen months would have an adverse affect on Medicaid. Mr. Rogers said Medicaid can support the 15-month expiration date and this change will not require a change in policy. It will require a modest adjustment to claims.

MOTION: **Representative Nielsen** moved to report to the full committee that the Garrett Sub-committee found no reason to reject **Docket No. 27-0101-0405**. The motion carried by voice vote.

ADJOURN: There being no more business to come before the Garrett Sub-committee, the meeting was adjourned at 11:37 A.M.

Representative Kathie Garrett
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 21, 2005

TIME: 1:00 P.M.

PLACE: Room 404

MEMBERS: Chairman McGeachin, Representatives, Henbest, Shepherd (8)

**ABSENT/
EXCUSED:** None

GUESTS: See attached sign-in sheet.

Chairman McGeachin called the meeting to order at 1:00 P.M. The minutes of the January 18, 2005 subcommittee meeting were reviewed.

MOTION: **Rep. Shepherd** moved to accept the minutes as written. The motion carried by voice vote.

DOCKET NO. **Developmental Disabilities - Employment Rules**
16-0404-0401 **Cameron Gilliland**, Program Manager for ADDP, presented. He explained that this rule deals with the repeal of the Rules Governing Minimum Standards for Employment Services. During the last legislative session the program providing employment services in workshops and community supported employment was moved to the Division of Vocational Rehabilitation. Because the program is no longer under the scope of the Department, the rules have become obsolete. There was no opposition to the rule change.

MOTION: **Rep. Shepherd** moved to recommend to the full committee that the subcommittee has found no reason to reject **Docket 16-0404-0401**. The motion carried by voice vote.

DOCKET NO. **Developmental Disabilities - Infant /Toddler**
16-0411-0402 **Mary Jones**, Family and Community Services presented the rule. She explained that the Idaho Infant Toddler Program as the lead agency is responsible to assure that the early intervention needs of infants and toddlers are met by fully qualified personnel and through practices to support the interests of the family in responding to their infants needs. Children, birth to three, with developmental delays are the most vulnerable children in our state and parents need access to highly qualified specialists who are trained and skilled to understand infant development and the unique needs of medically fragile infants and those with developmental disabilities. She explained that in order for the developmental specialists in private DDAs to be in alignment with the same standards as the Infant Toddler Program, the rules increase the minimum number of required semester credits from twenty to twenty four in Early Childhood and Early Childhood special Education. (see attached testimony.) There was no opposition to these rule changes.

MOTION: **Rep. Shepherd** moved to recommend to the full committee that the

subcommittee has found no reason to reject **Docket 16-0411-0402**. The motion carried by voice vote.

**DOCKET NO.
16-0606-0401**

Substance Abuse - Group Home Loan Program

Pharis Stanger, Substance Abuse Program Manager from the Department, presented the rule. He explained that these rules were adopted in 1989 for loans to be given to group homes for recovering alcohol and drug abusers. The entire chapter is being repealed because of federal requirement changes that no longer require these rules. There was no opposition to these rule changes.

MOTION:

Rep. Shepherd moved to recommend to the full committee that the subcommittee has found no reason to reject **Docket 16-0606-0401**.

**DOCKET NO.
16-0614-0401**

Tobacco Inspections

Terry Pappin, Division of Family Services, presented the rule. She explained that the Idaho Tobacco Project inspects businesses to prevent the sale of tobacco products to youth under the age of eighteen. Part of the inspection process requires a minor to attempt to purchase tobacco products. Some businesses only serve adults and do not allow minors. This rule exempts businesses that only serve adults from inspections using a minor. The rule also allows the Department to issue permits to businesses selling tobacco products through the internet. The rule supports a law passed last session that requires those who deliver products to be issued permits. It also implements requirements from S1067 and HB357 in the 2003 legislative session. Ms. Pappin commented that UPS has indicated that they will no longer deliver tobacco products to Idaho. There was no opposition to these rule changes.

MOTION:

Rep. Henbest moved to recommend to the full committee that the subcommittee found no reason to reject **Docket 16-0614-0401**. The

**DOCKET NO.
16-0901-0401**

Day Care Health Standards

Richard Horne, Director Public Health District 7, presented this rule.

MOTION:

Rep. Shepherd moved to recommend to the full committee that the subcommittee has found no reason to reject **Docket 16-0901-0401**.

**DOCKET NO.
16-0304-0401**

Food Stamps - Simplified Reporting

Terry Meyer, Division of Family and Community Services, presented this rule. Ms. Meyer explained that these rules have been in effect for over a year and represent Idaho joining forty-two other states in adopting the pieces of the Farm bill as they impact Food Stamp Programs across the nation. These rules will help stabilize a food stamp benefit for families and will allow the program to become easier to administer. Committee discussion and questions followed. **Greg Kunz**, from the Department, responded to a question by saying that in the Self-Reliance Programs, information about participants who receive food stamp benefits is available. There was no opposition to these rule changes.

MOTION:

Rep. Henbest moved to recommend to the full committee that the subcommittee has found no reason to reject **Docket 16-0304-0401**. The

motion carried by voice vote.

Regarding the CHIP B rules, **Cathy Holland-Smith**, JFAC Policy Budget Analyst, was asked by Chairman McGeachin to provide the committee with a report on how the funds are being spent, i.e., whether CHIP B is being funded totally through the insurance account and if appropriations are being matched correctly. Ms. Holland-Smith will research this issue and return with a report indicating current cash flows and whether or not the program is operating as the Legislature intended it to.

ADJOURN: The meeting was adjourned at 2:10 P.M.

Representative Janice McGeachin
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 24, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached list.

The meeting was called to order at 1:30 P.M. The minutes of January 20, 2005 were reviewed.

MOTION: **Rep. McGeachin** moved to accept the January 20, 2005 minutes as written. The motion carried by voice vote.

The **Chair** welcomed guests and asked them to introduce themselves.

The **Chair** introduced a letter from Representative Garrett dated January 24, 2005 regarding budget recommendations for JFAC. The secretary will file the letter with the minutes.

Rules Subcommittee Progress Reports:

Rep. Garrett reported that the subcommittee has completed their work and a final presentation before the full committee at the Wednesday, January 26 meeting. She explained that they will look at Docket 16-0226-0401, Idaho children's Special Health Program, and will take testimony at the meeting before a final vote is made.

Rep. McGeachin reported that they have completed their work on most of the rules and have had no problems. However, the subcommittee will review again the CHIP B Dockets, 16-0318-0401, 16-0318-0402, 16-0301-0401, and Office on Aging Docket 15-0102-0401. They will hear testimony and take action at the next subcommittee meeting Wednesday, January 26, upon adjournment of the full committee.

Rep. Loertscher reported that the subcommittee will meet on this day upon adjournment of the full committee and will review the remainder of the dockets they have been assigned. He explained that they are waiting on information from the Bureau on Docket 24-1401-0401 before making a decision on that rule.

Rep. Block brought to the committee's attention that the practice of making a second to a motion will not be required. The only time seconds are required is for Amendments.

The **Chair** introduced the presenter for today's meeting, **Jim Hawkins**, consultant for Columbia Benefits and an expert in the field of disease management. He directed the attention of the committee to a power point presentation handout they had been given. He explained that he has spent a great deal of time in research and has found that the same issues occurring with Medicaid also occur with the groups that he insures. He commented on the importance of the intent and goal of managing the disease on a proactive basis instead of a reactive one. Some of the key points Mr. Hawkins discussed were: the fact that his organization has significantly reduced trend; they identify and target the 1 to 3% of clients who have 66-70% of the claims and provide intervention directly with the participant; provide direct contact with the physician/provider at all times, avoiding frequent trips to the ER; their goals are to positively impact physician patterns, improve patient self-management, improve clinical outcomes, reduce utilization and improve overall healthcare. (See attached handout for more detailed information of the presentation).

RS 14525

Rep. Ring addressed the committee. He explained that the purpose of this legislation is to establish a fee-exempt license for retired physicians and osteopathic physicians to practice medicine in free or sliding fee clinics if they receive no remuneration.

Rep. Ring explained in response to a question that the words IMMUNITY FROM LIABILITY on lines 10 and 11, pg. 1 were suppose to have been deleted as they are not necessary in the header.

MOTION:

Rep. Henbest moved to send **RS 14525** to Print with the following corrections made: delete the words IMMUNITY FROM LIABILITY in lines 10 and 11, pg. 1. The motion was carried by voice vote.

RS 14401

Raoyla Jacobsen, Bureau Chief, addressed the committee. She explained that this legislation deletes obsolete language that references July 1. This legislation will provide that licensees pay fees annually at the time of renewal.

MOTION:

Rep. Loertscher moved to send **RS 14401** to Print. The motion was carried by voice vote.

RS 14403

Rayola Jacobsen addressed the Committee She explained that this legislation would allow the establishment by rule for specialty certifications for licensed administrators for the unique and special needs of certain residents they may serve. The certification rules will include the nature of the certification and the education, training and examination required for certification, including an initial and renewal fee for each certification which shall not exceed \$50.00. This legislation will also expand the categories of licensee misconduct for which the Board may take disciplinary action. There were questions from the committee.

Mr. Hales, Attorney for the Bureau, answered a question regarding replacing the words convicted or found guilty, line 31, pg. 2 with the word committed, line 32, pg. 2 which is not a clear definition. He explained that in determining taking disciplinary action on a licensee there has to be clear and convincing evidence that a wrong has been committed. They would have to prove that the licensee committed fraud.

MOTION: **Rep. Sali** moved to return **RS 14403** to the sponsor with the commitment to work with the Bureau in clarifying the language. There were more questions from the committee.

Mr. Hales clarified a question regarding the term resident, line 36, pg. 2 by saying that the word resident is someone who is a resident of the facility, not an employee. He answered another question regarding protecting the reputation of a licensee being accused by saying again that there has to be proof that someone committed fraud by clear and convincing evidence. All licensees are provided due process and there must be substantial evidence of wrong doing in the records.

Mr. Hales answered a question by stating that the licensee is allowed to practice until the administrative procedures process is finished. i.e., the licensee maintains her/his license.

Another concern was relating to subsection (g,) pg. 1, where the gradation in the language is somewhat cumbersome, especially in regard to segregating populations.

The motion to return **RS 14403** to the sponsor for further work was carried by a voice vote.

RS 14414 **Rayola Jacobsen** addressed the committee. She explained that this legislation will allow the Board to consider post-secondary education. She explained that the Board of Hearing Aid Dealers and Fitters felt this was necessary in order to consider all educational situations in the licensure process to maintain the protection and health, safety and welfare of the public.

MOTION: **Rep. Sali** moved to send **RS 14414** to Print. The motion carried by voice vote.

RS 14417C1 **Rayola Jacobsen** addressed the committee. She explained that this legislation will clean up references to gender. She explained that the Board of Psychologist Examiners felt the change would make gender references more consistent and gender neutral.

MOTION: **Rep. Henbest** moved to send **RS 14417C1** to Print.

Rep. Sali stated that he would be voting No. He explained that the same language that has been stricken in Sec. 1, lines 36 through 39, pg. 1 had been added to Sec. 2, lines 3 through 6, pg. 2.

Rep. Henbest stated that she would support the motion. She explained that she believes that removing the language from Definitions, Sec. 1, and moving it to Sec. 2, Exemptions, makes more sense and is appropriate.

The motion was carried by voice vote. **Representatives Sali** and **McGeachin** will be recorded as voting No.

RS 14418 **Rayola Jacobsen** addressed the committee. She explained that this legislation deletes provisions for conditional permits which are no longer

allowed. This will also allow an examination administration fee of \$25.00 and increase the cap for annual renewal fees from \$60.00 to \$100.00.

MOTION: **Rep. Ring** moved to send **RS 14418** to Print. There were questions from the committee.

Mr. Hales answered a question by explaining that this language is archaic and does not apply since permits are no longer allowed. He continued to explain that in essence this is a housekeeping change.

The motion was carried by voice vote.

RS 14419 **Rayola Jacobsen** addressed the committee. She explained that this legislation eliminates the practice of apprentices in Idaho because the Idaho Board of Cosmetology felt that the apprentices were not being adequately trained and that the public was not being protected. This will also increase the bond required by licensed schools of cosmetology from \$5,000 to \$25,000, increase the instructor/student ratio, and allow a student instructor to count as an instructor and not as a student. The Board felt that the students were not being adequately protected under the current bond amount. There were questions from the committee.

MOTION: **Rep. Sali** moved to send **RS 14419** to Print with the following change: delete the language in Sec. 1, lines 8 and 9, pg. 1, and renumber the corresponding section, i.e., Sec. 2 becomes Section 1. There were questions from the committee.

Ms. Jacobsen responded to a question by saying there would be less supervision, but the pass/fail rate will be closely monitored. She responded to concern that the \$25,000 bond was not enough to insure protection to students. She explained that the Board of Cosmetology has the final say on this policy and cannot be overridden. Ms. Jacobsen agreed to have a representative from the Board of Cosmetology in support of this policy to be present at the hearing of this bill.

The motion was carried by a voice vote.

Rep. McGeachin announced her next subcommittee meeting will be upon adjournment of the full committee Wednesday, January 26, 2005.

Rep. Loertscher announced his next subcommittee meeting will be upon adjournment of the full committee meeting this day, Monday, January 24, 2005.

The **Chair** announced that the next meeting will be Wednesday, January 26, 2005 at which time the committee will be voting on the rules of the Garrett subcommittee.

ADJOURN: The meeting was adjourned at 3:15 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE LOERTSCHER SUBCOMMITTEE

DATE: January 24, 2005
TIME: 3:35
PLACE: Room 408
MEMBERS: Chairman Loertscher, Representatives Sali, Bilbao, Rusche
GUESTS: See attached sheet.

16-0219-0402

Patrick Guzzle, of the Food Protection Section, presented. He said that The Food Protection District works closely with the Health & Welfare Department to develop guidelines for food safety. The current code is based on 10 year-old practices, and given current scientific knowledge, some of these are no longer adequate,. Last year's proposed rule changes in this area received opposition and failed to pass. This year's rule contain compromises that make them acceptable to all concerned. They conducted public hearings, and generally positive comments were received throughout the state.

Rep. Sali asked how local jails, prisons, and schools felt about the new rule. Mr. Guzzle said there were three options for training in last year's proposed rule. This year they added "or equivalent" course. The official training course is currently being revised, and should be available in two or three months. Last year's problem for assisted living homes has been solved. Also, this rule clarifies that self-medicating patients will continue to have access to their own medications.

Michelle Glasgow, Executive Director of the Idaho Assisted Living Association, spoke in favor of the new rule. She said her association represents about 70% of the assisted living residences in Idaho. She complimented Mr. Guzzle for his cooperation in this area. She said that Food Safety met with a wide variety of stakeholders in the food establishment industries to help determine if the adaptations asked for by the assisted living industry were necessary for the rules and safe for residents in assisted living. She closed saying they enthusiastically supported the changes to the new food safety rule.

A question as asked about food inspections. Ms. Glasgow said that Food Safety does not individually inspect their facilities. They have not been satisfied with the frequency of inspections. She said they have told Health and Welfare there aren't enough inspectors. Possibly a bill will be introduced to cover this issue. When pressed further by the committee, she said in her opinion, inefficiencies existed in the way the department was conducting inspections. Changes were made, but many inefficiencies still exist. There is a difference of opinion in how many inspections are needed.

MOTION

Rep. Rusche moved to report to the Committee that the Subcommittee finds no basis to reject 16-0219-0402. By voice vote

the motion passed.

16-0219-0401 Mr. Guzzle presented. He said this was the repeal of the previous rule.

MOTION **Rep. Sali moved to report to the Committee that the Subcommittee finds no basis to reject 16-0219-0401. By voice vote the motion passed.**

16-0210-0401 **Dr. Christine Hahn**, of Health and Welfare, presented. This rule adds SARS (Severe Acute Respiratory Syndrom) and West Nile Virus to the list of diseases that physicians and laboratories must now report. This also allows physicians to legally report these diseases in a confidential manner.

16-0210-0402 Dr. Hahn continued. She explained that this rule adds Mad Cow Disease to the list of diseases that physicians and laboratories must now report.

MOTION **Rep. Sali moved to report to the Committee that the Subcommittee finds no basis to reject 16-0210-0401 and 16-0210-0402. By voice vote the motion passed.**

16-0211-0401 **Russell Duke**, of Health and Welfare, presented. This rule requires an additional dose of measles, mumps, and rubella (MMR) and a fifth dose of DTaP (Diphtheria, Tetanus and a-cellular Pertussis) for children entering preschool. (The current number of required doses is four for DTaP.) The CDC (Center for Disease Control) and the Idaho State Medical Association now recommend a fifth dose at age 4. He commented that one dose is 95% effective, and with two doses, the rate goes up to 99% to 100%.

The cost of these additional vaccinations will be shared by the state and federal government. In addition, a federal grant will help off-set the state part of the cost. This cost is \$30,000. This rule has some controversy, but it does allow parents to opt out for personal, religious, or other reasons.

When asked about the risk to immunized children from unimmunized children, Mr. Duke agreed there is a risk, but said the "opt out" rate is fairly low in Idaho. Our immunization rates have been increasing. The gap is generally due to children not getting their last immunization, rather than none at all.

Dick Schultz, of Health and Welfare, said that in the case of an outbreak, the children who are not immunized can be excluded from school by code so they don't become "vectors."

16-0215-0401 Mr. Duke continued, and explained that this rule requires the same extra vaccination of MMR and DTAP for children entering school.

When asked about opposition, Mr. Duke said they did not have public hearings, but they did not receive any public comment either.

MOTION

Rep. Rusche moved to report to the Committee that the Subcommittee finds no basis to reject 16-0211-0401 and 16-0215-0401. By voice vote the motion passed.

16-0601-0401

Chuck Halligan, Program Manager for Children and Family Services with the Department of Health and Welfare, presented. This pending rule raises the reimbursement rate for foster parents. He said foster families are a cornerstone of Idaho's child welfare system and foster care program. These families provide care to some of the state's most needy and challenging children. Foster families are needed to achieve Idaho's goal of safety, permanency and well-being for the children in their care.

Foster parents are reimbursed for some of the cost related to caring for the children. In 2003 the Legislature approved a 4% increase, and last year a 5% increase.

There were no hearings and no outstanding issues with this docket.

16-0601-0402

Mr. Halligan continued with his presentation. He said these rules address the need to bring Idaho's rules in line with federal funding requirements for Idaho's foster care program. The docket had no hearings and the Board of Health and Welfare did comment on the rules, asking for a definition of deprivation. Federal funding is essential to Idaho's foster care program in order to meet the needs of foster children. Approximately 50% of our current foster children are eligible under this federal poverty program.

The question was raised by two Committee members concerning situations where grandparents or another family members try to become foster parents in order to care for children in their family. The issue is time. Mr. Halligan said they do have a policy memo directing the staff to move quickly in placing children with relatives. However, they need to be licensed in order to collect federal monies. Mr. Halligan said it takes 27 hours of training to get a license. He didn't know how long it takes to get these hours of training. In defense of the required training, he said there are always things that come up with children when they are placed with people they don't know.

In response to further questioning, Mr. Halligan said that if the grandparents don't want reimbursement, they at least do a minimum background check and a visit to the home. If the grandparents come forward at the time of removal from the home, and the parents consent to the grandparents taking custody, it is a different situation from when the state takes custody for any length of time.

Committee members expressed concern that even 24 hours in an unfamiliar environment can be an eternity to a child. They expressed concern that there is a quick enough turnaround so the child is not damaged.

The suggestion was made to Chairman LOERTSCHER that Mr. Halligan come and brief the whole committee on how foster care works "on the ground."

MOTION

Rep. Sali moved to report to the Committee that the Subcommittee finds no basis to reject 16-0601-0401 and 16-0601-0402. By voice vote the motion passed.

24-1401-0401

This rule was discussed in the last meeting and the members wanted some time for research.

MOTION

Rep. Sali moved to report to the Committee that the Subcommittee finds no basis to reject 24-1401-0401 with the exception of 24-1401-0401-202.01b, 24-1401-0401-202.01c, and 24-1401-0401-202.02c.

ADJOURN:

The meeting was adjourned at 4:12.

Representative Tom Loertscher
Subcommittee Chairman

Janet Bryant
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 26, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached list.

The meeting was called to order at 1:34 P.M. The minutes of January 24, 2005 were reviewed.

MOTION: **Rep. Ring** moved to approve the minutes of January 24, 2005. The motion carried by voice vote.

Subcommittee Progress Reports:

Representative Loertscher reported that all of the rules on the subcommittee were accepted with the exception of rejecting a portion of **Docket 24-1401-0401**. They will present their final report and recommendations to the full committee Wednesday, February 2, 2005.

Representative McGeachin reported all of the rules assigned to her subcommittee have been reviewed, however there are three rules that the committee will be looking at again at the next subcommittee meeting following the full committee meeting this day.

Chairman Block addressed the committee regarding the Health and Welfare budget subcommittee that she is arranging. She informed the committee of the members she has chosen to be on this subcommittee: Representatives Garrett, McGeachin, Nielsen, Loertscher, Henbest, Rusche, and Chairman Block. She welcomed ideas from the Department and other members of the legislature. The first subcommittee meeting will be Monday, January 31, 2005 at 3:00 P.M. in Room 406.

Subcommittee Final Report - Rep. Garrett

The **Chair** informed the committee that time would be allowed for questions and for members of the public to testify. She informed them that a list of ground rules on parliamentary procedure has been posted outside of the Room 404 and the secretary has copies if any one wishes

Rep. Garrett asked for Unanimous Consent that **Dockets 16-0226-0401**

and **16-0309-0405** be moved to the bottom of the agenda due to more time that may be necessary to hear testimony. Unanimous Consent was granted.

**DOCKET
16-0203-0401**

New EMT Level

Rep. Garrett explained that emergency medical technicians and paramedics respond to critical illness and injury situations, often saving lives with their skills. In most rural areas of Idaho there are no Paramedics, which threatens the safety of Idaho citizens. This rule establishes a new level of EMT provider, the EMT-Intermediate. The EMT-intermediate is a level between the EMT and the Paramedic, and was created primarily for rural volunteer EMS agencies to use. An EMT Intermediate will be able to perform selected life-savings paramedic skills. Without this rule change, the majority of licensed Idaho EMS agencies will be limited in the advanced life support they can offer in their communities. No one testified against this docket. The subcommittee found no reason to reject these rules.

MOTION:

Rep. Garrett moved that the full committee accept **Docket 16-0203-0401**. The motion was carried by voice vote.

**DOCKET
16-0223-0401**

Indoor Smoking

Rep. Garrett explained that the 2003 Legislature passed the Clean Indoor Air Bill, prohibiting smoking in public places and at public meetings. These rules assist business owners and the public to interpret the law. The rules were developed in a negotiated rulemaking process that included business owners, law enforcement, legal representatives, legislators, health organizations, and the general public. They provide definitions to aide business owners in preventing smoking. The rules provide requirements that must be met in order for a bar to be physically isolated from a restaurant. No one testified for or against this rule. The subcommittee found no reason to reject these rules.

Charlie Creason who is an owner of a bar in Rupert addressed the committee. He explained that due to the fact that his as well as many other businesses in Rupert are located inside very old historic buildings that may have only one entrance, this rule in its definition of a bar in Sections b., c., d., pg. 149-150 creates a problem for his business.

Susan Reese, Coalition for a Healthy Idaho addressed the committee. She explained that she would like the committee to accept the rules as written. She acknowledges that there are isolated incidences where some businesses have been adversely affected, but she feels that the rules were written well and should be accepted. Committee discussion followed.

MOTION:

Rep. Garrett moved that the full committee accept **Docket 16-0223-0401**. She expressed that this rule followed the negotiated rulemaking process where all parties, i.e., business owners, the public, law enforcement, and legislatures were brought together in negotiations. She encouraged the committee to accept the docket. Committee discussion continued. Some of the members were concerned with businesses going out of business and others were concerned that the proper legislative procedure has already been undertaken and policy has already been set,

therefore we should stay the course and accept the rule.

Dennis Stevenson, Rules Administrator, responded to a question by stating that this rule is already in place and these are amendments to the rule. If they are rejected, the rule would fall back to the original rule.

**SUBSTITUTE
MOTION:**

Rep. Nielsen moved to report to the full committee that the subcommittee found no reason to reject **Docket 16-0223-0401** with the exception of b, c, d, pg. 149-150 which will be sent back to the Department for further rule making. There was discussion on the motion. **Rep. Henbest** commented that rejecting this part of the rule may conflict with statute.

Rep. Nielsen withdrew the substitute motion.

**SUBSTITUTE
MOTION:**

Rep. Nielsen moved to report to the full committee that the subcommittee found no reason to reject **Docket 16-0223-0401** with the exception of b, c, d, pg. 149-150 as long as this will not conflict with statute.

**AMENDED
SUBSTITUTE
MOTION:**

Rep. Sali moved to defer action on **Docket 16-0223-0401** until February 2, 2005 at the next committee meeting. There was discussion on the motion.

The committee voted on the amended substitute motion which failed by a voice vote.

The committee voted on the original motion which was carried by a voice vote.

**DOCKET:
16-0317-0401**

Service Plan Time Frames

Rep. Garrett explained that these rules are being changed at the request of the Legislature and a petition for rule making from the Case Management Association. The rule changes the time requirements for developing an initial service plan for those receiving development disability service, personal care services, and Early Periodic Screening and Diagnosis Treatment services. There was no opposition received. The subcommittee found no reason to reject these rules.

MOTION:

Rep. Garrett moved that the full committee accept **Docket 16-0317-0401**. The motion carried by voice vote.

**DOCKET:
16-0411-0401**

Service Coordination-Consistency

Rep. Garrett explained that changes in this docket are to align terms in the New Service Coordination chapter adopted by the 2004 Legislature and to ensure uniformity between chapters. The subcommittee found no reason to reject these rules.

MOTION:

Rep. Garrett moved that the full committee accept **Docket 16-0411-0401**. The motion carried by voice vote.

**DOCKET:
16-0417-0401**

Service Coordination Definition consistency

Rep. Garrett explained that the changes in this docket are to align terms

in the new Service Coordination chapter adopted by the 2004 Legislature. This set of rules addresses service coordination for the developmentally disabled. The subcommittee found no reason to reject these rules.

MOTION: **Rep. Garrett** moved that the full committee accept **Docket 16-0417-0401**. The motion carried by voice vote.

DOCKET: **16-0309-0403** **Service Coordination –Alignment with Personal Care Services**
Rep. Garrett explained that this rule change insures uniformity between chapters. The subcommittee found no reason to reject these rules.

MOTION: **Rep. Garrett** moved that the full committee accept **Docket 16-0309-0403**. The motion was carried by voice vote.

DOCKET: **16-0309-0311** **Mental health Clinic-Hours limit**
Rep. Garrett explained that Psychosocial Rehabilitation, Mental Health clinic services, and Partial Care services help people with mental illness live in their communities. Temporary rules regarding these services initially went into effect in December of 2003. A number of provider concerns arose during the 2004 legislative session. At the direction of the Health and Welfare Legislative Committee, the Department formed a work group that included consumers, advocates, service providers, legislators and state staff that produced mutually agreed-upon rule amendments. The group agreed on a reduction in partial care hours from 56 hours/week to 36 hours/week. The work group agreed that this reduction was a reasonable action to address high service utilization that included vague outcomes. The work group continues to meet to address quality assurance issues and outcomes. There was no opposition to this rule. The subcommittee found no reason to reject this rule.

MOTION: **Rep. Garrett** moved that the full committee accept **Docket 16-0309-0311**. The motion carried by voice vote.

DOCKET: **16-0309-0401** **Coverage for OTC Drugs**
Rep. Garrett explained that some drugs have an over-the-counter version and a prescription version. In most cases, the over the counter version is just as effective and less expensive than the prescription version. This rule change allows Medicaid to pay for the over-the-counter versions thereby saving in pharmacy cost but still providing an effective drug. The subcommittee found no reason to reject these rules.

MOTION: **Rep. Garrett** moved that the full committee accept **Docket 16-0309-0401**. The motion was carried by voice vote.

DOCKET: **16-0309-0402** **Return of Unused medications**
Rep. Garrett explained that this rule will allow Residential and Assisted Living Facilities to return unused and unopened drugs to the dispensing pharmacy. These changes come at the request of the 2004 Legislature and the Residential and Assisted Living Facility providers. The subcommittee found no reason to reject these rules.

MOTION: **Rep. Garrett** moved that the full committee accept **Docket 16-0309-0402**. The motion carried by voice vote.

**DOCKET:
16-0309-0501**

Medical Assistance

Rep. Garrett explained that this rule relates to the coverage of an investigational/experimental medical procedure and allows for Medicaid coverage of some investigational/experimental medical procedure when the medical review process indicates that such a procedure is necessary and would benefit the health of the participant. She further explained that the fiscal impact of this rule change is \$550,750 annually and is included in the current budget forecast for FY 2005. She said that the subcommittee voted that they found no reason to reject this rule. Committee discussion and questions followed.

Rep. Garrett commented that this rule provides a clear guideline for the Department. She stated that if this rule is rejected we will be left with ambiguous coverage policies making it difficult to defend some of these types of cases.

Many of the concerns centered on the problem of the state paying for these very expensive types of procedures. Other concerns were: there is not a clear enough definition of the terms investigational and experimental; concern for more clarity of the fiscal impact; the concern that this will cause us to go down a path that will most likely increase expenditures.

MOTION:

Rep. McGeachin moved to recommend to the full committee to reject **Docket 16-0309-0501**. She explained that she believes that this is a policy issue and should be subject to the legislative process. She also stated that there needs to be full knowledge of the financial impact. There was discussion on the motion.

David Rogers, Medicaid Division Administrator, responded to a question by answering that rejecting this rule will make it difficult for them to cover most cases in this area.

Dennis Stevenson responded to a question by stating that it only takes one house to reject a temporary rule which would require an omnibus concurrent resolution.

Committee discussion continued. More concerns shared were: the possibility that if the rule is not accepted, and the funds are not allotted this year, it will come back as a supplemental.

Leslie Clement, from the Department responded to a question by saying that cases were denied last year based on the rules they had. The rules were not clearly defined. She answered another question by saying that currently the Department does not have the ability to authorize coverage even though a case meets medical criteria. She continued by saying that in the past they have relied on the medical director. She commented that these rules will give the department more ability to make a decision more appropriate for the individual.

On Roll Call Vote, the motion to reject Docket 16-0309-0501 was passed.
Representatives Block, Sali, McGeachin, Nielsen, Bilbao,
Shepherd, Henbest voted Aye.

Representatives Garrett, Ring, Martinez, Rusche voted Nay.

**DOCKET NO.
16-0309-0502**

Medical Assistance Program -Uniform Assessment

Rep. Garrett explained that the UAI did not sufficiently score individuals who have behavioral issues because it was designed primarily to assess physical functional capabilities. This proposed rule change will create a unique identifier in the UAI that will identify persons living in Certified Family Homes and Assisted Living Facilities with specific diagnosis of mental illness, mental retardation and/or Alzheimer's at unique level of care that reflects behavioral need and ties to an established reimbursement rate. The subcommittee found no reason to reject these rules. Committee discussion followed.

MOTION:

Rep. Garrett moved that the full committee accept **Docket 16-0309-0502**. There was discussion on the motion. The vote was carried by voice vote.

Rep. Garrett asked for Unanimous Consent to present the Board of Pharmacy rules as a group for the sake of time. Unanimous consent was granted.

**DOCKET NO.
27-0101-0401**

Board of Pharmacy

Rep. Garrett explained that due to the administrative burden on pharmacists because of more stringent accountability requirements for Medicare, Medicaid, and third party payors, there is a need to increase the number of pharmacy technicians per licensed pharmacist from two to three. This will help protect the public health, safety and welfare and allow

**DOCKET NO.
27-0101-0402**

Board of Pharmacy

Rep. Garrett explained that This rule allows ISU, Kootenai Medical and St Alphonsus Coeur d'Alene the authority to commence a pilot project to use teleconferencing and high-speed internet connections to bring pharmacy expertise to Idaho's rural medical facilities. The subcommittee found no reason to reject these rules.

**DOCKET NO.
27-0101-0403**

Board of Pharmacy

This rule brings the Board's rule into compliance with the federal law, which makes Ephedrine products available through prescription only. The subcommittee found no reason to reject these rules.

**DOCKET NO.
27-0101-0404**

Board of Pharmacy

Rep. Garrett explained that this rule will add specific reference to standards of conduct in the practice of pharmacy and adds the duty of licensed pharmacist to report unprofessional conduct and to cooperate with investigation by the Board. The subcommittee found no reason to reject these rules.

**DOCKET NO.
27-0101-0405**

Board of Pharmacy

Rep. Garrett explained that this rule extends the expiration date of prescriptions from one year to fifteen months. The additional three months allows the patient time to complete annual examination, which medical insurance providers will not pay for until after the one year anniversary. The subcommittee found no reason to reject these rules.

MOTION: **Rep. Garrett** moved that the full committee accept **Dockets 27-0101-0401, 27-0101-0402, 27-0101-0403, 27-0101-0404 and 27-0101-0405.** The motion was carried by voice vote.

DOCKET NO. **Ambulance Reimbursement-Alignment with Medicare**

MOTION: **Rep. Garrett** moved that the full committee accept **Docket 16-0309-0405** with a commitment from the Department to work on the rule. **Rep. Garrett** submitted a letter from the Department dated, January 26, 2005 from **David Rogers** that confirms the Department's commitment to work with all interested stakeholders to develop a fair and equitable fee schedule for Idaho Medicaid reimbursement of ground and air ambulance services. The letter will be included in the record noting that the docket number referenced in the letter is incorrect.

The motion was carried by voice vote.

DOCKET NO.
16-0226-0401

Idaho Children's Special Health Program - CSHP

Rep. Garrett explained that the subcommittee had testimony from the Department and asked extensive questions. There were no negative comments. The subcommittee voted to recommend to the full committee to approve the rule. Subsequent to that meeting, a number of people have contacted her wanting to testify. She stated that it would be her recommendation that the full committee hear the explanation of the rule change from the Department and any testimony before voting on this rule.

This program provides state-wide care coordination for children with the following eight special health care needs which are cleft-lip, cleft-palate, Cystic Fibrosis, PKU, and neurological, orthopedic, cranial/facial and cardiac conditions which has been funded by a federal block grant. This rule changes the eligibility criteria to cover only uninsured children, with the exception of PKU and Cystic Fibrosis cases. The subcommittee found no reason to reject these rules and recommend that the full committee pass **Docket 16-0226-0401.**

Russell Duke from the Department provided the members with a handout on the Idaho Children's Special Health Program containing eight attachments. He directed the members to follow along as he briefly covered the areas of 1. Current Rules, 2. Covered Diagnostic Categories, 3. Eligibility Criteria, 4. Sliding Fee Scale, 5. Client Information, 6. Budget Allocation vs. Expenditures, 7. Rule Development, 8. Rules Approved vs. Rules Rejected. (See handout attached.) Questions and discussion followed from the committee.

Rebecca Evans, a parent of a child whose care has depended on this program. The child has had twenty operations that would have not been possible had it not been for the assistance.

Christina Jenkins, parent of a child born with a cleft lip and palate. She is opposed to the rule. She explained that much of the care her baby has received is not covered by insurance. She believes that some parents will quit their jobs and/or file bankruptcy in order to receive assistance from Medicaid. She said that this program will end up costing the state more in the long run. (See testimony of Christina Jenkins attached.)

Laurie Bowerman, with Idaho Parents Unlimited and a parent of a child in the program, explained that a divorced, single mom would qualify. She stated that working families contribute to the state and deserve to have some help.

Perry Brown, Physician and Assistant Director of the Cystic Fibrosis Clinic of Idaho addressed the committee in opposition to these rules. He commented that the disbanding of clinics would cause a hardship to individuals who need the services.

Jim Baugh, Executive Director of Comprehensive Advocacy, Inc. He explained the this rule, as written, would eliminate desperately needed coverage for certain children with serious and complex medical conditions who have no other source of assistance for their health care. He believes to remedy this situation, the rule must be rejected and rewritten to allow assistance to families of children with limited means whose medical needs cannot be met by insurance and family resources. He explained that the rule's language should reflect that families are eligible for assistance with necessary medical costs which are not covered by inadequate insurance. Mr. Baugh presented the committee with a copy of a letter dated January 26, 2005. He provided an example of the language that would accomplish taking care of the issues he has brought before the committee. (See attached copy of his letter). Committee discussion and questions followed.

Richard Schultz from the Department explained that this program started in 1939. He said that this is a budgetary issue and that the Department is trying to stay budget neutral. He explained that this program would cost \$500,000 more out of the general fund.

Kelly Buckland with the State Independent Living Council shared a personal experience by explaining that his parents who were farmers were able to receive financial help from this program after Mr. Buckland was injured in a diving accident, thereby saving his parents from possible bankruptcy. He commented that in the long term this program may not be fiscally prudent. He further explained that they agree with Mr. Schultz who stated that all of the stakeholders should be included at the table. He encouraged the committee to reject the rule.

Tracy Warren, with the Idaho Council on Developmental Disabilities spoke to the committee. The Council opposes the rule. She explained that this change will have a dramatic negative impact on some families whose children are now excluded from service coverage. (See attached letter from ICDD, dated 1/26/05.)

Dr. Brown addressed the committee once more and explained that those in rural areas have the disadvantage of traveling long distances to clinics. He also stated that he believes that a dollar spent today on prevention, for example on Cystic Fibrosis care, will end up to save 1 to 3 dollars down the road. He further stated that many will end up on disability or medicare.

A lengthy discussion continued.

MOTION: **Rep. Garrett** moved that the full committee accept **Docket 16-0226-0401**.

SUBSTITUTE MOTION **Rep. Sali** moved that the action of this committee be to reject **Docket 16-0226-0401**. There was discussion on the motion.

Some of the comments from the committee were: we need to look for funding in more creative ways, for example through businesses, hospitals and not depend only on the government; if we pass the rule, we will bankrupt families, if we reject it we will bankrupt the state; we have the responsibility to decide if this rule is going to save us money; if the family has insurance, they will not be covered, but if they do not have insurance, they will be covered.

Dennis Stevenson, Rules Administrator, answered a question by stating that a section of the rule can be rejected, but new language cannot be added. The agency would have to come back with a temporary rule making.

AMENDED SUBSTITUTE MOTION **Rep. Martinez** moved to hold **Docket 16-0226-0401** until the next meeting of the full committee on February 2, 2005. The motion was carried by a voice vote.

The Chair announced that she accepts the Garrett Subcommittee Report. **Rep. Sali** asked for Unanimous Consent that the all members be able to refer to other members by name, consequently waiving the rule of the Chair.

Rep. Henbest voted against the request, therefore Unanimous Consent was rejected.

The next meeting will convene January 28, 2005 at 1:00 P.M.

ADJOURN: The meeting was adjourned at 6:35 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES
HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 26, 2005

TIME: Upon Adjournment of Full Committee

PLACE: Room 404

MEMBERS: Chairman McGeachin, Representatives Henbest, Shepherd (8)

**ABSENT/
EXCUSED:** None

GUESTS: See attached list.

Chairman McGeachin called the meeting to order at 6:45 P.M. The minutes for January 21, 2005 will be approved at the next meeting.

Chairman McGeachin informed the committee that because more information is needed on the funding process for the CHIP B rules, **Dockets 16-0318-0401, 16-0318-0402** and **16-0301-0401**, there will be no action taken on the rules this evening.

The **Chairman McGeachin** introduced **Cathy Holland-Smith**, Policy Budget Analyst with JFAC, to explain some of the funding parameters of the CHIP B and Access Card programs. With a hand-out presented to the committee, she directed them to follow along as she explained that 80% of the funds from the state Insurance Premium Tax Fund flow into the Chip B Plan and 20% flow into the Small Business Health Insurance Pilot Program. (see attached handout.) She noted from the handout that the revenue estimate figures less the expenditure estimate through June 30, 2006 is equal to an estimated 3 million dollar balance. The information from the handout depicts the fiscal year, 2005 total appropriation for FTP personnel, operating expenses, trustee/benefits. She further explained from page 2 of the handout that the federal matching rate is going down. Ms. Holland-Smith suggested that there be a built-in safeguard/reserve to insure that there will always be funds available, in the event there are years when expenses outweigh revenue.

David Rogers, from the Department, responded to a question by saying that the Director of the Department is responsible for promulgating the rules. The rules were presented to the High-Risk Insurance Pool Board. Chairman McGeachin asked Mr. Rogers to report back to the committee the process of the Advisory Boards and how they work in conjunction with the Department. She would like to know what transpired between the Department and the High Risk Insurance Pool Board in promulgating the rules. The Chair announced the committee would hold off on any action on these rules until additional information is received.

Chairman McGeachin expressed concern with the rule contained within **Docket 16-0318-0401**, Pg. 162 for family planning services and the reference to the prescribed system of birth control. She is not sure that this complies with legislative intent. She further spoke of concern she has regarding the use of tax dollars to cover abortions services as covered under the rule, Pg. 163.

Robin Pewtress, from the Department, responded to a question by saying that the current plan has been accepted by the Secretary and application would have to be made by the state requesting that these services be exempted out.

**DOCKET NO.
15-0102-0401**

Sara Scott, Director, Office on Aging, addressed the committee stating that she has met with David Rogers from the Department, David Lehman from the Governor's office, and Thorpe Orton, Assistant Deputy Attorney General. Everyone involved in that meeting is aware that a problem does exist and one of the big issues boils down to funding. Ms. Scott explained that the problem lies in the fact that once an employee is put on the substantiated abuse list for an occurrence, whether or not the incident is ever investigated or not, the name remains on the list. The employee is then labeled, whether appropriate or inappropriate. She also said that the rule does not allow the Agency to have any say in governing how the individual subsequently ends up on the Department's criminal background list. She further stated that this issue will not be able to be resolved in this rule. Ms. Scott explained that the Agency relies on law enforcement in determining substantiation.

Bill Walker, Deputy Director for the Department, expressed the need to get the parties back together in talks. He said that the Department shares the concerns of due process, however the Department has to consider the liability factor.

In further discussion, all parties agreed that including law enforcement as a part of the negotiations would be a good idea. Chairman McGeachin asked for letters of intent from the Department, the Office on Aging, and the Idaho Assisted Living Association to work together to find a resolution to these concerns. All parties agreed and the letters of intent will be recorded in the minutes.

MOTION:

Rep. Henbest moved to recommend to the full committee that the subcommittee has found no reason to reject **Docket 15-0102-0401** provided that letters of intent from Bill Walker of the Department, Michelle Glasgow, Idaho Assisted Living Association, and Sara Scott, Office on Aging will be forthcoming. The motion was carried by voice vote.

16-0304-0401

Chris Werner, Division of Health of the Department, addressed the committee and explained that there had been a semantic change to the rule since its acceptance by the subcommittee. The change is more or less a "typo" and has no bearing on the language or intent. (see the attached copy of the change.) Chairman McGeachin stated that the correction has been brought to the subcommittee's attention and they have accepted the correction.

ADJOURN

The meeting was adjourned at 7:55 P.M.

Representative Janice McGeachin
Chairman

Jennifer O'Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 28, 2005

TIME: 1:00 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** Representatives Sali, Nielsen, Loertscher, Martinez

GUESTS: See attached list.

Chairman Block called the meeting to order at 1:00 P.M. She explained that the minutes of January 26, 2005 would be approved at the next meeting on February 2, 2005.

The **Chair** brought to the attention of the committee that since there was some objection to the rules of legislative decorum discussed at the last meeting, the Chair has ruled that the rule will be withdrawn. The Chair reiterated that respect and courtesy of other members must be demonstrated at all times during meetings.

**DOCKET NO.
15-0101-0401** **Rep. McGeachin** explained that **Sara Scott**, Director of Office on Aging, stated that this docket puts the rules in better order, removing duplication, and making language more concise. These changes are of no substantive consequence. There was no one present to testify against this docket. The subcommittee found no basis to reject the rule.

MOTION: **Rep. McGeachin** moved by direction of the subcommittee that the full committee accept **Docket 15-0101-0401**. The motion carried by voice vote.

**DOCKET NO.
15-0102-0401** **Rep. McGeachin** explained that **Michele Glasgow**, Executive Director of Idaho Assisted Living Association, testified in opposition to the rule change. She stated that the rule might be used in a punitive manner that results in damage to innocent people. The subcommittee recognized that this is a serious issue that has not been able to be resolved by the parties involved. All parties have agreed to work together to find resolution. Letters of intent to work together from the Office on Aging, the Department and the Idaho Assisted Living Association will be forthcoming and will be recorded in the minutes. Because the rule change accurately reflects statute, the subcommittee found no basis to reject the rule. The subcommittee found no basis to reject the rule.

MOTION: **Rep. McGeachin** moved by direction of the subcommittee that the full committee accept **Docket 15-0102-0401**. The motion was carried by voice vote.

DOCKET NO. 23-0101-0401 **Rep. McGeachin** explained that **Sandy Evans**, Executive Director of the board of Nursing presented this rule docket. The changes in the docket accomplish four objectives: 1) Implement the provisions of HB659 and HB 694 passed by the 2004 Idaho legislature; 2) Provide conformity with uniform rules agreed by members of the Nurse Licensure Compact; 3) Provide clarification of the intent of existing rules; 4) Correct an error in rule citation in existing rule. There were no objections filed to these rule changes, and no one testified against the rules. The subcommittee found no basis to reject this rule.

MOTION: **Rep. McGeachin** moved by direction of the subcommittee that the full committee accept **Docket 23-0101-0401**. The motion was carried by voice vote.

DOCKET NO. 19-0101-0401 **Board of Dentistry**
Rep. McGeachin explained that **Mike Sheeley**, Executive Director of the Board of Dentistry, stated that this docket is to implement S1288 and S1292 enacted in the 2004 legislative session. The subcommittee found that the provisions accurately reflected the intent of the legislation. There was no opposition to these rule changes. The subcommittee found no basis to reject this rule.

MOTION: **Rep. McGeachin** moved that by the direction of the subcommittee that the full committee accept **Docket 19-0101-0401**. The motion carried by voice vote.

DOCKET NO. 19-0101-0402 **Rep. McGeachin** explained that **Mr. Sheeley** testified that this docket is intended to accomplish the following: (1 Incorporate the American Dental Hygienists' Association's Code of Ethics for Dental Hygienists by reference into the Idaho Board Dentistry's professional standards; 2) To specify three additional areas of specialty dental practice to be recognized and licenses by the Board of Dentistry in Idaho; 3) To include the three additional areas of specialty dental practice in the board of Dentistry's dental specialty advertising standards. There was no opposition to these rule changes. The subcommittee found no basis to reject this rule.

MOTION : **Rep. McGeachin** moved by the direction of the subcommittee that the full committee accept **Docket 19-0101-0402**. The motion was carried by voice vote.

DOCKET NO. 16-0201-0401 **Rep. McGeachin** explained that **Mary Sheridan** of the Department presented the rule docket. This docket is to repeal the rules enabling the loan repayment program established in 1991 to help rural communities. In 2000, the Legislature expanded the program. The final payments for the original program were received in February 2004 and the program has ended. There was no opposition to these rule changes. The subcommittee found no basis to reject this rule.

MOTION: **Rep. McGeachin** moved by direction of the subcommittee that the full committee accept **Docket 16-0201-0401**. The motion was carried by voice vote.

DOCKET NO. 16-0304-0401 **Rep. McGeachin** explained that **Terry Meyers** of the Department presented the rule docket. This docket relates to the simplification of the

Food Stamp Reporting. The rule docket represents Idaho joining forty-two other states in adopting the pieces of the Farm Bill as they impact Food Stamp Programs across the nation. These rules help stabilize the benefit and make the program easier for states to administer. There was no opposition to these rule changes. The subcommittee found no basis to reject this rule.

MOTION: **Rep. McGeachin** moved by the direction of the subcommittee that the full committee accept **Docket 16-0304-0401**. The motion was carried by voice vote.

The Chair granted **Rep. McGeachin** permission to summarize the

DOCKET NO. 16-0404-0401 **Rep. McGeachin** explained that **Cameron Gilliland** from the Department presented the rule. The entire chapter relating to employment rules is being repealed since the 2004 Legislature moved the appropriation for this program under the Department of Vocational Rehabilitation. There was no opposition to these rule changes.

DOCKET NO. 16-0411-0402 **Rep. McGeachin** explained that **Mary Jones** from the Department presented this rule. The Idaho Infant Toddler Program coordinates and sets standards for early intervention services for children under three under with developmental disabilities. The rule change increases the required number of required semester credits from twenty to twenty-four in Early Childhood/Early Childhood Special Education for Developmental Specialists providing services to children birth to age three. There was no opposition to these rule changes. There was no opposition to these rule changes.

DOCKET NO. 16-0606-0401 **Rep. McGeachin** explained that **Pharis Stanger** from the Department presented the rule docket. These rules were adopted in 1989 for loans to be given to group homes for recovering alcohol and drug abusers. The entire chapter is being repealed because of federal requirement changes that no longer require these rules. There was no opposition to these rule changes.

DOCKET NO. 16-0614-0401 **Rep. McGeachin** explained that **Terry Pappin** from the Department presented the rule docket. The Idaho Tobacco Project inspects businesses to prevent the sale of tobacco products to youth under the age of eighteen. This rule exempts businesses that only serve adults from inspections using a minor. The rule also allows the Department to issue permits to businesses selling tobacco products through the Internet. The rule supports a law passed last session that requires those who deliver products to be issued permits. There was no opposition to these rule changes.

DOCKET NO. 16-0901-0401 **Rep. McGeachin** explained that **Richard Horne**, Director of the Public health District 7, presented the rule docket. The entire chapter of rules is being repealed as these standards are no longer current, which makes the language redundant. There was no opposition to these rule changes.

Rep. McGeachin explained that there was no opposition to these dockets.

MOTION: **Rep. McGeachin** moved by the direction of the subcommittee that the full committee accept **Dockets: 16-0404-0401, 16-0411-0402, 16-0606-0401, 16-0614-0401, 16-0901-0401.**

Rep. McGeachin reported that no action has been taken on **Dockets: 16-0318-0401, 16-0318-0402, 16-0301-0401**, the CHIP B rules, because of concerns related to the budget. The subcommittee will take action on the dockets at the subcommittee meeting scheduled for Tuesday, February 1, 2005.

ADJOURN: The **Chairman** adjourned the meeting at 1:25 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE

DATE: January 31, 2005

TIME: 3:00 P.M.

PLACE: Room 406

MEMBERS: Chairman Block, Representatives Garrett, McGeachin, Nielsen, Loertscher, Bilbao, Henbest, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached list.

Chairman Block called the meeting to order at 3:00 P.M.

The Chairman explained that House Leadership has charged the House Health and Welfare Committee to find savings and efficiencies in the Medicaid budget. The high percentage of growth in this budget has had a significant impact on the statewide budget, and needs to be addressed. The goal of this committee is to try to find some solutions to provide ways to slow the growth of the Health and Welfare Budget.

The Chairman announced that there will be six meetings, with a committee deadline of February 17. The committee budget presentation to JFAC is on February 22.

The committee brainstormed ideas as the Chairman wrote them on a flip-chart. There was extensive discussion of ideas and thoughts. By the end of the session the members had compiled a list of 22 Medicaid Budget Savings proposal items.

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|-----|--------------------------------------------------|--------------------------------------|
| 1. | Hold Medicaid Buy-In | Reps. McGeachin, Garrett |
| 2. | Hold Adult Access Program-additional staff | Reps. McGeachin, Garrett |
| 3. | Hold County Options Project | Reps. McGeachin, Garrett |
| 4. | Health Facility Survey Cost Share Proposal | Reps. Loertscher, Garrett |
| 5. | Audits & Edits - accuracy of claims made | Rep. Rusche |
| 6. | Care Management - high cost items | Rep. Rusche |
| 7. | Contracts and Price | Rep. Rusche |
| 8. | Benefits - co-pay, benefits of care | Reps. Rusche, Loertscher |
| 9. | Eligibility | Reps. Rusche, Loertscher,
Nielsen |
| 10. | Look at decision units | Res. Garrett |
| 11. | Look at DHW efforts to save costs | Rep. Garrett |
| 12. | Review forecast of caseload | Rep. Loertscher |
| 13. | Scope of services review | Reps. Loertscher, Rusche |
| 14. | Criminal history checks | Rep. Henbest |
| 15. | City Bank Call Center - postpone 1 year | Rep. Henbest |
| 16. | Early hearing detection shift | Rep. Henbest |
| 17. | Lower percentage of poverty level | Rep. Nielson |
| 18. | Compare prices between government
and private | Rep. Nielsen |

- | | | |
|-----|-------------------------------------------------------|-------------------------|
| 19. | Focus on long-term care, hospital, prescription drugs | Reps. McGeachin, Rusche |
| 20. | Research trend in prescription drug cost | Rep. Garrett |
| 21. | Look at interactions with other agencies | Rep. Loertscher |
| 22. | Work with Jude & Rules, and Education | Rep. Nielsen |

The **Chairman**, with the assistance of the committee, assigned proposal assignments to the members.

Chairman Block announced that **Kathleen Kustra** has been asked to be a part of this committee to bring her ideas and share in the process. The Chairman informed the committee to research the proposals they have been assigned, asking the questions: Is the proposal feasible? How soon can it be implemented? What are the projected savings? Does it need enabling legislation?

The next Medicaid Budget meeting will be held Thursday, February 3, 2005 at 3:30 P.M. in Room 8.

ADJOURN: The meeting adjourned at 4:30 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE
MCGEACHIN SUBCOMMITTEE**

DATE: February 1, 2005
TIME: 3:30 P.M.
PLACE: Room 404
MEMBERS: Chairman McGeachin, Shepherd(8), Henbest
**ABSENT/
EXCUSED:** None
GUESTS: See attached list.

Chairman McGeachin called the meeting to order at 3:30 P.M.

MOTION: **Rep. Shepherd** moved that the minutes of January 21 and January 26, 2005 be approved as written. The motion was carried by voice vote.

Chairman McGeachin informed the committee that she had received information from David Rogers regarding how the High Risk Insurance Pool Board is set up. He introduced a copy of a page from the minutes of the May 4, 2005 Board meeting relating to the CHIP B and Access Program explaining this process. (Copy is attached.) He also introduced a copy of a letter from the State of Idaho Department of Insurance dated May 11, 2004. The letter is composed of comments from members of the Idaho Small Employer and Individual High Risk Pool Board relating to Children's Access to health benefit plans in the area of insurance premium subsidy, benefits and cost sharing, and confidentiality of records. (Copy is attached.)

David Rogers from the Department responded to a question from the Chairman by stating that there was not an indication from staff that any discussion took place at the above mentioned board meeting regarding creating some type of reserve account.

There was discussion from the subcommittee regarding directing the CHIP B Advisory Boards to establish an annual reserve account with an annual report to the germane committee. This could provide a safeguard/safety-net for the account as well as provide a more accurate accounting of the fund.

Rep. Henbest suggested that this idea should be shared with Senator Cameron before moving forward.

16-0318-0401 **Robin Pewtress**, Medicaid Division, addressed the committee. She explained that the CHIP B/Access Card Program was created by the Idaho Legislature in 2003 and implemented July, 2004 with the intent of providing health insurance to more low income children. The program is a public/private partnership to assist children of families whose income is between 151-185 percent of the current federal poverty level. There was discussion from the subcommittee regarding Section 265 which provides

family planning/birth control services and Section 285 which provides abortion services. The concern was that tax dollars are paying for these services. The comment was made that only under very restrictive circumstances such as protecting the life of the woman and in cases of rape or incest are abortion services available.

MOTION: **Rep. Shepherd** moved that the recommendation of the subcommittee to the full committee be to accept **Docket 16-0318-0401** with the exception of Section 265 and Section 285 to be rejected.

SUBSTITUTE MOTION: **Rep. Henbest** moved to send **Docket 16-0318-0401** to the full committee without recommendation.

The substitute motion failed.

The subcommittee voted on the main motion which was carried by voice vote.

DOCKET NO. **Robin Pewtress** explained that these rules allow the Department to

MOTION: **Rep. Shepherd** moved that the recommendation of the subcommittee to the full committee be to accept **Docket 16-0318-0402** with the exception of Section 507, Subsection 04 to be rejected.

The motion was carried by voice vote.

DOCKET NO. 16-0301-0401 **Robin Pewtress** explained that these rules implement the eligibility requirements for CHIP B/Access Card insurance for Idaho children. There was discussion regarding the confidentiality of records issue. The concern of the subcommittee focused on protecting the integrity of the program and the lives of the children who would be dependent on this program.

MOTION: **Rep. Henbest** moved that the recommendation of the subcommittee to the full committee be to accept **Docket 16-0301-0401**. The motion was carried by voice vote.

ADJOURN: The meeting was adjourned at 4:25 P.M.

Representative Janice McGeachin
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 2, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached list.

The meeting was called to order at 1:30 P.M. The minutes of January 26 and 28, 2005 were reviewed.

MOTION: **Rep. Martinez** moved to approve the minutes of January 26, 2005. The motion carried by voice vote.

MOTION: **Rep. Bilbao** moved to approve the minutes of January 28, 2005. The motion carried by voice vote.

Subcommittee Reports:

The **Chairman** acknowledged that **Rep. Garrett** and **Rep. McGeachin** have completed their work.

Rep. Loertscher reported that his subcommittee would meet upon adjournment of the House Floor February 4 on a matter of procedures for making motions.

MOTION: **Rep. Loertscher** moved to defer action on the dockets of the Loertscher Subcommittee until the full committee meeting, February 4. The motion carried by voice vote.

The **Chairman** reported that the Medicaid Budget Subcommittee met on January 31, 2005 and arrived at twenty-two suggestions for savings ideas. She asked that if other members have any suggestions to please let the subcommittee know. The subcommittee will meet at 3:30 P.M. on February 1 and 3, 2005.

**DOCKET NO.
16-0318-0401**

CHIP B

Rep. McGeachin explained that **Docket 16-0318-0401**, the CHIP B/Access Card Program, was created by the Idaho legislature in 2003 and implemented July 2004 with the intent of providing health insurance to more low income children. The program is a public/private partnership to assist children of families whose income is between 151-185 percent of the current federal poverty level. She continued to explain that this docket defines what services are available to children using the Access Card. There was discussion about the inclusion of taxpayer funded family

planning and abortion services being provided. Although the legislative language was vague, Rep. McGeachin said that she had commented during that discussion that she did not believe that the language was the intent of the legislature. The subcommittee recommends that the full committee accept the rule docket with the exception of Sections 265 and 285.

Darla Campbell from ICAN addressed the committee regarding the CHIP B Dockets. She commented on the cost-sharing and cost-shifting concepts by explaining that cost-sharing whether premiums or co-pays or some other mechanism leads to cost-shifting. When people cannot afford health care, they have no other choice but to put it off until it becomes an emergency which will result in high-cost care which raises cost for everyone. She stated that this is a reason why CHIP premiums and Medicaid co-pays are a bad idea. (See attached testimony)

MOTION:

Rep. McGeachin moved that the full committee accept **Docket 16-0318-0401** with the exception of Sections 265 and 285. Committee discussion followed.

Leslie Clement from the Department responded to a question by saying the intent of the language was to highlight the restrictions and to make very clear that certain abortion services will not be paid for. She answered another question by explaining that removing Section 265 relating to family planning services would cause the Department to be out of compliance with federal authorization. Ms. Clements responded to a question by stating that if coverage is not included under CHIP B the participant would not be eligible for that coverage under Medicaid. The two programs are totally segregated.

Some of the comments from the discussion were: concern for these services being paid by tax dollars; concern that greater costs will be assumed in the long run if these services are excluded; comment made that the funds are coming from insurance taxes not private tax payers; comment made that private tax payers do not have as good of coverage as Medicaid participants.

SUBSTITUTE MOTION:

Rep. Sali moved that the full committee defer action on **Docket 16-0318-0401** to a Time Certain until an opinion from the Attorney General's office can be obtained. Rep. Sali agreed to seek that opinion. There was discussion on the motion. Rep. Rusche commented that from his research and experience there is no significant savings from leaving a contraceptive benefit out.

THE SUBSTITUTE MOTION WAS CARRIED BY VOICE VOTE

DOCKET NO. 16-0318-0402

CHIP B

Rep. McGeachin explained that these rules allow the Department to establish cost sharing for CHIP B insurance for Idaho children. Without these rules the Department would be unable to charge a premium. There was discussion from the subcommittee that allowing the forgiveness of debt of unpaid premium and allowing eligibility after a twelve-month period of time defeated the purpose of charging a premium. The subcommittee

recommends to the full committee to accept the rule docket with the exception of Section 507, Sub-section 04, which allows for the debt to be forgiven.

MOTION: **Rep. McGeachin** moved that by direction of the subcommittee the full committee accept **Docket 16-0318-0402** with the exception of Section 507, sub-section 04. There was discussion on the motion. The difficulty and added expense of tracking default of payments was debated. The comment was made that there needs to be some responsibility placed on the individuals who participate in the program if the intent is to treat this program like an insurance plan.

BY A ROLL CALL VOTE THE MOTION PASSED.

Representatives Block, Sali, McGeachin, Nielsen, Loertscher, Shepherd, Rusche voted AYE.

Representatives Garrett, Ring, Bilbao, Henbest, Martinez voted NAY.

DOCKET NO.
16-0301-0401

CHIP B

Rep. McGeachin explained that Robin Pewtress from the Division of Medicaid explained from an earlier presentation that these rules implement the eligibility requirements for CHIP B/Access Card insurance. The subcommittee had extensive discussion regarding this docket of rules. **Rep. McGeachin** explained that from the Idaho State premium tax, 80% will be deposited into the CHIP B program, and 20% into the Adult Access Card. Because there is a limited source of funds, the subcommittee thought that a more prudent way to operate the program would be to have an advisory board look at the funding and level of benefits. **Rep. McGeachin** reported that the subcommittee recommends to the full committee to accept these rules.

MOTION: **Rep. McGeachin** moved that the full committee accept **Docket 16-0301-0401**. She added that we must make sure that the funding source will be protected.

THE MOTION WAS CARRIED BY VOICE VOTE.

DOCKET NO.
16-0226-0401

Children's Special Health Program - CSHP

Rep. Garrett explained that this rule change was done to protect the children who are most vulnerable and are not insured. **Rep. Garrett** explained that she, **Rep. Block** along with the Department and Advocacy Groups have met for talks. **Rep. Garrett** presented to the members a copy of the CSHP Budget Projections (see attached handout). **Rep. Garrett** invited discussion from the committee.

Sharon Newman a parent of a son with a cleft lip and palate explained that her son also has problems with ears and hearing. He is a member of the cleft palate clinic and will need many more surgeries.

Laurie Borrowman with Idaho Parents Unlimited explained that she has received several dozen calls from parents all over the state of Idaho who due to the burden of caring for their special needs child, cannot attend this meeting. She explained that these families are overwhelmed with the financial and emotional burdens of caring for their children. She stated

that we have a moral responsibility to help hard-working families and their children and believes that more time needs to be given to pull together all interested parties to reach some better solutions.

Rebecca Evans, a parent of a child who has been in this program and representing other parents explained that her child will be mainstreamed in school and will not have to depend on the state because of this program. She commented that Idaho doesn't have a medical home or a children's hospital like other states.

Julie Cathers commented that more time needs to be given to the prospect of arriving at a better solution.

Lisa Egelund a parent of a son born without hip sockets addressed the committee. She explained that she is a working single parent with health insurance. However, she will have to come up with another \$8,000 to finish paying for all of the charges. She may have to take a second job to pay for the insurance cost.

Jim Baugh, Comprehensive Advocacy, Inc., explained that he represents people with disabilities. He stated that if you approve this rule, 2,800 current participants will be reduced to 200. This rule completely closes the door on children who have insurance. He commented that he believes that there are more alternatives than what the Department is addressing, but he would rather see the rule be accepted than risk the scenario of no one being covered when the fund is depleted. Mr. Baugh agreed to work together with the Department to find a better solution.

Tracy Allen with the Idaho Council on Disabilities explained that they believe that the parties involved attempted to look at solutions related to moving funding around inside a very restrictive program budget. They do not believe that it is a good solution to end coverage of services for uninsured (and all) children at some point during this year. She stated that they cannot support cutting all coverage for under-insured children for the services they may desperately need and are not convinced that these are the only options (see letter, dated 2/2/05 attached).

Dick Schultz, Administrator of the Division of Health, explained that it is very difficult for the staff to start seeing the dismantlement of a program that has helped a number of children through the years. He expressed that the Department will put together a summit this summer and bring together all of the parties that provide a significant role to work on finding comprehensive solutions to these children in need. He explained that, given the financial situation, the Department has to recommend that the committee approve this rule. He explained that a little over 30% of the 3.3 million dollars from the block grant is put into CSHP.

Laurie Borrowman commented that she would like to see this rule become a temporary rule until a summit meeting can take place.

Christina Jenkins addressed the committee and explained her concern that if this rule is accepted, it will never be brought up again. She supports building a coalition of people to come together. She would like the rule to be written with a condition/commitment from the Department to

hold a summit with all of the interested parties.

Rep. Sali asked for a Point of Order which was granted by the Chair. Rep. Sali commented that this docket was previously before the committee with a motion to hold it until today's meeting.

The Chairman put the committee at ease at 4:08 P.M.
The committee was called to order at 4:16 P.M.

After discussion and seeking parliamentary advise, the Chairman explained that making a new motion would be in order.

MOTION: **Rep. Garrett** moved that the full committee accept **Docket 16-0226-0401**. She spoke to the motion by stating that if the rule is not accepted, this rule will create a hardship for providers and for this reason we need to go forward with the rule change. Working on an interim solution is not a good idea because of the length of time it would take to come up with something that everyone is in agreement with. She stated that we have a responsibility to encourage the parties involved to keep on working on a solution.

SUBSTITUTE MOTION: **Rep. Sali** moved that the committee reject **Docket 16-0226-0401**. In support of his motion, he explained that the people being taken care of by this program are not going to go away. They will find a way, whether by divorce or bankruptcy to get the financial assistance they are going to need. He commented that they will end up in the Medicaid program in some way. Committee discussion followed. Rep. Garrett commented that we do not want to leave a system broken because we cannot find additional funding. The rule needs to be passed.

THE SUBSTITUTE MOTION FAILED.

THE MAIN MOTION PASSED. Representatives Sali and Loertscher requested to be recorded as voting no.

ADJOURN: The meeting was adjourned at 4:45 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE BUDGET SUBCOMMITTEE

DATE: February 3, 2005

TIME: 3:30 pm

PLACE: Room 408

MEMBERS: Chairman Block, Representatives Garrett, McGeachin, Nielsen, Loertscher, Henbest, Rusche

**ABSENT/
EXCUSED:**

GUESTS: Emma Strong, Intern; Richard Humiston, Financial Mgr-DHW; Leslie Clement, Act Dep Admin, Medicaid; David Rogers, Administrator, Medicaid; Bill Walker, Dep Dir- DHW; Kelly Buckland, SILC; Bob Van Arnem; Katherine Young, RN

Chairman Block called the meeting to order at 3:40 pm.

MINUTES **Rep Rusche** moved that the minutes of January 31, 2005, be approved as written.

VOTE **ON A VOICE VOTE THE MOTION CARRIED.**

Chairman Block stated she had asked other legislators for input in regards to ideas they might have to help this committee.

Rep Kemp said she had asked the Legislative Services Audit Department to provide her audit reports for the 2001 - 2003 years. She asked if anyone had verified whether the recommendations had been followed up on and implemented.

Rep Loertscher said from his past experience he found things are not always followed up on due to shortage of staff both in the Health and Welfare Departments and the audit department. He said it is nice to know which recommendations are tied to Medicaid, but we are always looking for Health and Welfare savings.

Chairman Block asked Rep Kemp if she would do some followup on the audit report and recommendations and she agreed to this.

Rep Rusche thinks there might be an opportunity to get some additional money from the Federal Government where community hospitals are concerned. He will follow up on this.

Rep Garrett provided copies of an article from the New York Times regarding efforts in Florida to privatize Medicaid. She was not advocating this committee delve into that area at this time, but merely provided the article for information.

David Rogers, Administrator, Health and Welfare Medicaid, gave a

presentation on Medicaid. This covered a federal Medicaid overview and structure, an Idaho Medicaid overview and structure, along with caseloads and revenue. He further discussed services, expenditures and the Medicaid department's cost containment strategies. His overview is attached to these minutes as "Attachment A".

He stated that states offer Medicaid under federal guidelines. It is an entitlement program, income based and we have an obligation to provide those services. The increase in Medicaid medical costs has been rather modest compared to other private insurance medical costs.

A Medicaid income program is very sensitive to economic conditions. It is difficult to compare different states Medicaid programs. They all look different depending on optional programs covered or the specific limits set in different programs.

Idaho offers both mandatory and optional programs. The mandatory programs consume 44% of the total budget and optional programs consume 56%. The state will pay 90% of pharmaceutical costs under nursing home care, which is a required service. Home based service is an optional service but can provide a savings in costs.

We need to do more in improving and evaluating mental health care. Progress is being made in getting rid of the "bad" providers, but more progress needs to be made.

Some states have restricted eligibility in 2004 to contain costs, but Idaho has not done this.

Mr Rogers discussed some of the cost containment strategies being implemented. About one-third (1/3) of the money spent on drugs is being spent on those used in mental health.

The other strategies, listed in the Attachment "A" are not on Health and Welfare's plate right now, but they are being discussed.

Medicaid is structured under a single provider service. The main focus in the Medicaid program is on improving care first, and lowering costs next.

Rep Nielsen asked about administrative costs which were not discussed in the handouts.

Mr Rogers stated they run about 3% of the budget. He feels this is very low and looking to lower them further can be counter productive in that you do not have the staff to adequately handle all of the functions. He did further state there are always ways to make improvements.

Idaho Medicaid is struggling on working with co-pay for drugs. They do not want to be placed in the position of determining when a non-preferred drug is the best to be used for the individual condition.

Bob Van Arnem spoke about his mother, who is in a nursing home, but not a Medicaid patient. He discussed the charges assessed by the nursing home facility, such as cart charges, higher pharmaceutical charges than a local pharmacy might charge. He further asked if Medicaid had an actual

cost per patient per day.

Katherine Young, Registered Nurse, spoke in support of proposed changes to Medicaid. Her remarks are attached to these minutes as "Attachment B". She addressed some areas of unnecessary Medicaid payments, as she sees them.

Chairman Block asked others attending the meeting if they could return on Monday, February 7, 2005, to speak before the committee.

ADJOURN: There being no further business, the meeting was adjourned at 5:20 pm.

Representative Sharon Block, Chairman

Barbara Allumbaugh, Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 4, 2005

TIME: 1:00 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** Representative Bilbao and Henbest

GUESTS: See attached list.

Chairman Block called the meeting to order at 1:00 P.M. She announced that the committee will dispense with the reading of the minutes until the next meeting on February 8, 2005.

RS 14638C1 **Rep. Martinez** addressed the committee. He explained that the purpose of this Joint Memorial is to support the Pocatello Proton Accelerator Cancer Treatment Facility which will be located near Portneuf Medical Center. This facility will administer state-of-the-art medical services to rural Idaho, surrounding states, and national and international markets for cancer treatment, as well as creating numerous high paying jobs and generate significant revenue for the local economy. Rep. Martinez asked the committee for their approval of this docket.

MOTION: **Rep. Ring** moved to send **RS 14638C1 TO PRINT**. The motion was carried by voice vote.

RS 14407 **Mick Markusen**, from the Board of Pharmacy, addressed the committee. He explained that this bill is necessary to place the prescription drug Carisoprodol (Soma) into Schedule IV of the Idaho Controlled Substance Schedules. The Idaho Board of Pharmacy continues to encounter misuse of this particular prescription drug in a fashion to indicate that it has a potential for abuse and that it may lead to physical or psychological dependence. There is a currently accepted medical use for this drug and placing this drug in Schedule IV will allow that medical use to continue. Mr. Markusen directed the members to follow along in the booklet prepared by the Idaho Board of Pharmacy they had been given. He referenced information regarding the danger of the drug; reports of death from use of the drug; reports of substance abuse and problems thereof (see attached booklet). There were questions from the committee.

MOTION: **Rep. Nielsen** moved to send **RS 14407 TO PRINT**. The motion carried by voice vote. Rep. Sali voted No.

DOCKETS: **Subcommittee Final Report for the Loertscher Subcommittee**

16-0210-0401
16-0210-0402
16-0211-0401
16-0215-0401
16-0219-0401
16-0219-0402

Division of Health

Rep. Loertscher reported that the subcommittee has met and corrected a procedural problem that had occurred. They also have reviewed all of the rules that were assigned to them. There was no public testimony. The recommendation from the subcommittee to the full committee is to accept these six dockets from the Division of Health. There were questions and discussion from the committee pertaining to **Dockets 16-0211-0401** and **16-0215-0401** relating to immunizations. The point was made that the purpose of this rule is to raise the level of dosage of the MMR and the DTP. The rule has nothing to do with mandating immunizations for children.

Rep. Sali asked for a Point of Order. He introduced to the Chairman his letter dated February 4, 2005 relating to the minority report on rule dockets considered February 4, 2005. A copy of the letter was given to each of the members. Rep. Sali requested that this letter be included in the minutes (see attached letter). The Chairman stated that it is the decision of the Chair that the action taken in the motions will be to accept or to reject the rule dockets.

MOTION:

Rep. Loertscher moved that the full committee accept **Dockets 16-0210-0401, 16-0210-0402, 16-0211-0401, 16-0215-0401, 16-0219-0401, 16-0219-0402**. There was discussion on the motion.

Dick Schultz, Administrator with Division of Health, responded to a question by stating that the Governor's budget plan does not support the increase in funding for the immunization rules.

Rep. Garrett commented that the Department has stated that additional funding for this program could come out of the Adult Cystic Fibrosis program which they recommend be terminated. Rep. Garrett stated that she will support the motion but believes the funding for Adult Cystic Fibrosis and for immunization should not be linked together and should be kept separate.

SUBSTITUTE MOTION:

Rep. Nielsen moved that the full committee accept all of the Division of Health dockets referenced above with the exception of **Dockets 16-0211-0401** and **16-0215-0401**. He explained that he is concerned with the Governor's budget plan which does not reflect the increase for the immunization rules.

Michelle McMullen, Administrative Rules Specialist, explained that two separate motions are required with each action taken, and for this reason Rep. Nielsen withdrew the substitute motion.

SUBSTITUTE MOTION:

Rep. Nielsen moved that the full committee accept **Dockets 16-0210-0401, 16-0210-0402, 16-0219-0401, 16-0219-0402**.

THE SUBSTITUTE MOTION WAS CARRIED BY VOICE VOTE.

SUBSTITUTE MOTION:

Rep. Nielsen moved that the full committee reject **Dockets 16-0211-0401** and **16-0215-0401**.

AMENDED

Rep. Loertscher moved that the full committee accept **Dockets 16-0211-**

SUBSTITUTE MOTION:

0401 and **16-0215-0401**. A comment was made in support of the motion that this is good science and parents have the option to opt out if they so desire.

THE AMENDED SUBSTITUTE MOTION CARRIED BY VOICE VOTE. Rep. Nielsen requested to be recorded as voting No.

DOCKETS:
16-0309-0404
16-0502-0301
16-0310-0401
16-0310-0402

Division of Medicaid

Rep. Loertscher stated that there was no public testimony. The subcommittee recommends that the dockets be accepted by the full committee. **Leslie Clement** answered a question by stating that there will not be a fiscal impact as a result of these rules.

MOTION:

Rep. Loertscher moved that the full committee accept **Dockets 16-0309-0404, 16-0502-0301, 16-0310-0401, 16-0310-0402**.

THE MOTION WAS CARRIED BY VOICE VOTE. Rep. Sali requested to be recorded as voting No.

DOCKETS:
16-0601-0401
16-0601-0402

Division of Family and Community Services

Rep. Loertscher stated that there was no public testimony. The subcommittee recommends that the full committee accept these dockets.

MOTION:

Rep. Loertscher moved that the full committee accept **Dockets 16-0601-0401 and 16-0601-0402**. The question was answered that there will be no fiscal impact.

THE MOTION WAS CARRIED BY VOICE VOTE. Rep. Sali requested to be recorded as voting No.

DOCKET:
22-0104-0401

Board of Medicine

Rep. Loertscher stated that there was no public testimony. The subcommittee recommends that the full committee accept this docket.

MOTION:

Rep. Loertscher moved that the full committee accept **Docket 22-0401-0401**.

THE MOTION WAS CARRIED BY A VOICE VOTE. Rep. Sali requested to be recorded as voting No.

DOCKETS:
24-0601-0401
24-0901-0401
24-1201-0401
24-1501-0401
24-1601-0401
24-1701-0401
24-1901-0401

Bureau of Occupational Licenses

Rep. Loertscher explained that there was no public testimony on seven of the eight rule dockets presented by the Bureau. The subcommittee recommends that the full committee accept these first seven rules.

MOTION: **Rep. Loertscher** moved that the full committee accept **Dockets 24-0601-0401, 24-0901-0401, 24-1201-0401, 24-1501-0401, 24-1601-0401, 24-1701-0401, 24-1901-0401.**

THE MOTION WAS CARRIED BY VOICE VOTE.

DOCKET: **24-1401-0401** **Rep. Loertscher** explained that the subcommittee reviewed this rule relating to the State Board of Social Work Examiners and heard public testimony and recommends to the full committee to accept the rule with the exception of Section 202.01.b, 202.01.c, 202.02.c.

MOTION: **Rep. Loertscher** moved that the full committee accept **Docket 24-1401-0401** with the exception of **Section 202.01.b, 202.01.c, and 202.02.c.** **Rep. Loertscher** commented that the interested parties, including the Department are in agreement that this section should be deleted. He also stated that they will be presenting these findings to the Senate.

Announcements

The next Medicaid Budget Subcommittee will meet at 3:30 P.M., Monday, February 7, 2005 in Room 406.

Rep. Rusche announced that there will be a conference call with Mr. A. L. Lewis, who is an expert in the field of Disease Management, at 8:00 A.M., Tuesday, February 8 in the Legislative Services Conference Room in the basement.

ADJOURN: The meeting was adjourned at 2:20 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE
LOERTSCHER SUB COMMITTEE**

DATE: February 4, 2005
TIME: 8:38 a.m.
PLACE: Room 416
MEMBERS: Chairman Loertscher, Representatives Sali, Rusche
**ABSENT/
EXCUSED:** Representative Bilbao
GUESTS: Michelle McMullen, Michelle Glass

Chairman explained that the meeting was held at the direction of the Chairman of the full committee, leadership, and Legislative Services. The Sub Committee has been instructed to vote again.

16-0210-0401
16-0210-0402
16-0211-0401
16-0215-0401
16-0219-0401
16-0219-0402
16-0210-0401

Division of Health:

Rep. Rusche moved to recommend to the full committee, approval of Rules 16-0210-0401, 16-0210-0402, 16-0211-0401, 16-0215-0401, 16-0219-0401, 16-0219-0402, and 16-0210-0401. By voice vote the motion passed with Chairman Loertscher and Rep. Rusche voting yea, and Rep. Sali voting nay.

Division of Medicaid:

16-0309-0404
16-0502-0301
16-0310-0401
16-0310-0402

Rep. Rusche moved to recommend to the full committee, approval of Rules 16-0309-0404, 16-0502-0301, 16-0310-0401, and 16-0310-0402. By voice vote the motion passed with Chairman Loertscher and Rep. Rusche voting yea, and Rep. Sali voting nay.

Division of Family and Community Services

16-0601-0401
16-0601-0402

Rep. Rusche moved to recommend to the full committee, approval of Rules 16-0601-0401 and 16-0601-0402. By voice vote the motion passed with Chairman Loertscher and Rep. Rusche voting yea, and Rep. Sali voting nay.

Board Of Medicine:

22-0104-0401

Rep. Rusche moved to recommend to the full committee, approval of Rule 22-0104-0401. By voice vote the motion passed with Chairman Loertscher and Rep. Rusche voting yea, and Rep. Sali voting nay.

Bureau of Occupational Licenses:

24-0601-0401
24-0901-0401
24-1201-0401
24-1501-0401
24-1601-0401
24-1701-0401
24-1901-0401
24-1401-0401

Rep. Rusche moved to recommend to the full committee, approval of Rules 24-0601-0401, 24-0901-0401, 24-1201-0401, 24-1501-0401, 24-1601-0401, 24-1701-0401, 24-1901-0401, except 24-1401-0401 which had been rejected earlier. By voice vote the motion passed with Chairman Loertscher and Rep. Rusche voting yea, and Rep. Sali voting nay.

ADJOURN: The meeting was adjourned at 8:50 a.m.

Representative Tom Loertscher
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE BUDGET SUBCOMMITTEE

DATE: February 7, 2005

TIME: 3:30 pm

PLACE: Room 408

MEMBERS: Chairman Block, Representatives Garret, McGeachin, Nielsen, Loertscher, Henbest, Rusche

**ABSENT/
EXCUSED:**

GUESTS: Jim Baugh, Executive Director, Comprehensive Advocacy, Inc; Robert Vande Merwe, Idaho Health Care Association; Leslie Clement, Act Deputy Administrator; Jim Shadduck, Director of Operations, Ashley Manor; Jenn Seeley, ISPA; Ryan K Buta, ISPA; Keil Krier, Intern; Randy May, Deputy Administrator, Medicaid, Rep Jana Kemp; and Rep Scott Bedke

Chairman Block called the meeting to order at 3:35 pm.

MINUTES: **Rep Rusche** moved that the minutes of February 3, 2005, be approved as written.

VOTE: **ON A VOICE VOTE THE MOTION CARRIED.**

Rep Block asked that any of those attending the February 3, 2005 meeting, who did not have an opportunity to speak, be first on the agenda today.

Kelly Buckland, Independent Living Council, stated that former Governor, Phil Batt, formed a Medicaid Advisory Council and they had prepared a proposal that was presented to the Governor. There was also a Blue Ribbon Committee formed. Kelly felt this committee should look at those proposals. Rep Block will try to obtain copies for the committee.

Jim Baugh, Executive Director, Comprehensive Advocacy, Inc, discussed services provided by ISSH and home and community based services. At any given day there are about 100 people served at ISSH. It costs about \$220,000 per person per year, or approximately \$602 per day. We are not putting more people in hospitals and we are not putting more people in ISSH, even though we are putting more dollars in.

There are probably people with as severe a need outside ISSH as those that are being served by ISSH. Many of the same type individuals cared for at ISSH are being very capably cared for in Home and Community programs at a significantly lower cost.

He feels the only way we are going to make a significant savings in Medicaid

costs is to start a program to close ISSH and move those people into community-based programs. There are eight states that have already closed all their state institutions.

Even though we would ultimately realize a savings, there would be an initial cost to implement community centered programs. At this time we do not have adequate crisis facilities in our communities. We would have to do something about this.

He thinks this system will work if we are willing to adequately fund setting up a community centered program that can handle the needs of these people.

Mr Baugh presented some charts of facts, figures, and trends for 2003-2004 which are attached to these minutes as "Attachment A".

Robert Vande Merwe, Idaho Health Care Association, cautioned that when we set up a community centered program, the numbers who request Medicaid goes up. People are unwilling to make a decision about an institution, but when they know there is a community centered program that Medicaid will pay for, they are willing to use it.

Bob Van Arnem, spoke to the committee on February 3, 2005. His testimony today was no different, but he had prepared written remarks which are attached to these minutes as "Attachment B".

Rep Scott Bedke, served on an interim Medicaid Budget Committee from the Joint Finance and Appropriations Committee. He stated managing the growth of the Medicaid budget is a state budget driver. There are three things JFAC can do: (1) Contain this budget; (2) Raise revenue; (3) Cut other budgets to fund the Medicaid budget.

This interim committee came up with six objectives and recommendations, a copy of which is attached to these minutes as "Attachment C".

Rep Bedke thinks there could be savings if budgets were done at the program level rather at the division level. Where necessary they could reallocate department's appropriation by actual spending at the subobject level.

He felt that in the approval of rules process when there is a fiscal consequence, both sides should agree to accommodate this.

One of the problems with a policy of blanket cuts and no corresponding policy change is that it presents problems in the total budget.

There are other areas of cost-containment in the Medicaid budget to look at, i.e., cost sharing; professional clinical review of necessity of services; limiting number of visits allowed for certain services; and limiting amount paid annually for certain services.

Jim Shadduck, Director of Operations, Ashley Manor, addressed some of the loop holes in the Medicaid program. He finds people coming into facilities, such as his, with assets that would allow them to live there for two or three years, and, all of a sudden, a few months later they become Medicaid eligible.

Assisted living averages about \$1600 per month, and nursing home care averages about \$4000 per month. We need to step back and see where needs need to be met. We need to evaluate medical care better, but he is not sure how this is to be done, especially by government.

He stated that most facilities contract with specific pharmacies, as they need one that is open 24 hours a day, one that will deliver and also, by using a specific pharmacy, they can track on the number of prescriptions per patient. Accommodating these needs does not warrant going from one retail pharmacy to another to get the best buy on prescriptions.

Leslie Clement, Acting Deputy Administrator, stated there are efforts being made, through education, to curb those situations of over medicating. Some states have adopted a plan to limit the number of prescriptions a person could have at a time. Idaho has been trying to use an education plan instead.

A chart of Department of Health and Welfare listing participants eligible for Medicaid for the years 1999 through 2004 and projections for 2005 and 2006 was provided the committee. This is attached to these minutes as "Attachment D".

There were no further individuals to speak before the committee.

Rep Rusche stated there would be a conference call Tuesday morning on Disease Management Programs.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 5:15 pm.

Representative Sharon Block, Chairman

Barbara Allumbaugh
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 8, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached list.

The meeting was called to order at 1:30 P.M.

The minutes of the February 2, 2005 and February 4, 2005 meetings were reviewed.

MOTION: **Rep. Ring** moved to approve the minutes of February 2, 2005. The motion carried by voice vote.

MOTION: **Rep. Bilboa** moved to approve the minutes of February 4, 2005. The motion carried by voice vote.

The minutes of the January 20, 2005 and February 1, 2005 McGeachin Subcommittee meeting were reviewed.

MOTION: **Rep. Shepherd** moved to approve the minutes of January 20, 2005. The motion carried by voice vote.

MOTION: **Rep. Shepherd** moved to approve the minutes of February 1, 2005. The motion carried by voice vote.

The minutes of February 4, 2005 Loertscher Subcommittee meeting were reviewed.

MOTION: **Rep. Rusche** moved to approve the minutes of February 4, 2005. The motion was carried by voice vote.

RS 14774 **Rep. Rusche** addressed the committee and explained that this RS will establish a Bureau, parallel to the Bureau of Vital Statistics, in the Department of Health. The Health Data Bureau will, with the advice of the committee of those submitting data, develop a plan to acquire, analyze and report the needed data. It also authorizes changes required in the existing law to protect the individual's identity and health care history. He further explained that healthcare spending is approximately 15% of all goods and services purchased in Idaho. There is currently no central data repository on the cost and amount of health care delivered to Idaho citizens as there are in almost every other state. This data will be used for improved health policy decisions which affect Medicaid, the indigent

and commercially insured people. Rep. Rusche answered a question by explaining that there is not a system in place for meeting the requirement standards, which will be forthcoming, for evaluating the cost of services.

MOTION: **Rep. Ring** moved to send **RS 14774** to PRINT. Rep. Ring applauds the effort to assemble this project, however, he commented that he is not sure that the Department is the place to manage this information.

THE MOTION WAS CARRIED BY VOICE VOTE.

SUBSTITUTE MOTION: **Rep. McGeachin** moved to send **RS 14774** to PRINT with an amendment to more clearly describe the fiscal impact statement on the SOP. There was discussion on the motion and it was decided that a substitute motion was not necessary to make this type of correction.

Rep. McGeachin withdrew the substitute motion.
Rep. Rusche stated that he would correct the SOP.

THE MOTION WAS CARRIED BY VOICE VOTE.

DOCKET NO.
16-0318-0401 **Rep. Sali** asked that the letter from Willard Abbott, Deputy Attorney General, dated February 8, 2005 be included in the record. The letter which had been distributed to the members was a response to a letter from Rep. Sali regarding the committee's question of the potential impact if either or both Section 265 and 285 were rejected. A copy of that letter to the Attorney General's Office dated February 8, 2005 is attached. A memorandum from Jeanne Goodenough dated February 4, 2005 responding to a similar question is also attached.

Rep. McGeachin explained that the recommendation of the subcommittee had been that the full committee accept this rule with the exception of Section 265 pertaining to family planning services and 285 pertaining to abortion services. In support of this action, she explained that she does not believe these services should be paid for by tax payer dollars.

Willard Abbott, Deputy Attorney General, addressed the committee regarding this rule. He explained that if either Section 265 and/or 285 are rejected, without an amendment to the Idaho state plan, there is some potential for a loss of federal funds. However this potential loss falls under the state plan and not federal law. Abortion and family planning services are covered in the plan; consequently, if those services are not provided, Idaho could be subject to enforcement action by the federal government, including the loss of federal funds. He explained that federal law does not require payment for abortion services; the intent was to parallel the coverages with other health insurance companies. He responded to a question by saying that CMS or a federal partner could potentially penalize us if we do not follow our plan. Rep. Henbest commented that the difference between the Medical Necessity and the CHIP B plan is that the latter was modeled after the insurance programs

rather than the welfare program like Medical Necessity.
Mr. Abbot explained in response to a question that if this language is stricken, it would be possible for all abortion services including unintended and illegal to be paid for by the state. He further commented that if the language is removed, it does leave us vulnerable to a degree.

MOTION: **Rep. McGeachin** moved that the full committee accept **Docket 16-0318-0401** with the exception of Sections 265 and 285. She stated that it is not a matter of whether birth control or abortion is a good thing or not, it is a matter of who pays the bill.

SUBSTITUTE MOTION: **Rep. Rusche** moved that the full committee accept **Docket 16-0318-0401**. He commented that the intent was to present a product which was similar to the major health insurance companies plans which include abortion and family planning services. Some of the comments made were: rejecting the rule will cost more money in the long run; the greatest deterrent to abortion is prevention; without the provision of contraceptives, the rate of women seeking abortions will rise; 80% of the funding for CHIP B is from federal dollars, which does affect tax payers.

THE SUBSTITUTE MOTION WAS PASSED BY A ROLL CALL VOTE:
Representatives Garrett, Ring, Bilbao, Henbest, Martinez and Rusche voted AYE.
Representatives Block, McGeachin, Nielsen, Loertscher and Shepherd voted NAY.

KARL KURTZ **Karl Kurtz**, the Director of the Department addressed the committee giving a brief overview of the Department. Mr. Kurtz stated he and the Department believe that the system is a very efficient and effective model. He stated that their mission is to promote and protect the social, economic, mental and physical health of the people in Idaho. Mr. Kurtz directed the members to the Strategic Plan for 2005 -2008 booklet they had been given, which outlines five goals that they will be working on:

- 1) Improve Health Status
- 2) Strengthen Individuals, Families and Communities
- 3) Integrate Health and Human Services
- 4) Apply Learning Organization Skills
- 5) Align Structures, People, and Technology

Mr. Kurtz talked about the Governor's recommendations for appropriations for the five divisions of the department for 2006. The members had been given a 2-page colored handout illustrating the percentage of expenditure categories and appropriation categories and Spending by Program within each division. The total funding request for 2006 is \$1.6 billion. (see the attached colored charts) Mr. Kurtz introduced Dave Butler who is the Deputy Director and Administer for Management Services.

DAVE BUTLER **Dave Butler**, Deputy Director of Management Services, addressed the

committee to discuss Indirect Support services. He explained that the Department has about 2,900 employees which are supported by this Division. The Division consists of four areas which are the office of the Director, Management Services, Information Technology and Human Resources. Mr. Butler proceeded to give a description of each area and how many positions each area has. He further explained that Indirect Support has presented one statute this year which pertains to criminal history background checks for long term care facilities. The Department agrees with the federal government that this area needs more attention as it could possibly expose vulnerable clients. (See attached handout for more of his presentation).

Mr. Butler explained that they are creating new data bases and trying to update their systems to be more cost effective. He answered a question stating that the project completion date won't be for several more years. He explained that one of the data systems currently used will have to be replaced within the next year and the cost could be any where from \$1 to \$2 million. The Division is trying to use a service integration strategy employing 16 staff members who will assess needs and supports. This will provide better coordination of services both internally within the Department and with their partners.

DICK SCHULTZ

Dick Schultz, Administrator of Division of Health, addressed the committee. He began his presentation by directing the committee to the handout they had been given. He explained that the appropriations for the Division of Health are outlined in the following three categories along with their respective percentage of appropriation:

Physical Health	4.1%
Emergency Medical Services	.4%
Laboratories	.4%

He broke down each category into revenue sources and expenditure categories (see attached handout).

Mr. Schultz explained that in the areas of Children's Special Health Program and STD/Aids, all of the drugs are paid for through the Division of Health. The STD/Aids is a growing population and they are looking at ways preventing the spread of the disease; trying to reduce the "viral load." He further explained that in the area of adult cystic fibrosis, the cost of drugs are extremely high as well as the cost of coordinating a clinic with a physician from Utah. He stated that Individuals with this disease are living longer. The life span has grown from 20 to 38 years of age. The majority are from low income families where all the cost paid.

Mr. Schultz responded to **Rep. Henbest** by agreeing to discuss with her at a later date the concept of buying drugs in bulk to cut costs.

GREG KUNZ

Greg Kunz, Acting Administrator of the Division of Welfare, addressed the committee giving an overview of the Division. He explained that they determine eligibility for Medicaid, Cash Assistance, Food Stamps and Child Care expenses. Last year over 181,000 applications were received and reviewed which is an increase of 18% since 2002. He explained that

more applications in Food Stamps accounted for much of this increase. Only about 53% of all applications received by the Division are approved. The Division is also responsible to evaluate ongoing eligibility for 277,000 Idahoans. Mr. Kunz explained that the Division is sometimes referred to as the "Self Reliance Program" because of their goal to help people become more self-reliant. The philosophy of the program reflects the TAFI program which is to offer temporary services and require the participant to take part in work activities. Mr. Kunz explained that their responsibility covers the areas of seeking grants, subsidizing the Child Care Program, providing cash assistance, and the Child support Program.

Mr. Kunz stated that over the last two years in order to become more efficient program, the Division has stopped doing some things like community resources and redundancies; has changed processes and policies if they can be done more efficiently; has moved staff and resources where they are most needed; has developed new management tools to help make workload decisions; and has contracted work to outside vendors (TAFI work) where appropriate. (See attached copy of presentation).

Announcements

Budget Subcommittee will meet in Room 406 at 3:30 P.M., February 9. The next committee meeting will be Wednesday, February 10.

ADJOURN: The meeting was adjourned ad 4:40 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE BUDGET SUBCOMMITTEE

DATE: February 9, 2005

TIME: 3:30 pm

PLACE: Room 406

MEMBERS: Chairman Block, Representatives Garrett, McGeachin, Nielsen, Loertscher, Henbest Rusche

**ABSENT/
EXCUSED:** Representative McGeachin

GUESTS: David Lehman, Governor's office; Bill Walker, Deputy Director, DHW; David Rogers, Administrator, DHW-Medicaid; Ken Deibert, Administrator, DHW Facilities; Eldon Wallace

Chairman Block called the meeting to order at 3:37 pm.

MINUTES: **Rep Rusche** moved that the minutes of February 7, 2005, be approved as written.

VOTE: **ON A VOICE VOTE THE MOTION CARRIED.**

Rep Nielsen questioned whether mental health counseling is being done and whether it is being done excessively. He understands appointments are being set up and people do not show up, leaving the counselor wasting time. He said it is his understanding people are not reminded of appointments. The department thinks the people themselves should be responsible and accountable for meeting these appointment times. Rep Nielsen would not agree with this philosophy.

Rep Garrett stated a Mental Health Work Group was formed following the 2004 session of the legislature and they are working on this issue, trying to make the system better. She and Rep Henbest are a part of this work group. She agrees there are some abuses going on, but the work group is trying to tackle this. It is difficult trying to come up with the right kind of balance. The provider's association also recognizes the need of review.

Rep Garrett feels that when we hear of negative situations and cases, the information should be passed on to the department as they are interested and trying to solve these concerns.

Rep Loertscher stated we need to be careful we are not setting a level of service we are unwilling to pay for in the area of targeted case management and utilization management. Targeted case management, on the surface, looks like another layer of management. Maybe we need to look at these to make sure we avoid duplication of layers.

There were no people in attendance who wished to speak to the committee,

so **Chairman Block** asked if any members had a progress report.

Rep Rusche has been working with Mr Rogers and his people looking at audits and edits, as well as neonatal and disabled case management.

Rep Loertscher is trying to figure out if there is some way we can look at forecasting. It is difficult, but he feels there is some progress being made.

Rep Nielsen does not think we need to dwell too long in the area of comparing prices between government and private costs for those living in assisted living facilities and nursing homes. He feels Medicaid is paying its share.

Rep Garrett wanted to know if private care was tied to Medicaid. She wanted to know if a lower rate than Medicaid could be charged. Mr Rogers did not know of anything that would prevent that.

Rep Nielsen wanted to know how the federal government and state agreed on what could be paid by Medicaid and what the real costs are.

Rep Ring responded that most doctors have a contractual agreement with most insurance companies on what is an acceptable amount for normal and reasonable services per condition. Doctors cannot charge less than Medicare will pay.

Rep Garrett asked Mr Rogers if we are increasing the use of generic drugs. Mr Rogers replied that the use of generic drugs had increased, but it now seems to be leveling off. He is not sure how much more this use can be increased. As he stated in previous testimony, they do not want to get in the area determining when a non-preferred drug is the best to use for the patient.

Rep Garrett had no formal report at this time, but is spending a great deal of time working in her assigned areas.

Rep Henbest did not have a progress report to make.

Chairman Block stated there were two more meetings of this committee, on February 15th and 17th, and the final report is to be presented to JFAC on February 22, 2005.

ADJOURN: There being no further business the meeting was adjourned at 4:14 pm.

Representative Sharon Block
Chairman

Barbara Allumbaugh
Secretary

MINUTES
HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 10, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

ABS/EXCUSED: None

GUESTS: See sign-in sheet.

The committee was called to order at 1:30 P.M.
The committee reviewed the minutes of February 8, 2005.
MOTION: **Rep. Nielsen** moved that the minutes of February 8, 2005 be approved.
THE MOTION WAS CARRIED BY VOICE VOTE.

RS 14573 **Abuse and neglect investigation procedures**
Rep. McGeachin explained that the purpose of this legislation is to add to state law the federal protections required under the "Keeping Children and Families Safe Act of 2003." This provides requirements governing Department representatives who participate in an investigation. Rep. McGeachin commented that these new requirements are tied to the state's receipt of certain federal funds that are earmarked to help Idaho in connection with investigation and enforcement under Idaho's Child Protective Act. In order to continue receiving these funds, Idaho is required to adopt these provisions into our state law.

MOTION: **Rep. Nielsen** moved to send **RS 14573** to PRINT.
THE MOTION CARRIED BY VOICE VOTE.

RS 14886 **Medical Assistance Services not covered**
Rep. McGeachin explained that the purpose of this legislation is to specify services and treatments not covered under Idaho's state medical assistance program. This legislation provides that the costs of physician and hospital services for lung, pancreas or other organ transplants considered experimental procedures and multiple organ transplants are excluded from medical assistance payment. She explained that this same language which has existed in State rule was stricken by the Department. This legislation also provides that treatments and procedures used solely to gain further evidence or knowledge or to test the usefulness of a drug or type of therapy are not covered for payment by the medical assistance program.

Rep. McGeachin explained that this has been policy and has existed in rule since 1991. She further explained that it is important to provide the Department with clearer guidelines. Committee discussion followed.

MOTION: **Rep. Ring** moved to send **RS 14886** to PRINT. Committee discussion followed. THE MOTION CARRIED BY VOICE VOTE.

RS 14885

CHIP B Program - annual reserve

Rep. McGeachin explained that the purpose of this legislation is to direct the CHIP B Advisory Board to establish an annual reserve and to provide for reports to the joint finance-appropriations committee and the Senate and House of Representatives Health and Welfare committees. This will also provide that the CHIP B Advisory Board shall establish an annual reserve and provide reports by the Director of the Department. **Rep. McGeachin** explained that one of the major concerns, when reviewing this rule, had to do with the arbitrary enrollment cap as defined in the rules. This legislation will provide for the Advisory Board to consider the number of enrollees and the level of benefits. She explained that one of the issues is if the private insurance market changes, funding could be impacted. She further explained that more and more people are dropping their own insurance plans because they cannot afford them, which directly impacts the insurance premium tax fund. Another issue is changes of the federal match.

There was discussion regarding the language in line 28: "excess premium taxes." The issue was the need for more clarification, or a designation of what "excess premium tax" relates to.

MOTION:

Rep. Henbest moved to send **RS 14885** to PRINT with the following change: on line 28 after the words Excess premium taxes are deposited into a trust account insert the words: pursuant to section 41-406 (d), Idaho Code,.

THE MOTION CARRIED BY VOICE VOTE.

RS 14919

Reimbursement rates under Medicaid

Rep. McGeachin explained that the purpose of this legislation is to direct the Department of Health and Welfare to implement a methodology for reviewing and discussing reimbursement rates for private businesses providing services. This legislation creates a new section under code which establishes the following entities to be included in this plan: private businesses providing developmental disability agency services, mental health services, service coordination and case management services, residential habilitation agency services and affiliated residential habilitation specialized family home services. She explained that this legislation will provide an opportunity to sit down with the Department annually. **Rep. McGeachin** commented about how important it is to stay up-to-date with the quality of healthcare that is being received.

MOTION:

Rep. Sali moved to send **RS 14919** to PRINT. There was discussion on the motion. **Rep. Garrett** commented that many other business providers already have a rate process in place, whereas this group does not. She further commented that they have not had a voice.

THE MOTION CARRIED BY VOICE VOTE.

RS 14459C2

House Concurrent Resolution - self-directed services

Rep. Garrett explained that HCR 29 was legislation adopted in 2003 that was a resolution to encourage the Department to work together with the Developmental Disabilities Council to come up with a process for a determination for a pilot project. This House Concurrent Resolution requests that the Legislature encourage the Department to amend its Medicaid home and community-based waiver programs to include a self-

directed or self-determination model of services and supports option. This model would give eligible adults greater control and choice over their Medicaid services. This resolution incorporated a test program that will apply initially to the developmental disabilities program. It is contingent upon the Centers for Medicare and Medicaid approval. The model also would provide an evaluation component to determine the model's effectiveness and potential. Preliminary work on the proposed model began last year through a federal grant. The Department will report the results of the test program to the Legislature along with recommendations for further legislation action. The development cost is covered under a \$500,000 Independence Plus Grant awarded by the Centers for Medicare and Medicaid. The program is revenue neutral.

MOTION: **Rep. Henbest** moved to send **RS 14459C2** to PRINT.
THE MOTION CARRIED BY VOICE VOTE.

RS 14954 **Physical Therapy - continuing education requirements**
Jeremy Pisca, Attorney with Evans Keane, addressed the committee explaining that this legislation would require that licensed physical therapists and physical therapist assistants complete thirty-two hours of continuing education every two years. The legislation also provides that a licensee, upon application for renewal of the license to practice, submit proof of completion of the continuing education requirement.

MOTION: **Rep. Henbest** moved to send **RS 14954** TO PRINT.
THE MOTION CARRIED BY VOICE VOTE.

RS 14955 **Physical Therapy - Define term "Licensure Board"**
Jeremy Pisca addressed the committee and explained that current law provides for a three-member "Physical Therapy Advisory Committee" that serves as an advisor to the Idaho State Board of Medicine. This legislation would change the term "Advisory Committee" to a "Physical Therapy Licensure Board" which would still serve as an advisor to the Board of Medicine. Membership on the licensure board would increase from three members to five members, with one member being a disinterested public-consumer member. This legislation is also intended to make the Physical Therapy Practice Act consistent with how other allied professional boards under the Board of Medicine operate.

MOTION: **Rep. Martinez** moved to send **RS 14955** to PRINT.
THE MOTION CARRIED BY VOICE VOTE.

PRESENTATION: **David Rogers** with the Division of Medicaid gave a brief overview of the Medicaid Division. He explained that Medicaid is a Federal State Partnership where the Federal government provides matching funds—70% for most services 50% for most administrative activities. He explained that Idaho Medicaid is a billion dollar program. The total 2005 Appropriation is \$1,051,401,100. Most funding goes to provider payments. He further explained that Medicaid provides comprehensive benefits packages to hospital care, physician services, prescribed drugs, lab & x-ray, therapies, and medical equipment. Medicaid also provides provider services in the areas of nursing home care for elderly and disabled, care facilities for the mentally retarded, home and community-based care, and mental health services. Currently Medicaid covers over

170,000 Idahoans and since 2000 there has been an increase of over 75,000 lives covered. Medicaid also serves the elderly and disabled. He further explained that where caseload has been the dominant factor driving spending, medical inflation now accounts for the larger part of the increases.

Mr. Roger's continued with his presentation by giving an overview of the Governor's budget which includes the following:

Supplemental appropriation of \$15 million general fund for 2005

Total appropriation request for 2005: \$1,081,253,900 (T&B)

Total Medicaid appropriation for 2006: \$1,156,031,200

Please see attachment of Mr. Roger's presentation for further detail. Mr. Rogers listed several Decision Units, staffing requests which are included in the attachment.

Announcements

The next Medicaid budget meetings will be held Tuesday and Thursday, February 15 and 16 at 3:30 P.M.

ADJOURN: The meeting was adjourned at 3:45 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 14, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached sign-in sheet.

Chairman Block called the meeting to order at 1:30 P.M. The Chairman updated the committee on the progress of the Budget Subcommittee by explaining that the committee has come up with very good recommendations of savings and efficiencies from members of the subcommittee as well as others.

The committee reviewed the minutes of February 10, 2005.

MOTION: **Rep. Ring** moved to approve the minutes of February 10, 2005. THE MOTION CARRIED BY VOICE VOTE.

H 50

Cosmetician, student/teacher ratio

Rayola Jacobsen addressed the committee explaining that following the printing of **RS 14419C1** she had agreed to have a member of the Board of Cosmetology be present at the hearing of this bill. She introduced **Eric Negaard**, Board Chairman, who addressed the committee. He explained that increasing the bond from \$5,000 to \$25,000 helps to protect students in the event the school fails or in the event the student needs a tuition reimbursement. He explained that the proposed bond amount mirrors the Idaho Department of Education's propriety school bond currently in force.

Regarding the instructor/student ratio of 1 to 20, **Mr. Negaard** directed the members to look at the copy of the School Association Minutes, February 6, 2005 they had been given, which lists various states and their ratios. (See attachment.) He remarked that the ratio increase will have a positive impact on students by keeping down the cost of education and allowing the schools to educate more students. For the state of Idaho, the ratio increase will provide more opportunities for licensed cosmetologists because of the growing need for them, which in turn will increase the state's employable population and reduce unemployment rates. There were questions regarding raising the bond amount. **Mr. Negaard** responded by saying that the bond is here to protect students. He also commented that three schools were forced to close because the bond was not high enough. **Mr. Negaard** responded to a concern from **Rep Nielsen** by answering that raising the bond amount would not prevent schools from being able to start up. **Rep. Nielsen** stated, for the record,

that the State Board of Cosmetology has concurred that raising the bond amount will not stop any schools from coming on line.

MOTION: **Rep. Martinez** moved to send **H 50** to the Floor with a **DO PASS** recommendation. **Rep. Bilbao** will sponsor the bill.
THE MOTION CARRIED BY VOICE VOTE.

H 45 **Counselors, marriage/family therapy**
Roger Hales, Attorney representing the Bureau, addressed the committee. He explained that **H 45** deletes provisions for conditional permits which are no longer applicable; establishes an examination administration fee; requests a raise in the cap for annual renewal fees from \$60.00 to \$100.00.

MOTION: **Rep. Ring** moved to send **H 45** to the Floor with a **DO PASS** recommendation. **Rep. Rusche** will sponsor the bill.
THE MOTION CARRIED BY VOICE VOTE.

H 42 **Optometrists, license renewal**
Mr. Hales addressed the committee explaining that the purpose of this bill is to omit old language and omit the reference to July 1st renewal to be consistent with Idaho Code. He explained that last year the Bureau brought an Omnibus bill that provided that licensees shall pay fees annually at the time of renewal which would be on the birthday. The purpose of this bill is to clarify that optometrists also renew at the time of their birthday.

MOTION: **Rep. Martinez** moved to send **H 42** to the Floor with a **DO PASS** recommendation. **Rep. Ring** will sponsor the bill.
THE MOTION CARRIED BY VOICE VOTE.

H 43 **Hearing aid dealer/fitter, license**
Mr. Hales addressed the committee explaining that this bill entails a minor change which is to change the definition for high school equivalency. This will allow the Board to consider all educational situations in the licensure process. He explained that the Board wants to be able to accept other types of documentation from the applicant. In the event that a diploma has been lost and/or a school has burned down, this will allow the applicant to present other forms of documentation.

MOTION: **Rep. Nielsen** moved to send **HB 43** to the Floor with a **DO PASS** recommendation. **Rep. Nielsen** will sponsor the bill.

**Ken Deibert, Administrator - Department of Health and Welfare
Division of Family and Community Services**

Mr. Deibert gave the committee an overview of the responsibilities of the Division, which is the lead agency for operations of systems of care for adults and children's mental health, adults and children's developmental disability services, infant and toddler programs, substance abuse and children welfare programs which include child protection, adoption, and foster care. In addition, the Division is responsible for the operation of Idaho CareLine 2-1-1. The Division employs about 1,574 people. Mr. Deibert explained that CareLine 2-1-1 is an information and referral

bilingual service available through the Department to the citizens of Idaho. In FY04, over 83,000 callers contacted this service. He continued his overview by describing the services provided in various programs. Most of these programs have been impacted by increases in case loads and/or rising costs in care. (See attachment for more detail of presentation.)

Mr. Deibert emphasized the area of substance abuse, particularly methamphetamine abuse as a significant problem in this state. In June 2004, they were notified that the state was one in fifteen successful grant applicants nationwide. In the Department's FY05 supplemental, they have requested an increase in spending authority of \$7.5M to allow for the expenditure of the funds received in this grant to improve access treatment and recovery services. He commented that there is not enough money in the state to solve the substance abuse problem. We have to focus on stronger community unity and stronger institutions. Mr. Deibert explained that as a result of the Service Integration Project begun in Moscow, the program has been rewritten and modified. They have been reviewing what they have learned and what can be improved upon to move forward. Region 7, Idaho Falls, is in the initial stages of beginning the program. This has been an effort for the Department to improve efficiencies and effectiveness in these services.

Karl Kurtz, Director of the Department of Health and Welfare

Mr. Kurtz addressed the committee giving a brief "Wrap-Up" of the presentations that have been made to the committee over last the past several days. He began by posing the question: "How do we provide the safety net for the most vulnerable in our society?" He continued by explaining that because of economic conditions, we have needed more over the last four years. All of the dollars have been going to Medicaid in terms of trustees and benefits. He said: "How do we deliver good, effective healthcare and how do we pay for it?" He stated that they are trying to be more effective but their caseload is staggering. In 2002 and 2003, they had made budget cuts, but now they are dealing with needing more money. The Department works closely with the courts, the correction system, and other state agencies and need to continue this collaboration. (See attachment for more complete testimony.)

Mr. Kurtz continued by revisiting some of the areas of need that had been previously pointed out in earlier presentations. Some of the needs mentioned were: medicaid supplemental requests partly due to inflation & caseload increase; medicaid buy-in for the adult mentally disabled - need for additional personnel to manage the self-reliance program; restoring 15.5 clinicians in children's health care program; need help in the training academy; replacing IT workers in 2006; bringing back the call-centers to the U.S.; background checks spending authority; additional revenues for the growth in the population of people over 65 who are starting to use the benefits of Medicaid; substantial expansion services in mental health; credentialing of graduates in social work; additional staff in mental health services to ensure appropriate services are being delivered to these families; assisted living facilities; counter marketing for tobacco products. Mr. Kurtz concluded by asking the committee to consider the people that we serve, among them, children needing our protection, low-income

families, those with mental health problems, when the budget for the Department is being reviewed.

Rep. McGeachin suggested to **Chairman Block** that **Rakesh Mohan** from the Office of Performance Evaluation (OPE), provide a report regarding the reports on Child Welfare Caseload Management. Mr. Mohan, who was in the audience agreed to provide that documentation.

Announcements:

Next Medicaid Budget Subcommittee meeting - February 15, Room 406.

ADJOURN: The meeting was adjourned at 4:00 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE BUDGET SUBCOMMITTEE

DATE: February 15, 2005

TIME: 3:30 pm

PLACE: Room 408

MEMBERS: Chairman Block, Representatives Garrett, McGeachin, Nielsen, Loertscher, Henbest and Rusche

**ABSENT/
EXCUSED:**

GUESTS: Leslie Clement, Acting Deputy Director, DHW; Russ Hendricks, Leg Aide, Farm Bureau; Cathy Holland Smith, Budget Analyst, LSO; Kelly Buckland, Independent Living Council; Bill Walker, Deputy Director, DHW

Chairman Block called the meeting to order at 3:35 pm.

MINUTES: **Rep Rusche** moved that the minutes of February 9, 2005, be approved as written.

VOTE: **ON A VOICE VOTE THE MOTION CARRIED.**

Rep Garrett said she would recommend JLOC be asked to conduct a management review of Health and Welfare, looking at administration.

Rep Nielsen said he wanted to recommend a look at middle management.

Rep Garrett felt we should look at the entire organization starting at the top.

Rep Nielsen said it had been reported to him that all other departments had taken a hard look at middle management, but Health and Welfare had not.

Rep McGeachin handed out some information on the Medicaid Buy-In program, the Adult Access Program, the County Options Project, and additional staff involved.

She would recommend holding the Medicaid Buy-In program because it is not within the existing budget. She stated legislation was passed in 2004 that this program would begin in the fiscal year 2005 with existing financial resources. Implementation was to be based on budget neutrality. It was stated that the monies granted to this program would be used primarily for education.

Kelly Buckland, Independent Living Council, said that educating people about current programs that exist is not a buy-in. The waiver request is for only those Medicaid recipients. In his opinion, he thinks people would quit jobs to become Medicaid eligible to get into the Buy-in program. So, in effect, they could be coming into the program through the back door.

Medicaid Buy-in is an option for the states which will allow people to get

coverage they could not get through a private program. None of the waivers require an expansion of people, but the new programs coming will require an expansion. The Buy-in program under discussion is a federal grant and is for education only.

Rep Loertscher does not disagree with the program but if we do not make a recommendation to JFAC on this program, we are, in essence, buying into it and will have to accept the expansion. We need to know if we will want to go down this road. If this committee does not recommend keeping the Buy-in as presented and will not back legislation on it, we would probably have to promulgate rules to accommodate it.

Rep Garrett does not want to lose the federal grant if the Health and Welfare Committee approves the Buy-in Program.

MOTION: **Rep McGeachin** moved that we recommend to the full Health and Welfare Committee that they recommend to JFAC they **not** fund the Decision Unit for the Buy-in Program.

VOTE: **ON A VOICE VOTE THE MOTION CARRIED.** Rep Rusche is recorded as voting no.

Rep McGeachin said she would recommend we hold on the Adult Access Card Program Decision Unit even though there appears to be funding already in place. The 2003 legislature passed legislation to fund a pilot project and the money was budgeted for this.

Rep Garrett has worked on this issue and, in talking with the DHW, they wanted to be allowed to keep this program.

MOTION: **Rep McGeachin** moved that committee recommend to the full Health and Welfare Committee they recommend to JFAC to approve the Decision Unit on a one year pilot project for the Adult Access Card Program.

VOTE: **ON A VOICE VOTE THE MOTION CARRIED.**

Rep Garrett said she understood there was legislation coming forth on the County Options Project.

MOTION: **Rep McGeachin** moved that we recommend to the Health and Welfare Committee that they recommend JFAC **not** fund the Decision Unit for the County Options Project.

SUBSTITUTE MOTION: **Rep Rusche** recommends that approval of this Decision Making Unit is contingent upon the approval of the County Options Project and that we wait to make a decision.

Rep Leortscher will be voting against the substitute motion. He stated that several years ago it was determined this type program was a very expensive program and did not cover a vast number of people. He further stated we would not be hearing any other legislation on this until past the time to make a presentation to JFAC.

Chairman Block stated we do not have to address every item on our list

to JFAC. We can address all, address some, take up some later on or not even address some of them.

CALL FOR THE QUESTION:

Rep Henbest moved to call for the question.

VOTE:

ON A VOICE VOTE THE MOTION CARRIED.

VOTE ON SUBSTITUTE MOTION:

ON A SHOW OF HANDS VOTE, THE MOTION CARRIED, 4-3.

Rep Leortscher presented copies of charts on dental paid claims he pulled off the internet as well as fee schedule for Durable Medical Equipment.

The discussion on the Durable Medical Equipment centered around what does it cost, who is using it, what do they do with it after they are through using it and is there a co-pay on it.

Leslie Clement, Deputy Director, DHW, would be glad to come back and talk to this committee about the authorization process and bring an expert in this area.

Rep Henbest would like to hear from the Dental Association in regards to programs they have put together.

Rep McGeachin has a presentation on prescription medicine and is in the process of putting together legislation concerning prescription medicine. She did not give her presentation as she intends to proceed with legislation but would be looking for support from this committee.

Rep Henbest would prefer putting down on the list if each item is going to require legislation, rules, or other since the full committee would be looking at this.

Rep Nielsen has taken some questions in regards to eligibility to the Attorney General's office and is waiting for a response from them.

He further feels that Medicaid is paying less than the private companies and there is no further need to delve into prices between government and private. He has been advised also that some doctors, out of the goodness of their hearts, are charging some people, not on Medicaid, the same rate as Medicaid.

ADJOURN:

There being no further business the meeting was adjourned at 5:20 pm.

Representative Sharon Block
Chairman

Barbara Allumbaugh
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 16, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached sign-in sheet.

The committee reviewed the minutes of February 14, 2005.

MOTION: **Rep. Ring** moved to approve the minutes of February 14, 2005.
THE MOTION CARRIED BY VOICE VOTE.

Chairman Block announced that the Medicaid Budget Subcommittee is finalizing recommendations for JFAC. The remaining recommendations will be reviewed at the meeting tomorrow, February 17 and the meeting in the germane committee on Friday, February 18. The report will be given to JFAC on February 22, 2005.

H 148

Rep. Rusche presented this bill to the committee. He explained that this bill will create a bureau which will develop a plan to acquire and analyze data, including the benefits from these analyses and require that a report be made to the governor and the legislature on how the bureau is exercising its responsibilities under this chapter. Rep. Rusche further explained that currently, there is not a way to consolidate data in the healthcare industry in the state. As the industry grows more toward consumer directed plans, how do we give healthcare consumers accurate information? As new technology continues to evolve, and healthcare costs increase, more data and analysis is needed. Almost every other state has a healthcare data repository system. The estimated cost is \$200,000 for the first year with 1.5 FTE. The cost can be offset by grants, which are available for the development of a state health database, and contracts with CMS and others needing reports on state healthcare usage.

Rep. Rusche was asked to respond to **Allen Derr's** (attorney and lobbyist for the Idaho Press Club and Idaho Newspaper Association), letter dated February 16, 2004, which expresses a concern with the non-disclosure sections of H 148 as being too broadly written. Rep. Rusche responded by saying that the issue within the letter is not the intent of the bill. He explained that there probably is language that would resolve those issues and has asked Mr. Derr to help with new language. Rep. Rusche responded to another question by saying that a data plan shall determine what kind of data they will be required to produce. The data

would be provided from either hospital records or from claims data from health plans.

Dr. Russ Newcomb, ID Medical Association, addressed the committee by explaining that H 148 does have merit and he commends Rep. Rusche for the effort. However, because of problems they see within the bill, the association would like this legislation referred to an interim study committee to evaluate and come back with new legislation.

Dick Schultz, Administrator, Division of Health, addressed the committee. He commented that the Department sees the merit in this legislation and said that this would allow them to start collecting information for the legislature and the Department. Mr. Schultz described the Trauma registry that the legislature approved four years ago.

Steve Millard, ID Hospital Association, addressed the committee commenting that he does not have a disagreement with this bill. He knows the frustration of not having enough data. He applauds Rep. Rusche and believes this is the vehicle. However, he would like some consideration given to a different approach. He would rather see a stakeholders meeting convene with all interested parties. Mr. Millard also stated that there is not a mandate for data in this bill and if there is no mandate, data will not be provided. He commented that the hospitals are becoming more interested with gathering and collecting more data to be sure the right care is delivered to the right place at the right time.

Lynn Darrington, ID Association of Health Plans and Regence Blue Shield, addressed the committee commenting that Regence is very interested in this and are talking with their partners. She asked that the committee please give much consideration to this legislation as it does have merit.

MOTION: **Rep. Henbest** moved to hold **H 148** in committee and give the Chairs of the Healthcare Task Force, **Sen. Cameron** and **Rep. Deal**, a letter asking them to convene a stakeholders meeting, involving the people that would be affected by this legislation and with oversight by the Healthcare Task Force.

Rep. Loertscher stated that it would be better to make two separate motions. The committee agreed. **Rep. Henbest** withdrew the motion.

The consensus of the committee was that this legislation is too important not to move forward. Rep. Rusche responded to Rep. Nielsen's question by saying that he is supportive of moving forward with the legislation by working with stakeholders and coming back next year.

MOTION: **Rep. Loertscher** moved to hold **H 148** in committee.
THE MOTION CARRIED BY VOICE VOTE.

MOTION: **Rep. Henbest** moved that the committee send a letter to **Sen. Cameron** and **Rep. Deal** asking them to convene a stakeholders group that would be overseen by the Healthcare Task Force to address the issues of quality data healthcare as represented in **H 148**.
THE MOTION CARRIED BY VOICE VOTE.

H 41 **Rep. Ring** addressed the committee. He commented that doctors who have had many good years of practicing medicine and still have the enthusiasm to continue practicing, receiving no remuneration, should be able to acquire a fee-exempt license. This bill establishes a fee-exempt license for retired physicians and osteopathic physicians to practice medicine in free or sliding fee clinics if they receive no remuneration.

Dr. Russ Newcomb addressed the committee in support of this bill. He stated that they see this as an expanding access bill, i.e., will reach into rural areas. He said that this bill will promote philanthropy from the physicians.

MOTION: **Rep. Loertscher** moved to sent **H 41** to the Floor with a **Do Pass** recommendation.
THE MOTION CARRIED BY VOICE VOTE.

HJM 3 **Rep. Martinez** addressed the committee explaining that the purpose of this bill is to support the Pocatello Proton Accelerator Cancer Treatment Facility, which will be located near Portneuf Medical Center. He described proton therapy as a form of radiation that is noninvasive, painless and is performed on an outpatient basis. Protons provide a superior dose to tumors while sparing surrounding healthy tissue, eliminating painful and life-impairing side effects associated with surgery and other forms of radiation therapy. There is less tissue damage from proton therapy. This is more "cutting edge" and "state of the art" treatment.

MOTION: **Rep. Ring** moved to send **HJM 3** to the Floor with a **Do Pass** recommendation.
THE MOTION CARRIED BY VOICE VOTE.

**Brent D. Reinke, Director - Idaho Department of Juvenile Corrections
Presentation on Juvenile Justice in Idaho**

Mr. Reinke distributed a colorfully illustrated booklet from the Department of Corrections which describes the Department's background and mission statement, Idaho's Juvenile population, population problem areas, special needs, and treatment services. (See attached booklet.) He directed the members to page 2 of the handout of a picture of a goldfish in a bowl remarking that this picture parallels one of their goals which has been to manage kids as close to home as possible, i.e., contain them within a smaller area.

Mr. Reinke discussed the progress of the Agency over the last ten years. Their mission is to prevent and reduce juvenile crime in partnership with other communities. They work with 44 counties in 201 cities. The kids are being managed in these areas. Mr. Reinke explained that from experience they have found that a dollar spent on prevention will save more dollars in the end. The juvenile delinquency population has decreased. He attributes much of this decline to the types of programs they have developed. One of these programs, Functional Family Therapy (FFT), which staffs personnel who work not only with young adults but with the parents/parent and siblings to help them become a more functional family. They have also found that working with kids and their

families at a much earlier age is proving to be very effective. There are about 7,000 kids throughout the state that are in the system and the average time they are in custody is about 18 months.

Mr. Reinke explained that the Agency will be meeting throughout the state asking for an evaluation of the last ten years and then by moving forward will apply this knowledge gained to the next ten years. He explained in response to a question that 27% of the funding from the legislature goes directly to the counties. He acknowledged that while the youth delinquency population is down, the adult population is up. It is much more difficult to manage the adult population, easier to instill good habits to the young.

Announcements

The next budget subcommittee will be February 17, 3:30 P.M., Room 406.
The next full committee will meet Friday, February 18 at 1:00 P.M.

ADJOURN: The meeting was adjourned at 3:22 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE BUDGET SUBCOMMITTEE

DATE: February 17, 2005

TIME: 3:30 pm

PLACE: Room 408

MEMBERS: Chairman Block, Representatives Garrett, McGeachin, Nielsen, Loertscher, Henbest and Rusche

**ABSENT/
EXCUSED:**

GUESTS: Tanya McElfresh, Medicaid; Stephen A Brown, Medicaid; Leslie Clement, Medicaid; Thomas R Couch, Federal Government CMS; Bill Walker, IDHW; Catherine Holland-Smith, LSO

MINUTES: **Rep Rusche** moved that the minutes of February 15, 2005 be approved as written.

VOTE: **ON A VOICE VOTE THE MOTION CARRIED.**

Chairman Block called the meeting to order at 3:50 pm.

Rep Block reiterated that the purpose of this committee was to look at Medicaid, try to determine if there were areas where dollars savings could be found, report back to the full Health and Welfare Committee, and make a final report to JFAC on February 22, 2005.

Suggested areas of savings were previously charted by the members and then assigned to members of the committee to investigate and report back.

Rep Nielsen, presented his report on price comparisons and Eligibility. That report is attached to these minutes as Attachment 1.

Rep Rusche, presented his report on Hospital Pricing, Professional payment edits using CCI, Audits and QA, Care Management, and Pharmacy. That report is attached to these minutes as Attachment 2.

Chairman Block stated she had met with Cathy Holland-Smith of LSO and Rep Garrett to categorize all the items put on the list. She had copies of these categories which were presented to the members.

Those items listed on the blue sheets were Long Term items, attached to these minutes as Attachment A.

Those items listed on the bright pink sheets were Short Term items, attached to these minutes as Attachment B.

Those items listed on the pink sheets were Budget and Policy items,

attached to these minutes as Attachment C.

Those items listed on the green sheets were Budget items, attached to these minutes as Attachment D.

Under item A of Long Term Policy items, Health Facility Surveys, **Rep Garrett** wanted to recommend Health and Welfare look at these areas and come back to the committee with recommendations towards co-pay.

MOTION: **Rep Garrett** moved to recommend that intent language be put in for Health and Welfare to look at all licensing and surveys and come back to the legislature next year with a recommendation of cost sharing.

Rep Loertscher felt this would call for another layer of bureaucracy.

VOTE: **ON A VOICE VOTE THE MOTION CARRIED.** Rep Loertscher is recorded as voting no.

Leslie Clement, DHW, stated some of the survey costs are fully federal funded. This would then show a great disparity in costs of surveys that would be reflected.

Under Item B, System Improvements, **Rep Garrett** wanted to ask for a committee to continue looking at long term improvements. She felt we were too close to the end of the session to deal with these heavy items.

MOTION: **Rep McGeachin** moved that we recommend to the full committee an interim committee of both House and Senate members to study the long term issues.

VOTE: **ON A VOICE VOTE THE MOTION CARRIED.**

Chairman Block said the normal procedure would be to prepare a resolution calling for the interim committee and, if passed, leadership would make the final determination of which interim committees would be funded.

MOTION: **Rep Loertscher** moved that all long term topics on the blue sheets be approved as recommendations to JFAC and referred to the interim committee.

VOTE: **ON A VOICE VOTE THE MOTION CARRIED.**

Rep Rusche felt that the items on the short term list were pretty detailed and difficult to get all the figures on.

Rep Garrett suggested that, other than those items that legislation is being prepared on, be put on the long term list.

Rep Loertscher has been trying to get some numbers on Health Facility Cost Share Proposals, Review Forecast of Caseloads and Scope of Services Review, and the information is not readily available.

MOTION: **Rep Loertscher** moved that this committee recommend to the full committee that Health and Welfare review their scope of services in an effort to identify

those services most medically necessary.

VOTE: ON A VOICE VOTE THE MOTION CARRIED.

Rep Loertscher stated that forecasting is a budgeting tool, but he does not know how it can be refined. **Cathy Holland-Smith** felt part of the forecasting budget problems is a lack of understanding and lack of involvement.

MOTION: Rep Loertscher moved that we continue with the effort of the Department of Health and Welfare working with the Budget Office.

VOTE: ON A VOICE VOTE THE MOTION CARRIED.

Chairman Block handed out copies of the report Rep Kemp had prepared on Department of Health and Welfare audits. That report is attached to these minutes as Attachment 3.

MOTION: Rep McGeachin moved that we recommended that Health and Welfare be asked to produce costs paid by Medicaid from absent fathers and that they aggressively try to recoup birth costs.

VOTE: ON A VOICE VOTE THE MOTION CARRIED.

Bill Walker, DHW, said the Department has a request before the budget committee this year to hire contract help in collection of child support.

MOTION: Rep Nielsen moved that we put the finding in Rep Kemp's report, "Errors in child support debt balances remain uncorrected for over 3 years", on short term goals and for the long term work with the Judiciary and Rules Committee to develop legislation which might help the department in their collection of child support.

VOTE: ON A VOICE VOTE THE MOTION CARRIED.

Rep McGeachin reported on her study of inpatient and outpatient hospital costs and her suggestions. Her report is attached to these minutes as Attachment 4.

Rep Garrett stated that under Budget and Policy items on the pink sheets, the Medicaid Buy-In and Co-payments has been taken care of. On the County Options, this committee voted to wait for the legislation that is underway before making a decision. On Criminal History Checks, legislation did not pass the Senate. Research loopholes in elder-care is open and to modify the form that accompanies a rule with fund source and proposed costs is an item that should be a leadership discussion.

MOTION: Rep Nielsen moved that we tighten up the rules on transfer of assets and look backs. He stated he is pursuing some work in this area.

VOTE: ON A VOICE VOTE THE MOTION CARRIED.

MOTION: Rep Garrett moved that we recommend to the full committee that forms that accompany rules carry a fund source and proposed costs.

VOTE: ON A VOICE VOTE THE MOTION CARRIED.

MOTION: **Rep Nielsen** moved that we review counseling, billing and hours, patient attendance, and credentialing and that these items be moved to long term.

VOTE: ON A VOICE VOTE THE MOTION CARRIED.

MOTION: **Rep Garrett** moved that we recommend that we support moving toward mental health insurance parity and that this be placed on the short term list.

VOTE: ON A SHOW OF HANDS THE MOTION FAILED.

Rep Garrett presented her report on Decision Making Units which is attached to these minutes at Attachment 5.

MOTION: **Rep Henbest** moved to accept the recommendations of Rep Garrett on Decision Making Units and submit to the full committee.

Rep McGeachin asked some questions about FTPs and whether the bottom number was accurate. **Rep Garrett** stated that the bottom number had not been recalculated. She further stated some of the savings in these programs would be by phasing in FTPs rather than hiring at one time. **Rep McGeachin** said she could not support the motion without having an accurate final figure.

Rep Henbest withdrew the motion.

MOTION: **Rep Nielsen** moved that we accept **Rep Nielsen's** report and make all recommendations included therein to the full committee.

Rep Garrett had problems with item c which stated "Never create new programs that will increase the budget. New programs are acceptable if they have a net reduction". **Rep Garrett** did not like the word "never" as she felt it had the potential of binding future Legislatures to an action taken by this Legislature, which is not acceptable. She further felt all the items on his list were currently covered under long term items.

Chairman Block said it was her intention to accept all members written reports and submit them to the full Health and Welfare Committee and to JFAC. It was not her intention to ask for committee approval of all reports. She, therefore, called Rep Nielsen's motion out of order.

Rep Leortscher had a copy of a report done in 1996 on Medicaid Reform and pointed out there were several items in that report that had not been dealt with and those same items are included in this committee's report.

MOTION: **Rep McGeachin** moved that the report done in 1996 on Medicaid Reform become a part of the long term evaluation of this committee.

VOTE: ON A VOICE VOTE THE MOTION CARRIED.

MOTION: **Rep Henbest** moved that the recommendations of this subcommittee be presented to the full Health and Welfare Committee on Friday, February 18, 2005.

VOTE: **ON A VOICE VOTE THE MOTION CARRIED.**

ADJOURN: There being no further business to come before the subcommittee, the meeting was adjourned at 6:32 pm.

Representative Sharon Block
Chairman

Barbara Allumbaugh
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 18, 2005

TIME: 1:00 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** Rep. Loertscher

GUESTS: See attached sign-in sheet

The committee reviewed the minutes of February 16, 2005

MOTION: **Rep. Ring** moved to approve the minutes of February 16, 2005.
MOTION CARRIED BY VOICE VOTE.

Chairman Block addressed the committee explaining that the final report of the Budget Subcommittee will be acted upon this day in the germane committee. The Chairman submitted the reports to the secretary. The Chairman explained that these recommendations are a compilation of information contributed by the subcommittee members, Legislators, members of the public, Leadership, Kathleen Kustra, as well as JFAC members. For the sake of more clearly identifying and referencing, the attachments are noted in the following way:

Immediate budget	noted in green
Budget and policy	noted in pink
Short-term policy	noted red/dark pink
Long-term policy	noted in blue

Chairman Block stated that the intent of the House Health and Welfare Committee is to write a resolution to request an interim committee to continue the work that the subcommittee has done.

MOTION: **Rep. Henbest** moved that the committee draft a resolution that requests an interim committee to study cost savings in Medicaid. There was discussion on the motion. **Rep. Sali** stated that he believed that the members need to review a draft in committee before making a motion.

Rep. Garrett commented that the intent was to confirm with the full committee that they support this effort and that they believe this is the proper way to continue.

THE MOTION CARRIED BY VOICE VOTE.

The Chairman stated that the task of the committee is to set legislative policy and directive for JFAC. Recommendations will be presented to JFAC on Tuesday, February 22. The budget will be set around March 7.

CATEGORY - DECISION UNITS

(Rep. Garrett's Budget Subcommittee Report attached)

Child Protection Workers & Services

Rep. Garrett explained that the priority should be to provide necessary funding for actual foster care payments and adoption assistance programs. By funding Trustee/Benefits the agency should be able to fill the vacant positions in this program. This will assist with the stabilization of these services as identified in the Child Welfare Caseload Management Evaluation Report by the Office of Performance Evaluations. She further explained that under this decision unit, they are waiting for clarity, and positions are being held vacant

Rep. Nielsen was granted a Point of Order by the **Chair**. He asked that **Rep. Garrett** would explain who were all of the participants in this work. She stated that her work was a collaborative effort with the Department of Health and Welfare, providers, County Mental Health, Cathy Holland-Smith, Representatives Henbest and Skippen, and Chairman Block.

Rep. Sali asked if the intent of the committee is to make decisions regarding the number of FTE's requested by the Department. **Chairman Block** responded that the intent of the committee is to make policy recommendations to JFAC. **Rep. McGeachin** stated that her recommendation would be that JFAC consider the Office of Performance case study on this issue. She stated that the two criteria to consider are, the assurance of how those positions would be used, and what kind of performance expectations could be expected due to increasing the funding.

MOTION:

Rep. Henbest moved that the recommendation as written in the Garrett report under the title Child Protection Workers & Services be accepted. There was discussion on the motion regarding the criteria mentioned above. **Rep. Henbest** stated that it appears to be the intent of this committee that JFAC add language to the appropriation bill directing the Department to use the resources only for what they were appropriated for. She agreed to adding these two items to the consideration of this budget request.

THE MOTION CARRIED BY VOICE VOTE.

MOTION:

Rep. McGeachin moved that the intent of the Budget Subcommittee in making a recommendation to JFAC would be that any decision unit requesting FTP's of funding levels will include the two criteria in the report by OPE which are assurance of how the positions would be used, and what kind of performance expectations would there be based on money that is funded. There was discussion regarding the performance measure piece of the language. **Rep. Henbest** commented that the Department needs to have a better system in place to track and monitor the case load. She stated that there is a performance audit that will require a Department progress report at 6 months.

MOTION:

Rep. McGeachin withdrew the motion.

Rep. McGeachin moved that the recommendation of the subcommittee to

the full committee be that as JFAC considers the decision unit for FTP's and funding for Child Protection workers and service program that they would seek assurance of how immediate positions will be used and how that money will be spent in the case load review.

THE MOTION CARRIED BY VOICE VOTE.

Access to Substance Abuse Services

MOTION: **Rep. Garrett** commented that this is a high priority for our state. The Governor's recommendation is for 3 staff, and it would be her recommendation that the committee support the Governor's recommendation.

Rep. Henbest moved that the recommendations as written in the Garrett report on Access to Substance Abuse Services be accepted.

THE MOTION CARRIED BY VOICE VOTE.

Complete Rural ACT Teams

MOTION: **Rep. Garrett** commented that the mental health system is in chaos and they think this program will be effective. It is being used in many states successfully. The subcommittee recommends that if additional personnel are approved by JFAC, that they be used to complete the existing ACT Teams.

Rep. Henbest moved that the recommendation as written in the Garrett report on Complete Rural ACT Teams be accepted. There was discussion on the motion. **Rep. McGeachin** is opposed to funding this program. **Rep. Rusche** commented that this is the most sufficient and safe method. **Rep. Bilbao** commented that the rural areas need this service.

THE MOTION CARRIED BY VOICE VOTE.

Rep. McGeachin requested to be recorded as voting No.

MOTION: **Rep. Nielsen** moved that the recommendation to JFAC from the House Health and Welfare Committee would be to place the Child Protection Services as priority No. 1, and make the Complete Rural ACT Teams as priority No. 2, when the committee considers completing full positions.

THE MOTION CARRIED BY VOICE VOTE.

Children's Mental Health Positions

MOTION: **Rep. Garrett** commented that six to eight positions are being held vacant. The committee recommends that any new resources provided for children's mental health at this time be for appropriate treatment services.

Rep. Henbest moved that the recommendation of the Garrett report as written under the title Children's Mental Health Positions be accepted. There was discussion on the motion. **Rep. McGeachin** commented that the language is too vague. **Rep. Garrett** listed some of the areas that would be considered appropriate treatment, namely, suicide, which is rated 7th in the nation. Rep. Nielsen commented that the funding for this unit needs to stay within the unit.

SUBSTITUTE MOTION:

Rep. Nielsen moved that the committee adopt the position that the new resources be limited to a 3% increase over the last year's budget and that resources in total be used for appropriated services within that area. There was discussion on the motion regarding the 3% figure.

Rep. Nielsen withdrew the substitute motion.

THE ORIGINAL MOTION CARRIED BY VOICE VOTE.

Representatives McGeachin and Nielsen requested to be recorded as voting No.

Child Support Caseload Increases

Rep. Garrett presented her recommendation that any new resources provided for Children's Mental Health be for treatment of services and not additional FTP's.

MOTION:

Rep. Rusche moved that the recommendation as written in the Garrett report be that the Child support Caseload Increases be accepted. There was discussion on the motion. There was a concern expressed regarding the number of positions left vacant, and a concern that the state cannot support the increase in positions.

THE MOTION CARRIED BY VOICE VOTE.

Rep.'s McGeachin and Nielsen requested to be recorded as voting No.

CATEGORY- BUDGET & POLICY

MOTION:

Rep. Garrett moved that the committee accept the Budget Subcommittee Report under the Category - Budget & Policy in Priorities A and B.

Chairman Block explained the action taken by the subcommittee in each of the categories in Priority A and B were as follows:
(see Attachment C - pink sheet)

Priority A

Medicaid Buy-In	Hold - this is a proposed bill
County Options	Wait for legislation that is underway
Co-Payments	Wait for proposed legislation
Criminal Hist. Checks	Hold - legislation failed in Senate
Loopholes in elder-care	Move to long-term list
Forms/rules-fund source	Subcommittee accepted

Priority B

Counseling, billing & hrs., patient attendance, credentialing	Move to long-term list
---------------------------------------------------------------------	------------------------

THE MOTION CARRIED BY VOICE VOTE.

CATEGORY - BUDGET

Rep. Garrett directed the committee to the subcommittee report on this category (Attachment D - green sheet), which includes Priority A - FY

2005 and FY 2006 Budget Request and Priority B Other Budgeting Practices.

Priority A

Fund New FTP to Implement the Adult Access Card Program - 1 yr.

MOTION: **Rep. Henbest** moved that the committee accept the recommendation of the subcommittee to Fund the New FTP to Implement the Adult Access Card Program for one year.

THE MOTION CARRIED BY VOICE VOTE.

Citibank Call Center

MOTION: **Rep. Henbest** moved that the committee recommend to JFAC that the City Bank Call Center not be funded.

THE MOTION CARRIED BY VOICE VOTE.

Early Hearing Detection Fund Shift

MOTION: **Rep. Henbest** moved that the committee recommend to JFAC that they not fund the Early Hearing Detention Unit. Several members commented that the hospitals are doing an excellent job of accomplishing this task.

THE MOTION CARRIED BY VOICE VOTE.

Priority B

Increase Control of Non-cognizable Fund Adjustments

Some of the members shared concern over the language in this category. The **Chair** explained that they did not have to take action on this. No action was taken.

MOTION: **Rep. Henbest** moved that the full committee recommend to JFAC that in the budget setting process, they review the budget for Health & Welfare travel and training budgets and from that point that it be studied further in the interim committee.

THE MOTION CARRIED BY VOICE VOTE.

Review Budgets by Program

MOTION: **Rep. Henbest** moved that the full committee accept the recommendation of the subcommittee that budgets be reviewed by program.

THE MOTION CARRIED BY VOICE VOTE.

Review Legislative Audits

MOTION: **Rep. Rusche** commented that from his research in the claims data area, the process of claims audit appeared to be very "clean."

Rep. Henbest moved that the full committee accept the report submitted by Rep. Rusche and transmit to JFAC his comment that after review it appeared that the Department had adequate control on the claims payments.

THE MOTION CARRIED BY VOICE VOTE.

Postpone Medicaid payments for one week to generate savings.

Rep. Nielsen recommended that the committee not take action because this does not save money, it just postpones paying our bills.

Rep. Rusche commented on his research concerning paying hospital charges on a DRG and Per Diem methodology. He stated that this recommendation would require a systems change in Medicaid. He commented that this is a long-term policy item and has the potential for improvement over time. (see attachment 2 - Rep. Rusche's report)

MOTION: **Rep. Henbest** moved that the full committee recommend to the Department of Health and Welfare that they do an analysis of this suggestion to see if there is a cost savings and redesigning of their payment methodology.

THE MOTION CARRIED BY VOICE VOTE.

MOTION: **Rep. Garrett** moved that the committee accept the report of Rep. Rusche.

THE MOTION CARRIED BY VOICE VOTE.

BUDGET RECOMMENDATION REPORT - Rep. Rusche
(Rep. Rusche's Budget Subcommittee report, attachment 2)

Care Management

Rep. Rusche commented that this area of disease management, especially for neonatal care and care of disabled individuals, may have the greatest stability in cost-savings.

MOTION: **Rep. McGeachin** moved that the recommendations included in Rep. Rusche's report be considered in the long-term policy committee.

THE MOTION CARRIED BY VOICE VOTE.

Pharmacy Management

Rep. Rusche commented that, "He does not see a big pot of additional dollars waiting to be harvested."

MOTION: **Rep. Henbest** moved that the committee commend and continue to encourage the Department on their efforts to control that dollar cost and that we accept the report submitted by Rep. Rusche.

THE MOTION CARRIED BY VOICE VOTE.

CATEGORY - SHORT-TERM POLICY
(see attachment B - red/dark pink)

On behalf of **Rep. Loertscher's** absence, **Chairman Block** presented his report.

MOTION: Review Forecast of Caseloads
Rep. Henbest moved that the full committee recommend that the interim committee on Medicaid look at a review of forecasting of caseloads.

THE MOTION CARRIED BY VOICE VOTE.

MOTION: Review of Scope of Services
Rep. Henbest moved that the full committee recommend that the interim committee embark on a review of the Scope of Services provided for by Medicaid.

THE MOTION CARRIED BY VOICE VOTE.

MOTION: **Rep. Nielsen** moved that the full committee recommend to JFAC that they remove from the budget the costs associated with circumcision.

THE MOTION CARRIED BY VOICE VOTE.

MOTION: Hold on any Medicaid or CHIP Expansion
Rep. Nielsen introduced a letter from the Attorney General's office dated February 18, 2005 (letter attached), in response to his question regarding reducing eligibility criteria for CHIP and Children's Access Card Programs by reducing the level of poverty. For example, lower CHIP B from 150% to 130% etc. Rep. Nielsen explained that the answer was that in order to accomplish these reductions, there would need to be changes to the law, state plan, and rules. Rep. Nielsen stated that this is a long-term solution, not a short-term one.

MOTION: **Rep. Nielsen** moved that the full committee put the CHIP expansion program and the possibility of lowering the poverty level in the long-term review list in the interim committee and move with care and responsibility.

THE MOTION CARRIED BY VOICE VOTE.

LONG-TERM POLICY
(see attachment A - blue sheet)

Priority A

Increase Revenues/Offset Costs:
Health Facility Surveys - cost sharing

MOTION: **Rep. Garrett** moved that the full committee create a letter requesting that JLOC review the management structure of Health and Welfare. Rep. Henbest said that she would help in this effort.

MOTION CARRIED BY VOICE VOTE.

MOTION: **Rep. Garrett** moved to request that the Department of Health and Welfare report back to the Legislature in the next session on the feasibility of cost-sharing from providers for health facility surveys.

THE MOTION CARRIED BY VOICE VOTE.

Chairman Block stated that in order to be consistent with the minutes of and the action taken by the subcommittee of February 17, the following two recommendations shall be included in the Category of Long-Term Policy. The two recommendations are: #1) recoup both costs paid by Medicaid from absent parents, and #2) work with Judiciary, Rules & Administration on legislation to assist the Department with the collection of child support payments.

MOTION:

Rep. McGeachin moved that the full committee accept the remaining items on the Long-Term Policy list for further study in the interim committee.

THE MOTION CARRIED BY VOICE VOTE.

BUDGET RECOMMENDATION REPORT - Rep. Nielsen

(see letter dated February 17, 2005, Attachment 1)

Rep. Nielsen commented that Medicaid and Medicare are the lowest in payment of services. He listed recommendations to help maintain and possibly reduce the total Health and Welfare budget. Rep. Nielsen agreed with Rep. Garrett that two of the items listed on the flip-chart satisfactorily encompass his list of recommendations. The two are: to encourage volunteer medical and dental services, and encourage family, community and natural supports with less reliance on government solutions.

MOTION:

Rep. Nielsen moved that the first item, encourage volunteer medical and dental services, and the second item, encourage family, community and natural supports with less reliance on government solutions, which are goals the subcommittee had previously listed in their meetings be included as long-term goals for the interim committee.

THE MOTION CARRIED BY VOICE VOTE.

ADJOURN:

There being no further business the meeting was adjourned at 4:32 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 22, 2005

TIME: 1:00P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** Rep. Sali, Rep. Shepherd(8)

GUESTS: See attached sign in sheet.

The committee reviewed the subcommittee minutes of February 17, 2005.

Rep. Bilbao noted that his name had been misspelled on the minutes of February 18, which will be corrected by the secretary.

MOTION: **Rep. Bilbao** moved to accept the minutes of February 17, 2005. The motion carried by voice vote.

The committee reviewed the minutes of February 18, 2005.

MOTION: **Rep. Nielsen** moved that the minutes of February 18, 2005 be accepted. The motion carried by voice vote.

Rep. Block began by explaining to the committee that the House Health and Welfare committee budget report was presented to JFAC this morning, a copy of which had been given to the members. The Chairman explained that Chairman Cameron asked her to commend the subcommittee for their excellent work on compiling recommendations of savings and efficiencies for Medicaid. He remarked that it was one of the best pieces of work he has seen by the Legislature. He thanked the subcommittee for their diligence. Chairman Cameron has asked that the subcommittee do additional work on research in technology. Chairman Block stated that the subcommittee will commence with this work some time next week. The Chairman entered into the record the House Health and Welfare Committee Budget Report. (see attachment).

H 235

Drinking water operator licensure

Rayola Jacobsen, Bureau of Occupational Licenses Director, addressed the committee. She explained that licensing of the professional drinking water operators has been housed under DEQ until last year when it was moved to the Bureau. Last year the Bureau brought legislation that helped to streamline this profession to better fit with the other agencies under the Bureau by providing that reinstatement of cancelled licenses would be a five-year period. She continued to explain that the EPA thought that the five-year period was too long a period of time and requested that the Bureau bring forth H 235 which shortens the time period to provide reinstatement, fee and examination requirements for a

license from five to two years.

Bill Thompson, Committee Chair of the Board of Drinking Water and Waste Water Professionals was asked if the same examinations that are used by EPA are used by the Bureau. He replied that they were the same.

MOTION: **Rep. Nielsen** made a motion to send H 235 to the Floor with a Do Pass recommendation. The motion carried by voice vote. **Rep. Bilbao** will sponsor the bill.

S 1090 **Child Support, Income withholding**
Lyn Darrington, The Gallatin Group, representing Regence BlueShield of ID, addressed the committee. This bill amends Section 32-1214B, Idaho Code. She explained that the purpose of this bill is to delete the reference to "Plan Administrator" and add language that will allow the information to go to the employer. This revision will make it consistent with federal ERISA law and the 1998 Child Support Performance and Incentive Act (CSPIA) (see attached testimony).

Rep. Rusche stated that he is a part-time employee with BlueShield of Idaho.

Rep. Nielsen stated that he is affiliated with BlueShield and Blue Cross of Idaho, John Alden and Mutual of Omaha.

MOTION: **Rep. Bilbao** made a motion to send S 1090 to the Floor with a Do Pass recommendation. The motion carried by voice vote. **Rep. Rusche** will sponsor the bill.

HCR 15 **Obesity, health, public awareness**
Lyn Darrington, The Gallatin Group, representing Regence BlueShield of ID, addressed the committee. She explained that this resolution addresses the problems we are seeing in our society with obesity. The purpose of this resolution is to encourage greater public awareness of obesity and the benefits of exercise and sound nutrition. This bill asks that the legislature of the state of Idaho encourage and support proactive efforts to inform Idahoans about the long-term health benefits of good nutrition and regular exercise. One of the programs for legislators to support is Regence BlueShield of Idaho's "Legislators on the Move" program." This bill resolves that the Idaho Legislature support public and private initiatives to help all Idahoans attain wellness through sound nutrition and regular exercise.

MOTION: **Rep. Nielsen** made a motion to send HCR 15 to the Floor with a Do Pass recommendation. The motion carried by voice vote. **Rep. Henbest** will sponsor the bill.

H 190 **Medicaid reimbursement rates**
Rep. McGeachin addressed the committee. She explained that the purpose of this legislation is to direct the Department of Health and Welfare to implement a methodology for reviewing and discussing reimbursement rates for private businesses providing developmental disability services, mental health services, service coordination and case management services, residential habilitation agency services, and

affiliated residential habilitation specialized family home services, annually. Rep. McGeachin explained that in addition to any policy or federal statutory requirements, such methodology shall incorporate, at a minimum, the following:

- (a) actual cost of providing quality services, including personnel and total operating expenses, directly related to providing such services.
- (b) changes in the expectations placed on private business providers by Federal, State, Legislature, or the Department in delivering services.
- (c) inflationary effects on private business providers' ability to deliver services since last adjustment to the rate.
- (d) comparison of rates paid in neighboring states.
- (e) comparison of any rates paid for comparable services in other public or private capacities.

She further explained that a report of the results of this analysis and review shall be sent to the Director, to JFAC and the Health and Welfare committees of the Senate and House by November 30 of each year. The results of this annual review and analysis and subsequent rules do not guarantee a change in reimbursement rates, but shall be a fair and equitable process for establishing and reviewing such rates. Rep. McGeachin yielded to Rep. Garrett, who is also sponsoring the legislation.

Rep. Garrett addressed the committee. She explained that her husband is a co-partner in a business that provides behavioral health services and only 5% of his patients receive Medicaid. She mentioned several businesses throughout the state and stated that these businesses are dedicated service providers who want to continue to provide services in a quality manner. She stated that we need an effective management tool that will support these businesses. There has not been a rate increase since 1998 and only 6.5% increase in fourteen years. She further stated that this is legislation that will provide quality of service, fairness, and equality.

Chairman Block opened up the meeting to those who wanted to testify.

Steve Hanson, President of Case Management Association of Idaho and administrator of a Service Coordination agency in Idaho Falls spoke in support of this bill. He explained that in 1990, case management for persons with mental illness was introduced in Idaho as a Medicaid service. At that time, the Department of Health and Welfare was the exclusive provider of those services in our state. Clients primarily came to the Health and Welfare office to meet with their case manager. With the exception of crisis situations, there was not a high priority set on serving the client in the community setting. Case management has evolved to more providers serving in community and rural settings, which has resulted in dramatic shifts to the cost of doing business, as providers are reaching out to people who had historically been overlooked in the communities. Since the delivery of this new model of services was now the responsibility of the private sector, the rate for reimbursing for that service was never discussed. (see further testimony attached). He stated that this legislation at least moves them in a more positive direction of open dialogue, which is something that has been missing.

Mary Smith, Administrator for Lemhi Valley Social Services spoke in

support of the bill. She explained that this will give them an opportunity to discuss rate structure on an annual basis.

Kay Wortley, Program Administrator for Meridian Development Center spoke in support of the bill. She explained that their personnel costs have increased over 20%; they have frozen raises for employees; the employees insurance coverage is not as good as in the past; employee benefits have been reduced. Consequently, to some of the cost of doing business, there is a high turnover of employees. She explained that they are operating on a 1998 budget. She commented that passing this bill would at least give them a “ray of hope.”

Shane Robinson, Administrator and Vice President of Idaho Association for Residential Habilitation Agencies, spoke in support of this bill. He stated that in 2002, the Department declared that there would be a dramatic reduction in reimbursement rates. He stated that 42 employees have been laid off and employee benefits and salaries have been reduced. The quality of services are in jeopardy. He said that there has been no justification and no negotiation. He met with David Rogers in 2003 and since that time, they have had no follow-up. He commented that this bill will possibly give us a plan to go by.

Shaun Bills, owner and Administrator for CMAID, spoke in support of this bill. He thanked Representatives McGeachin and Garrett for their support and effort. He explained that this bill provides an accountability piece for everyone involved by having to report to the germane committees and JFAC .

Shelley Holmes, Program Director for Tomorrow's Hope and presenting on behalf of the Idaho Association of Developmental Disabilities Agencies (IADDA), spoke in support of this bill. She explained that the IADDA represents twenty-four member agencies, private business that employ over 1200 people statewide. These agencies contribute over \$16 million in payroll annually to Idaho's economy. IADDA is taking the position that a methodology needs to be established to review and adjust the Medicaid reimbursement rates for the primary developmental therapy services on an annual basis. This bill establishes a statute that will ensure the development and implementation of such a process. She also explained that in order to ensure that experienced business remain viable in the future, a methodology needs to be formally established to ensure regularly scheduled review and adjustment of reimbursement rates for services rendered (see testimony attached).

April Crandall, President of Mental Health Provider's Association of Idaho, spoke in support of this bill. She explained that the purpose of this bill is not only to direct the Department but give them a avenue to negotiate implementation of methodology. She said that checks and balances need to be in place. There needs to be oversight over rates and services in order for quality services to be provided and those providing the service be paid appropriately for those services. A methodology, as required by federal guidelines, is an effective way to set rates based on real knowledge of service fiscal needs.

Laura Scuri, representing Mental Health Providers Association, spoke in support of this bill. She explained that a lot of strides in this area have been made in working with the Department. They have been working on

developing a cohesive system including the way reimbursement rates are set. This bill allows the Legislature to oversee this work.

Leslie Clement, Acting Deputy Administrator for Medicaid, addressed the

Committee. She explained that this has been a good attempt to put some methodology in rule. She said that the current structure currently used is not adequate. The intent is to direct the Department to proceed with rules to support and clarify what this methodology means. Relating to credentialing, Ms. Clements stated that there is a need for a credentialing process to insure that only the best providers are in the system providing these services. She stated that the growth of providers far exceeds the number who are served.

Jim Baugh, Executive Director of Comprehensive Advocacy, spoke in support of this bill. He stated that these rates have no affect on their actual income and they are given no money from Medicaid. He explained that there has been a lot of speculation but he has never seen the real/true cost of all of the services that are provided by the providers. This causes everyone to have to put their cards on the table. He stated that this also calls for providers to have to honestly provide what their specific costs are such as travel, insurance, salaries, number of employees, etc. He further stated that this statute will create a framework for which a rate methodology could be developed.

Jim Whitaker, Operations Manager for Inclusion, spoke in support of this bill. He stated that he has been working with the Department and others for the past two years. He asked that the Legislature consider other forces, such as the economy and the "Statehouse" that could have a bearing on costs, when determining reimbursement rates. For example, Mr. Whitaker mentioned the increase in unemployment insurance of 11% by the legislature this year will affect his costs.

Ms. Clement was asked if the number of service providers has increased and are we providing more services. She said that the number of agencies vary across the state. In some areas there are more than others. She also said that currently, the only way to account for the growing costs is to consider the number of services being billed. Ms. Clements further explained that they need to raise the bar on the standard so that providers are proving that they are fully capable of providing quality of services. She stated that the Department thinks that there are many small providers who are not qualified. Currently, it is easy for providers to enter into the system and set up a business.

Ms. Clement was asked about checking the veracity of the costs presented by the providers. She said that the Department needs to negotiate with providers so that they know they are receiving accurate reports on their costs.

Jim Baugh commented that the national trend is that the "baby boomer generation" includes a larger number of those who have children with disabilities, and the parents of these children are dying. These grown children who have always had parents to look after them are going to nursing homes, 24 hour care, etc. These individuals now require larger amounts of services. Also another trend is that now 18 to 20+ year olds with developmental disabilities are moving out of their homes into other types of care facilities, where in the past they remained in their homes with parents until the parents were not able to care for them. This is a reason why more hours are required per person with disabilities.

Commenting on Leslie Clement's testimony, **Rep. Garrett** stated that they

were very careful not to put “negotiate” into the legislation. The purpose is for review and analysis rather than negotiation. Ms. Clement commented that their goal is to look for data and science.

Rep. McGeachin commented that the purpose of this bill is for “putting the process in place.” If any adjustments to rates will require an increase in the budget, the Legislators will have an opportunity to make policy.

Rep. Garrett commented that this bill will give us the opportunity to know where we are. This will give providers the hope, not the assurance.

MOTION:

Rep. Loertscher made a motion to send H 190 to the Floor with a Do Pass recommendation. There was more committee discussion.

Ms. Clement was asked a question relating to the fiscal impact. She said that this is a (referring to Rep. Garrett’s statement) “review and an analysis” only. The cost would amount to about 100 hours at a cost of about \$7,000. She answered another question by stating that in some areas the level of caseload has started to level off.

The motion carried by voice vote. Representatives McGeachin and Garrett will sponsor the bill.

Announcements

The next meeting will be Thursday, February 24.

ADJOURN:

The meeting was adjourned at 3:09 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 24, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** Rep. McGeachin, Rep. Nielsen

GUESTS: See attached sign-in sheet.

The committee reviewed the minutes of February 22.

Rep. Garrett pointed out that a correction needed to be made in paragraph 6 on pg. 6, by changing the figure \$70,000 to \$7,000. Leslie Clement meant to say \$7,000 when referring to the cost of 100 employee hours.

Rep. Ring pointed out on pg. 2 that the motion and vote that had been made by the committee for H 235 was not recorded.

MOTION: **Rep. Garrett** moved that the approval of the minutes of February 22 be postponed until the next meeting on February 28, at which time the two corrections will be made. The motion was carried by voice vote.

S 1078

Child trust fund checkoff/expiration

Ed Van Dusen, Department Board member representing the Idaho Children's Trust Fund (ICTF) addressed the committee. He explained that the Idaho Children's Trust Fund was created by legislative statute in March 1985 in order to support programs throughout our state that work to prevent child abuse and neglect. The Trust Fund is funded by citizen donations and a federal grant through the US Department of Health & Human Services. He explained that the organization provides funding in the form of competitive grants to programs in Idaho that work with families in order to prevent child abuse. He listed those organizations (see attached presentation).

Mr. Van Dusen explained that in the current legislation the Tax Check-Off will be removed from the state tax when distributions to the fund reach \$2.5 million. At that time, the fund will use only the interest earned on the fund to provide grants. The proposed legislation will amend the statute to read that the sunset clause will become effective when the balance in the fund reaches \$2.5 million. Adoption of this legislation will:

- keep the Tax Check-Off on the tax form for an additional 5 years
- increase total revenue for ICTF by an estimated \$700,000
- provide about \$350,000 more for grants during the 5 year period
- provide about \$350,000 more in long-term account earning interest after the Tax-Check-Off expires.

Additional handouts are attached:

- a financial accounting since 1985
- a Tax Check-Off dollar amt. for ea. state fiscal yr. since 1986
- a list of organizations receiving grants in 2004-2005.

Margaret Hower, Idaho Children's Trust Fund Grants Manager, was asked why there had been a jump in funds for the Tax Check-Off program from 2000 to 2001. She replied that it is a concentrated effort to raise these funds. They do so by addressing civic clubs, providing advertising brochures, etc., and receiving from citizen donations. They also receive a federal grant through the US Department of Health & Human Services.

Ms. Hower answered a question by saying that they receive the highest amount possible for the population base. That amount ranges from \$150,000 to 180,000 annually. They fund 75% to 80% of the programs. Each year there are from ten to fifteen programs and sometimes up to twenty that are turned down.

Monte MacConnell, Board Member of ICTF addressed the committee urging them to pass this bill. He praised them for the work they do and said that they maximize their resources to get the greatest outcome possible. He said that this is an excellent program and should receive a favorable vote out of this committee.

MOTION:

Rep. Rusche moved to send **S 1078** to the Floor with a Do Pass recommendation. The motion carried by voice vote. **Rep. Rusche** will sponsor the bill.

HCR 12

Community-based waiver program

Leslie Clement, Acting Deputy Administrator for Medicaid, gave a brief overview of HCR 12. This bill will initiate a pilot that will evaluate the effectiveness of a self-determination service model. This resolution builds upon previous legislative direction that encouraged the Department to collaborate with the Idaho Council on Developmental Disabilities to develop a self-directed model of services and supports that provides an additional option to eligible home and community-based waiver recipients. She explained that the Department has been working closely with the Council and stakeholders the past year and they have received a grant from Medicare and Medicaid. She explained that if this bill is approved, the Department will submit a waiver amendment that will include the following key elements of a self-directed systems model:

- a person centered planning process that empowers the consumer
- a flexible services option that includes "community supports" that expands the existing array of available services and are responsive to the consumer's needs and preferences
- a support broker who serves as an advocate on behalf of the consumer and ensures there are supports in place to help the consumer successfully self-direct services
- a financial management service agent that processes payments, performs accounting functions, and monitors costs of non-traditional service providers and
- an enhanced quality assurance system that incorporates safeguards to protect the health and welfare of consumer.

She explained that the total costs of this service option can not exceed

those of the existing program (testimony attached).

Kristyn Herbert, self-directed advocate and a member of the Self-Determination Taskforce and the Council on Developmental Disabilities, spoke in support of the bill. She explained that at times she feels as though she does not live in her own home due to providers coming in and out. She cannot even take a Tylenol independently. She said that this resolution would give her independence and the freedom to hire a provider that she wants to have in her home rather than having to depend on whomever the agency sends her.

Marilyn Sword, Executive Director of the Developmentally Disabled Council spoke to the committee in support of this bill. She began by recognizing those on the taskforce who have worked tirelessly and diligently: Rep. Garrett, Katherine Hansen, Tracy Warren, Kristyn Herbert, and Leslie Clement. Ms. Sword continued by stating that this program recognizes the whole person rather than length/list of services. This has been a partnership and a collaboration of people who have worked very closely to make sure that this bill would be workable for everyone involved. She recognized members from the Department who also worked very hard to make this happen: David Rogers, Leslie Clement, and Carolyn Burt-Patterson.

MOTION: **Rep. Sali** made a motion to send **HCR 12** to the Floor with a Do Pass recommendation. The motion carried by voice vote. **Rep. Garrett** will sponsor the bill.

H 191 **Physical therapy, license renewal, education**
Jeremy Pisca, Attorney representing the ID Physical Therapy Association addressed the committee. He explained that this legislation would require licensed physical therapists and physical therapist assistants to complete thirty-two hours of continuing education every two years. The legislation also provides that a licensee, upon application for renewal of the license to practice, submit proof of completion of the continuing education requirement. No one testified on this bill.

MOTION: **Rep. Henbest** made a motion to send **H 191** to the Floor with a Do Pass recommendation. The motion carried by voice vote. **Rep. Garrett** will sponsor the bill.

H 192 **Physical therapy, licensure board**
Jeremy Pisca, addressed the committee. He explained that this legislation changes the term "advisory committee" to a "Physical Therapy Licensure Board" which would still serve as an advisor to the Board of Medicine. The membership on the licensure board would increase from three members to five members with one member being a disinterested public-consumer member. The licensure board will have increased duties to assist the Board of Medicine including: evaluating the curricula of nationally accredited physical therapy schools, reviewing and recommending the fees that are assessed to physical therapy licensees, and recommending administrative rules of the Board of Medicine affecting physical therapy licensees. No one testified on this bill.

MOTION: **Rep. Garrett** made a motion to send **H 192** to the Floor with a Do Pass

recommendation. The motion carried by voice vote. **Rep. Bilbao** will sponsor the bill.

Announcements

Chairman Block announced the Budget Subcommittee meeting on technology issues will be held Monday, February 28 at 3:30 P.M. Rep. Garrett recommended that representation from the Department and CDS be present at the meeting.

ADJOURN: The meeting adjourned at 3:20 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 28, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached sign-in sheet.

The meeting was called to order at 1:30 P.M.
The committee reviewed the minutes of February 22 and 24, 2005.

MOTION: **Rep. Ring** moved to accept the minutes of February 22 and February 24, 2005 as written. The motion carried by voice vote.

SCR 107 **Social work examiners/rules rejected**
Sen. Compton addressed the committee by introducing **Sen. Broadsword** who presented the bill. **Sen. Broadsword** explained that SCR 107 would reject certain rules of the Bureau of Occupational Licenses governing the Board of Social Work Examiners that are not consistent with legislative intent. The parts of the rules rejected are: Section 202, subsections 01.b, 01.c, and 02.c. If both houses adopt this resolution, the agency rules will not go into effect.

MOTION: **Rep. Nielsen** moved to send **SCR 107** to the Floor with a Do Pass recommendation. The motion was carried by voice vote. **Rep. Loertscher** will sponsor the bill.

S 1141 **Skilled nursing facility/peer review**
Robert Vande Merwe, Executive Director of the Idaho Health Care association addressed the committee. He explained that when the peer review statute was originally drafted, skilled nursing facilities were not included. This amendment is designed to cure the oversight and provide skilled nursing facilities the protection offered to other health care organizations in order to facilitate effective quality improvement investigations, peer review, and improve over all health care.

Mr. Vande Merwe stated that peer review will help them avoid making the same mistakes. He said that there are more and more law suits against skilled nursing facilities and he is hoping this will put a dent in those, and also help to avoid frivolous law suits.

MOTION: **Rep. Ring** moved to send **S 1141** to the Floor with a Do Pass recommendation. The motion carried by voice vote. **Rep. Ring** will sponsor the bill.

CHIP B, annual reserve

Rep. McGeachin addressed the committee. The purpose of this legislation is to direct the CHIP B Advisory Board to establish an annual reserve and to provide for reports to the joint finance-appropriations committee and the senate and house of representatives health and welfare committees. She explained that when the rule regarding this legislation came before the subcommittee, there was concern that the language regarding the enrollment cap was too vague. Rep. McGeachin explained that factors such as, reduction of the premium tax fund due to more and more people dropping their health insurance, and change in the federal match will affect funding. She pointed to the handout the committee had been given, explaining that the Fund Shift category lost the federal match which was put into the dedicated fund source (see attached handout).

Rep. McGeachin explained that legislative intent of H 376 (2003) was to provide a dedicated source of funding for CHIP B, Children's Access Card, Small Business Act. The Children's Access Card is a fixed dollar amount of \$100 per person per month which is insurance against catastrophic situations. There is no protection against catastrophic claims under CHIP B. This legislation would require the director to direct the CHIP Plan B advisory board to establish a reserve. The director then would report these findings to JFAC.

Rep. McGeachin commented that this bill will help to insure that the fund has adequate resources and that the integrity of the program is protected. It also establishes more oversight on the management of the fund and a reporting measure that will help keep track of the progression of the fund status.

Paul Leary, from the Department testified on the bill. He said that the Department is in agreement with the concept that there should be mechanisms to ensure that required expenditures do not exceed available revenues. He explained that this legislation addresses a reserve fund to accomplish this desired outcome. He further explained that there are already mechanisms in place to accomplish this objective:

- they have the authority to cap the number of participants (original estimate 5600)
- they have the authority for "open enrollment period" as contrasted to continuous enrollment

He explained that the Department is concerned that the advisory board does not have the authority to establish a reserve fund (further testimony attached). They do think that the Department Director should promulgate rules.

Willard Abbott, Attorney with the Attorney General's Office, yielded to a question from the committee regarding the issue of authority and the advisory board. He explained that the issue is a fairly technical one of whether or not the advisory board has power to promulgate rules. He said that the Legislature should make sure that there is an amount in the reserve account. He stated that as the language is written, there is a potential structural problem.

Questions and concern arose regarding what is an adequate amount for

the fund. **Rep. McGeachin** responded by saying that currently it appears that there is a balance in the fund. However, there is the risk of a catastrophic occurrence, which could have a major affect on the reserve. Presently, there is no way to define what "adequate" means. This effort is to help to further the goals of the intent of the Legislature.

Rep. Rusche stated that he would estimate that what is being proposed is not for eligibility purposes, but rather, to insure against a catastrophic occurrence. He continued with his explanation by making a motion that would remove reference to the advisory board.

MOTION:

Rep. Rusche moved to send **H 195** to the Amending Order with the following amendments attached: line 31 and 32, delete the words ~~direct the CHIP Plan B advisory board to~~ before the word establish and delete the words ~~an annual reserve~~ and add the words a reserve for the CHIP Plan B.; line 32, add the words, CHIP B before the words advisory board shall; line 34, add the word annually after the word shall; line 34, replace the words ~~advisory board's findings~~ with the words fund's status. The motion carried by voice vote. **Rep. McGeachin** will sponsor the bill.

H 188

Child abuse, investigation requirement

Rep. McGeachin addressed the committee. Rep. McGeachin explained that this bill expands the administrative procedures for the processing of complaints of child neglect, abuse and abandonment and for the implementation of the protection, treatment and care of children placed in the custody of the Department by adding two categories. The first requires that all Child Protection Services workers who participate in the investigation of a complaint or implementation of the protection, treatment and care of a child must first be trained in their legal duties to protect the rights of the children and families. The training curriculum must include instruction in the fourth amendment to the Constitution. The second requires that all Child Protection Services workers who participate in the investigation of any complaint shall advise the individual being accused of the allegations/complaints made against them. Rep. McGeachin introduced Barry Peters, Attorney, to speak to the issue of the language in dispute, and the additional training costs.

Barry Peters, Attorney, representing the Idaho Coalition of Home Educators and the Christianhome Schoolers of Idaho, addressed the committee. Mr. Peters expressed that **Ken Deibert**, from the Department had some concerns with the language in the bill. Consequently they have met and have resolved their issues. Mr. Peters briefly described the content in the proposed legislation and encouraged the committee to pass the bill. He said that he thinks this is good policy for the state of Idaho.

Mr. Peters answered a question by saying that the \$150,000 federal grant money has been earmarked for this program and will be available.

There was concern raised regarding the use of the word, specific, in the language on line 34 which states: "specific complaints or allegations made against the individual," which could open up to prosecutory problems. Mr. Peters explained that he and Ken Deibert have agreed to take the word, specific, out of the language.

He explained, in answer to a question, that the individual who is accused can remain anonymous throughout the investigation process.

Rep. Sali asked Mr. Peters to explain what the proposed amendments are. Mr. Peters responded by explaining the changes with which he and the Department had reached agreement. The changes are:

Section 16-1623.

(g)

(1) line 23, replace the word ~~department~~ with the words child protection services system

line 24, delete the words ~~or processing~~ after the word investigation and add the words assessment or after the word investigation

line 26, delete the words ~~constitutional and statutory~~

line 27, add the words and safety after the word rights

(2) line 31, replace the word ~~department~~ with the words child protection services system

line 34, delete the word ~~specific~~

Ken Deibert, Administrator for the Division of Community and Family Services, addressed the committee. He explained that this amended process will bring the wording to the current federal language; the Department is already in compliance with the Child Abuse Prevention and Treatment Act, or CAPTA.

Mr. Deibert was asked that if this statute were put into code, i.e., would this weaken the Child Protection Act or would anything change? He said that they are already in compliance with CAPTA legislation and this would not cause them to change their way of doing business.

Heather Reilly, Deputy Attorney with the Idaho Prosecuting Attorney's Association, addressed the committee. She explained that their issue is with some of the language, specifically the following three pieces:

- reference to child protection services system - who does this apply to?
- reference to parents' rights - what is the clear definition of parents' rights implied?
- reference to fourth amendment - why is this being grafted in?

Ms. Reilly also commented that they are concerned that adding requirements of training, etc., will take away from protection of children, which is the ultimate goal.

Chairman Block approached the committee by stating that it is the decision of the Chair that due to the gravity of the issues brought before the committee today, she requests that the Department, attorneys and bill sponsors meet to resolve these issues and come back to the committee to a Time Certain as determined by the Chair.

Mr. Peters yielded to a question from Mr. Sali by stating that there may be somewhat of a concern regarding the issue of federal funding.

MOTION:

Rep. Sali moved that **H 188** be held to a Time Certain at the discretion of the Chair. The Chair stated that a decision on the bill has already been

made.

Rep. Sali was granted a Point of Order. He asked if his motion was out of order. The Chair responded by saying that the bill had already been disposed of.

Rep. McGeachin stated that she is happy to comply with the request of the Chair to have the parties involved meet. She commented that she is comfortable with Barry Peter's definition of parents' rights and reference to the fourth amendment. She explained that Ohio, Indiana, and Texas have included the fourth amendment in their curriculum.

Announcements

The Budget Subcommittee will meet at 3:30 P.M., March 1, Room 406
The next meeting will be Wednesday, March 2 at 1:30 P.M.

ADJOURN: The meeting adjourned at 3:30 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE BUDGET SUBCOMMITTEE

DATE: March 1, 2005

TIME: 3:30 pm

PLACE: Room 406

MEMBERS: Chairman Block, Representatives Garrett, McGeachin, Nielsen, Loertscher, Henbest and Rusche

**ABSENT/
EXCUSED:** Representatives Henbest and Loertscher

GUESTS: Cathy Holland-Smith, Budget Analyst; Molly Steckel, Lobbyist; Randy May, Deputy Adm, Medicaid; Joe Crisp, IT Manager, IDHW; Greg Kunz, Acting Administrator, IDHW; and Michelle Glasgow, Executive Director, IAL

Chairman Block called the meeting to order at 3:40 pm.

The purpose of this meeting is a followup on a request from JFAC. JFAC was pleased with the work done by this committee in looking at savings in the Medicaid budget and has asked this committee to review technology in the Health and Welfare Department and come up with some recommendations.

Cathy Holland-Smith, Budget Analyst, said part of this request is due to the fact the Health and Welfare Director told JFAC, in order to get a new system it would have to go out on an RFP (Request For Proposal). The RFP would guide the department as to what they need. The Department would like to get a supplemental appropriation. The two questions JFAC is asking is whether the supplemental process is the right process to use and whether the current system could be expanded.

Rep McGeachin wanted to know about costs on the current system. The cost on the current system is running about \$10 million a year.

Randy May, Deputy Administrator, Medicaid, talked about the **MMIS** (Management Information System). This is the system that takes in provider claims, processes them, and gives money back. Mr May's presentation is attached to these minutes as "Attachment A".

The current vendor of the system in use does not want to see any more extensions on this system. The architecture/functionality of the system is mid-90's technology. As the system gets older and the federal government issues more rule changes, it becomes more cumbersome and costs more and more to change the system.

The Department is issuing a Request for Proposal to procure a new or enhanced claims processing system. The current contract runs to December 31, 2006 and the Department is negotiating to extend the contract through

December 31, 2007. It takes 24 months to get a new system installed and do it well. Other states have tried doing it in less time and it does not go well.

Health and Welfare plans to come back and ask for a supplemental appropriation in 2006 which would be in the \$2.5 to \$3.5 million range.

There are no more extension years available on the current contract. The funding on the system is basically 75 percent federal and 25 percent state. There would be two parts to the new contract, acquisition and ongoing. It would cost in the \$ 25 to \$ 35 million range for software and hardware.

Rep Nielsen asked about the old equipment when the new equipment was brought on board. Some items may be transferable, but they will not know until they actually sit down and talk about specifics of the system.

Rep Garrett asked if there was expertise available after the RFP is received. They believe the Department does have the knowledge needed.

Greg Kunz, Acting Administrator, IDHW, discussed Automation Support Self Reliance Programs. His presentation is attached to these minutes as "Attachment B". Automation is extremely important for the Self Reliance programs. 80% of the Controller's computer time goes to H & W and 80% of H & W time is for Self Reliance Programs.

When the EPICS program was designed, back in the early 80's, there was no conception Medicaid would be where it is today. This system simply was not designed to accommodate today's Medicaid needs and does not work well with it.

It was designed to support only Cash assistance and does not work well with stand-alone Medicaid programs, individual-based programs or child care. It does not provide management support.

The case-based concept in EPICS does not work with today's services and is a very labor intensive program. **Mr Kunz** feels this system is one of the leading causes for errors in the eligibility area because they do not have the support staff to double check data coming back from the computer.

ACES (Automated Client Eligibility System) is the only eligibility system installed in the last five years that is currently working and Maine is the only state that has this system installed and working.

Mr Kunz thinks they could install this same system in Idaho with minimum customizing. He is sending some people to Maine this month for an in-depth evaluation.

If we have the right setup, the federal government will pay for coding. He does not have any accurate figures to go on, but thinks this system could be brought to Idaho in the range of \$ 3 to 4 million. There have been no firm costs put to this. Maine spent about \$16 million installing the system.

The two systems we have talked about do not have to be compatible, they

just need to talk to each other. An interface between them would have to be built.

About \$1 million is spent annually on these programs and he believes it is about a 50-50 split between the state and federal government.

As for a time line for installing the system, he would like to see it done within 12 months. In the past there always seems to be something more important that takes the money from the budget instead of putting a new computer system in place.

Michelle Glasgow, Executive Director, Idaho Assisted Living, stated we cannot keep putting band aids on these systems. It simply does not work when you are dealing with technology.

Mr Kunz was asked if this new system would cut down on the FTP requirements. He does not know, he only knows the current FTP's cannot keep up with the work load.

The cost involved would be in how much Idaho must change the Maine system to make it work in Idaho. The software and coding is free. Mr Kunz is hoping they can make minimal changes to the system. There may be some peripheral equipment that would need to be purchased but it should work on the server equipment that is in place.

Joe Crisp, IT Manager, IDHW, stated he has had several vendors come in and give presentations in an effort to determine whether they should be keeping and upgrading the current system. They have started talking to other people about how the system is used day in and day out and found it really does not work well with today's requirements. Thus they have started looking at what a system is really needed to do.

ADJOURN: There were no further questions from the committee and there being no further business, the meeting was adjourned at 5:00 pm.

Representative Sharon Block
Chairman

Barbara Allumbaugh
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 2, 2005

TIME: 2:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** Rep. Loertscher

GUESTS: See attached sign-in sheet.

The meeting was called to order at 2:30 P.M. The Chair dispensed with the reading of the minutes until the next meeting Friday, March 4. The Chair introduced for the record a letter, dated February 28, 2005, addressed to Sen. Cameron regarding recommendations for the Health and Welfare budget. The letter has been signed by Representatives Sali, McGeachin, Nielsen, Loertscher and Shepherd(8).

Chairman Block announced that at the request of leadership, with no objection, H 123 will be referred to the Ways and Means Committee. There were questions from the committee. Hearing no objection, Chairman Block announced that the bill will be referred to Ways and Means. Rep. Henbest objected.

MOTION: **Rep. Garrett** moved that the committee send **H 123** to the Ways and Means Committee.

Rep. Sali requested a Point of Order. He stated that a motion was not necessary since the Chairman had already announced the action to be taken on the bill before the objection was made. Chairman Block stated that the point was well taken and H 123 would be sent to the Ways and Means Committee. Rep. Garrett withdrew the motion.

SCR 109 **Indoor smoking - clean air, rules rejected**

The **Chairman** put the committee at ease at 2:36 P.M. waiting for Senators Brandt and Compton to be present. The committee was called to order at 2:40 P.M.

Sen. Brandt addressed the committee. This resolution would reject certain pending rules of the Department governing indoor smoking relating to definitions of a bar within a restaurant. If this resolution is adopted the agency rules would not go into effect.

Sen. Brandt explained the reason why he is objecting the rules in IDAPA

16.02.23, Section 10, relating to definitions, and Subsections 02.b, 02.c, 02.d.

Relating to Subsection 02. a., where a bar must be physically isolated from all parts of the restaurant by solid floor to ceiling walls, Sen. Brandt explained that this subsection is acceptable and would be logical for restaurants/bars to be able to comply with. He provided a copy of page 23 taken from the 2003 International Building Code to the members. He pointed to Section 302.1.1.1 Separation, which describes partitions/doors that shall be self-closing or automatic-closing upon detection of smoke. Doors shall not have air transfer openings and shall not be undercut in excess of the clearance permitted in accordance with NFPA 80 (maximum 3/8" undercut), (see attached copy).

- Relating to Section 10 and incidental service of food, he commented that it is not clear what is meant by incidental service of food being low-risk and non-potentially hazardous.
- In Subsection 02.b. referring to a separate outside public entrance that is not shared with the restaurant, he gave an example of the many hotels in Boise that contain a bar within a restaurant. This would be a detriment to those hotels and bars.
- In Subsection 02.c. referring to unopened windows and doorways connecting to the restaurant, he commented that this rule could be grounds for a potential fire/safety hazard.
- In Subsection 02.d referring to restaurant patrons passing through the bar or any indoor public place connected to a bar to access restrooms, he commented that this is not feasible because, for one reason, this would prevent children from being able to go through the bar to the restroom.

Sen. Brandt commented further that there is no common sense or aspect of equal opportunity within these rules. There are many instances throughout the state where there is a standing bar located next to a bar and restaurant combined. He explained that in this situation, the standing bar can allow smoking, but the bar within the restaurant right next door cannot. These rules have gone beyond the legislative intent of SB 1283.

Sen. Compton addressed the committee. He explained that their intent is not to kill the smoking bill; it is a matter of implementation and fairness. If this resolution becomes law, bars will have to have at least two entrances, will have to remodel, and add additional bathrooms. He commented that these issues are structural and can be adopted through the building code. **Dick Schultz**, from the Department, yielded to a question by saying that the Department would and could work with this concurrent resolution.

Mr. Schultz addressed the committee regarding the issue of incidental foods. He explained that this is food that would be sold to a customer who was being served a beverage and would incidentally purchase a food/snack. He further explained that food that is considered low-risk and non-potentially hazardous would be this type of incidental food; for example, pickled eggs. High-risk and potentially hazardous food would be food that was prepared on site, meats, salads, etc. He also explained that the definition in statute was unclear and the Department had attempted to clarify the definition in rule.

Tom Robb, owner of the IronHorse Restaurant in Cd'A for 35 years addressed the committee. He stated that he does support the bill. He explained that there are three kinds of bars in Idaho. The first is one is a bar that stands alone; the second is a bar that is within a restaurant; the third is a bar that is separate from the restaurant. They have two options, construct a brick wall or disallow smoking. This resolution would require his servers to have to go outside the entrance of the bar and reenter through the entrance of the restaurant from the outside when serving a beverage from the bar. He said that this is an issue of fairness and leveling the playing field. Law enforcement now requires that if a restaurant serves less than 40% food, the restaurant would be considered a bar. He stated that this is an uncompensated matter of fairness and equality.

Terry Eastman, owner of Sargents Restaurant in Hayden Lake addressed the committee by asking that the committee please consider SCR 109. He explained that after S 1283 passed last year, he remodeled his restaurant, constructed a new wall, put in air-tight French doors, and installed a clean air unit that does not recycle air but expels it out. He said that constructing a structural wall creates a big problem for them. From his research on the definition of incidental food, he explained that the food must be sealed, packaged and labeled by a food processing establishment. If this law passes he can serve only packaged food at his restaurant; once it is opened, it becomes hazardous food. He has already spent thousands of dollars and he and other restaurants will have to spend tens of thousands of dollars to become in compliance. He commented that reasonable people can sit down and make reasonable solutions.

Dr. Greg Nelson, representing the Idaho License Bureau Association addressed the committee. He explained that as a result of these rules, already existing buildings will have to be torn apart. He expressed that he thinks the committee should make some consideration for the situation that this creates for restaurant and bar owners.

Dr. Nelson was asked why don't the bars just choose to not allow smoking. He said that in rural/small towns where there may be only one lounge, this would be a big economic impact. He mentioned that the Stagecoach restaurant's business, here in Boise, is down 40%.

Brad Dixon, representing the American Heart Association, addressed the committee. He stated that the public is continually subjected to second hand smoke and this bill squanders the effort that has already been put in.

Dr. David McClusky, physician in private practice in Twin Falls and member of the National Board of the Cancer Society, addressed the committee. He explained that the number one cause of death and disease in his practice is tobacco. SB 1283 that was passed last year protects people; SCR 109 weakens this legislation. Whether we vote for the economical part or the health and safety for the state, SB 1283, unchanged, is the best for the state of Idaho.

Fred Schuerman, representing the Sockeye Grill and Brewery in Boise, addressed the committee. In referring to Section 02.b. where the bar must have a separate outside entrance, he said that his objection is that the bar and restaurant should be able to share an entry if the entry is non-smoking.

In Section 02.c. which requires a hallway that the public uses can not connect a bar to a restaurant. His objection is that a hallway should be able to connect the two if the hallway is non-smoking. This definition makes it necessary for a restaurant and a bar to have separate restrooms. The Sockeye restaurant had a professional testing company conduct tests of the air quality in both the entry and hallway. The results of those tests proved scientifically the non-smoking public would not be exposed to cigarette smoke. This scientific data was presented to the Department of Health and Welfare along with a request for a modification in these definitions, and they have chosen to ignore this information (see attached report from Summit Environmental, Inc.).

There was no further testimony by the public or others.

MOTION:

Rep. McGeachin moved to send SCR 109 to the Floor with a Do Pass recommendation. Committee discussion followed.

Rep. Garrett stated that she is still receiving mail from her constituents supporting SB 1283 as is, and have asked her to do the same.

Rep. Ring stated that we are allowing the exact same issues to come up again which have already been voted down.

Rep. Nielsen stated in support of the resolution that the Department has stated that they do not object to this bill.

A Roll Call Vote was taken:

Representatives Sali, McGeachin, Nielsen, Bilbao, Shepherd voted AYE.

Representatives Block, Garrett, Ring, Henbest, Rusche voted Nay.

The motion failed in a tied vote.

Announcements

There will not be a budget subcommittee meeting Thursday, March 3.

The next meeting will be Friday, March 4 at 1:00 P.M.

ADJOURN:

The meeting was adjourned at 3:50 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 4, 2005

TIME: 1:00 P.M. or Upon Adjournment

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** Rep. Loertscher

GUESTS: See attached sign-in sheet.

The meeting was called to order at 1:20 P.M. The committee reviewed the minutes of February 28 and March 2, 2005.

MOTION: **Rep. Bilbao** moved to accept the minutes of February 28, 2005. The motion carried by voice vote.
Rep. Nielsen moved to accept the minutes of March 2, 2005. The motion carried by voice vote.

H 247

Speech/hearing,service act

Jeremy Pisca, attorney, representing Idaho Speech-Language and Hearing Association, addressed the committee. He explained that this legislation was originally drafted from the Board of Medicine rules. That drafting was eventually merged with existing law from Hearing Aid Dealers and Fitters. He further explained that speech language pathologists and audiologists are not currently licensed in the state of Idaho. This legislation repeals the Hearing Aid Dealers and Fitters Act and replaces it with the Speech and Hearing Services Practice Act and would include hearing aid dealers, audiologists and speech-language pathologists.

Mr. Pisca presented the committee with a copy of the amendment that accompanies the bill. This amendment adds language under the title, Exemptions, page 4 of the bill to include any person working in a public school who has received a certificate with a speech language pathologist or audiologist endorsement, speech-language pathologist aide or assistant be exempt from all provisions in this chapter. He explained that these individuals who practice in the public schools are opted out because they are already certified through the public schools system. However, they may not practice independently in a setting other than a public school unless such individual is licensed as set forth in this chapter. The amendment also deletes the word, "assistant" and inserts the word "aide" to be consistent with the language.

Mr. Pisca discussed with the committee the qualifications necessary for licensure as an audiologist, a speech language pathologist, a speech pathologist aide and assistant.

Cliff Green, Idaho State Board of Audiologists, spoke to the committee in support of this bill. He commended Cindy Olsen and members of the Idaho Speech-Language and Hearing Association (ISHA).

Mike Friend, Executive Director of the Idaho Association of School Administration, spoke in support of this bill. He thanked the bill sponsors and lobbyists.

Bob West, Chief Deputy of Instruction of the State Department of Education, spoke in support of this bill. He stated that this bill makes it compatible with private practice and public schools.

Cindy Olson, President of (ISHA), spoke in support of this bill. She agrees that there needs to be a way to monitor practitioners. She believes that it is very important to have a licensure act to protect the public in this way.

Joanne Larson, a speech-language pathologist in Meridian, spoke in support of this bill. She stated that currently Idaho is the only state that does not license audiologists.

Joan O'Donnell, a speech-language pathologist from the American Falls School District spoke in support of the bill. She said that she serves people with language impediments as well as strokes and other types of illness or disease, including dysphasia which could lead to pneumonia. She stated that because some of these cases are life threatening, the practitioners treating them need to be qualified.

Jo Sitz, an audiologist and member of ISHA spoke in support of this bill. He explained that within the scope of his practice, there needs to be oversight in order to manage the type and quality of care that those in his business provide.

Kim Ennis, a speech and language pathologist, and member of ISHA, spoke in support of the bill. She explained that she works in public schools, moonlights in nursing homes, and supervises graduate students. She further stated that this legislation will protect people against harmful acts. This bill will give the people of Idaho a place to go to sort out concerns and problems that arise in their profession.

Gwynne McElhinney, Clinical Assistant Professor for ISU, spoke to the committee in support of the bill. She explained the differences between obtaining a bachelor's and a master's degree in this field. The bachelor's degree fulfills the book learning, academic piece of the training, but lacks the practical training. In the master's degree program, 375 hours of hands-on practical training is required to meet national affiliation, and taking the national exam. She said that a graduate of the bachelor's program does not have the depth and breadth of training of a therapeutic nature that the master's degree graduate does. The Associates degree is only a two year program.

Mr. Pisca answered a question from Rep. Nielsen concerning those who have been practicing for many years and are fully qualified to continue providing services. Mr. Pisca responded by saying that if an individual has practiced for five years or more, they will be exempt from the licensure requirements set out in this bill. They will be grand fathered in.

Ms. McElhinney responded to a question by saying that ISU will be offering continuing education at the Boise center this next fall, 2005. There are conferences offered in the Spring and Fall that are provided each year by ISHA. There are opportunities for individuals for continuing education.

Mr. Pisca answered a question regarding the educational requirements being “user friendly.” He stated that the intent is to allow people who have always practiced, to have access to educational opportunities available. There was discussion regarding the qualification on page 10, line 18 of an applicant to be of, “good moral character and temperate habits.” There was concern that the meaning of this language is unclear and not defined in this act. Mr. Pisca explained that this language generally means one who is honest and upholds community standards. He answered a question regarding the type of exam required that is referenced on page 10, line 30, by saying that this is a national exam.

Mr. Pisca was asked what the levels of licensure are for an aide as compared to an assistant. He said that each position requires a different level of expertise. There are standards and measures that need to be met for each position. Ms. Ennis explained that due to large caseloads in the schools, they hire assistants and aides to help with the work load. These individuals are closely trained and supervised following ASHA guidelines.

Rep. McGeachin questioned the clarity in the language on page 12 line 3, “intentional, negligent, or reckless act,” under the section describing the grounds for disciplinary action and denial. She voiced concern about the implications of this language and how it relates to the practice reflected in this bill and that it does not have anything to do with this bill. **Roger Hales**, attorney with Bureau of Occupational Licenses, yielded by stating that this is defined in state law. Mr. Pisca explained that this is fairly standard language. He also reiterated that this is the same language as written in the Board of Medicine statute.

MOTION: **Rep. Nielsen** moved to send **H 247** to the Amending Order with the bill sponsor’s amendment attached.

SUBSTITUTE MOTION: **Rep. McGeachin** moved to send **H 247** to the Amending Order with the bill sponsor’s amendment and the following additional amendment attached: On page 12, line 1 after (3), add the words, “When related to the requirements imposed upon licensees,”.

There was discussion with the language on page 12, line 44 regarding the clarity and definition of the word “includes” a client. Rep. Sali stated that replacing the word “includes” a client with the word “means” a client gives the language more clarity.

AMENDED SUBSTITUTE MOTION: **Rep. Sali** moved to send **H 247** to the Amending Order with the bill sponsor’s amendment and the following additional amendment attached: On page 12, line 1 after (3), add the words, “When related to the requirements imposed upon licensees,”. On page 12, line 44, strike the word “includes” and insert the word “means.” After the word licensee, insert the words, “is not at the relevant time providing services but for whom the licensee”. There was discussion on the motion. Rep. Sali’s concern was the appropriate reference to client, whether it be former or current. Committee debate continued.

Rep. Martinez asked Mr. Pisca if the committee amendment will have an impact on the intent of the bill? Mr. Pisca answered that it would not

impact anything that the involved groups are concerned with.

Mr. Pisca suggested that a clearer way to word the amendment to further accomplish Rep. McGeachin's intent would be to add the following language: after (3), insert, "When related to the practice for which licensure is required by this chapter,".

Rep. McGeachin asked for Unanimous Consent that the wording of her Substitute Motion be changed to reflect this language.

Chairman Block stated that the motion on the floor was the Amended Substitute Motion and must first be disposed of.

Rep. Sali asked for Unanimous Consent that his Amended Substitute Motion be changed to reflect the language that Mr. Pisca suggested.

Rep. Garrett and **Rep. Nielsen** asked Mr. Hales and Mr. Pisca if the wording in the amendment would be acceptable to them. They both concurred that it was.

The Amended Substitute Motion is as follows:

Rep. Sali moved to send **H 247** to the Amending Order with the bill sponsor's amendment and the following additional amendment attached: On page 12, line 1 after (3), add the words, "When related to the practice for which licensure is required by this chapter,". On page 12, line 44, strike the word "includes" and insert the word "means." After the word licensee, insert the words, "is not at the relevant time providing services but for whom the licensee".

The Amended Substitute Motion carried by voice vote. **Rep. Henbest** will sponsor the bill with the bill sponsor's amendment.

Chairman Block thanked all of the parties involved in working out their differences and coming to the table with an agreeable piece of legislation.

ADJOURN: The meeting was adjourned at 3:30 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 8, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached sign-in sheet.

Chairman Block called the meeting to order at 1:30 P.M. The committee reviewed the minutes of March 4, 2005. Rep. Ring noted that Rep. Loertscher's name was spelled incorrectly.

MOTION: **Rep. Rusche** moved to accept the minutes of March 4, 2005, with the correction.

Chairman Block informed the committee that she had attended the JFAC meeting Tuesday to hear the final budget approvals for Health and Welfare. She asked Rep. Henbest to briefly share with the committee some of their findings.

Rep. Henbest began by acknowledging the committee and subcommittee for their efforts in accomplishing their goal of formulating recommendations of savings and efficiencies for the Health and Welfare budget. The representative stated that their recommendations were taken to heart by JFAC and are coming to fruition. She explained that JFAC has created new budget categories. She explained that the old structure of Family and Community Services has been broken down into four separate categories. The Substance Abuse Services category has been moved into public Health Services. Division of Welfare has been divided into Self-Reliance Programs and Benefit Payments, which will provide the opportunity of seeing the benefit versus the work being done in establishing eligibility.

H 286

Health Insurance/Mental Health Parity

Rep. Henbest addressed the committee. She stated that the state of Idaho has a fragmented system. She further explained that this bill has a very limited goal which is to create a pilot program to allow the state to establish the real costs and benefits of including mental health coverage in group health insurance coverage. Rep. Henbest proceeded to explain sections of the bill. Section 1 speaks to the unfair stigmatism that is attached to persons with mental illness; mental illnesses if left untreated are some of the most disabling and destructive illnesses afflicting the state; individuals suffering from such illnesses as schizophrenia and depression could be relieved of some of the more acute symptoms with proper treatment and/or medication. Section 2 states that it is the policy

of Idaho that state employees with serious mental illnesses must not be discriminated against in group health care service coverages. Section 3 requires a report to be submitted to the Legislature by January 31, 2009 indicating the actual costs incurred to provide the insurance coverage outlined in this bill.

Rep. Henbest explained that this pilot project will provide cost savings. By providing better coverage, these individuals could maintain better health and in turn, would have fewer visits to the emergency rooms. The counties and state hospitals would not have the burden of employees turning to them as a last resort.

Rep. LeFavour, a sponsor of the bill, addressed the committee. She explained that we are facing a mental health crisis in this state. Costs are increasing in the areas of indigent counties, medicare/medicaid and law enforcement. This legislation will provide a chance to do prevention work. This is a chance to reduce human suffering, keep families together and keep them strong; reduce the prison population and reduce substance abuse. She stated that 26% of individuals in Idaho correctional institutions face mental health issues. Rep. LeFavour responded to a question by saying that this coverage applies to state employees.

Rep. Henbest was asked if she had contacted the insurance carrier for the state yet. She said that this is a policy decision and private insurers would probably not consider insuring this group because they would not want mandates. She was asked how they arrived at the 1.8%, or approximately \$1,890,000 cost figure. She yielded to **Pam Ahrens**, Director for the Department of Administration, who explained that determining what kind of coverage to provide employees is a policy decision. She further explained that to conduct the study, they went to their group insurance actuary, who looks at the demographics, to provide an estimate of what the cost of implementing H 286 would be. The group encompasses active and retired employees. The average age of active worker is 47 years, the average age of retirees is 71, and the average number of individuals is 47,000.

During committee discussion, one of the issues of concern was the reference to reporting the additional costs incurred to provide the coverage (referred to on page 2, line 21) as not being clearly defined. There was concern shared regarding the collection of data. For example, productivity of the program, cases of child abuse, prison population, emergency room services needed, absenteeism, in-patient hospital rates before and after coverage. Rep. Rusche commented that the size, patient mix, age, and conditions attribute to making this a good group to analyze. Pursuant to Rule 38 (3) he disclosed that he is employed with Regence BlueShield of Idaho and does provide these kinds of analysis services to companies. Rep. Henbest commented that the group in this state is a large and stable one. She explained that there is an opportunity to capture those savings because of the stability factor. She also said that it may be necessary to qualify what is different about this group.

Rick Thompson, State Department Administrator, yielded to a question regarding the kind of mental health coverage state employees currently

have now. He said that the state pays \$95 per FTE a year, which goes into agency budgets to the tune of about \$1,500,000 to \$1,700,000 annually. The employee and dependents receive five Employee Assistance Plan (eap) visits a year at no cost. After these five, they go into their deductible which is \$150 with a \$300 cap per family. The co-payment for in-patient is \$15 per hour out-patient is \$25 per hour, up to a total of 200 hours. He stated that this legislation would expand the current coverage.

Jim Baugh, representing CoAd, spoke to the committee in support of this bill. He explained that a large portion of individuals with mental illness have physiological or neurological problems. Mental illness clearly has a medical component. Insurance companies have always treated mental illness differently than all other types of medical conditions. He stated that this legislation provides an opportunity to explore what other states have done. He further stated that they have tried to do this for many years and he urged the committee to support this bill.

Bob Seehusen, with the Idaho Medical Association, spoke in support of the bill. He commented that biologically based mental illness needs to be brought up to the same level of coverage as other medical illnesses. He said that they do not know the outcome yet, but they think that the results of this pilot project will provide a balance.

Eileen Farley, a member of the Idaho National Alliance for the Mentally Ill (NAMI) spoke in support of the bill. She stated that from her experience with their son's mental illness, this bill strikes at the most important point of impact for mental health treatment. It offers the ability to establish a process for minimizing the effects of mental illness by assuring that treatment will be offered at onset within the stable, self-sufficient structure of the workplace (see attached testimony).

Rep. Henbest was asked if this is contingent upon funding from JFAC. She said that JFAC will find the money.

MOTION:

Rep. Rusche moved to send H 286 to the Floor with a Do Pass recommendation. He explained that 200 hours is not enough to cover the problem. He does believe that the estimate of 1.8% is a little high.

Committee discussion followed. Rep. Garrett spoke to rule 38 (3) in disclosing that her husband offers health insurance to patients in his facility. She stated that we have more knowledge now of the types of mental illness and how they are related to medical conditions. She said that this bill is not a mandate. There were concerns expressed over not having a clearer definition over what real costs and benefits mean, referred to in the Statement of Purpose. Rep. Garrett commented that she believes that the explanation of the bill in the SOP is very clear regarding the legislative intent. Rep. Rusche commented that the data is adequate --utilization data and cost data-- and is already there with the carrier. Rep. Bilbao spoke to rule 38 (3) and disclosed a conflict of interest regarding this bill.

SUBSTITUTE MOTION:

Rep. Nielsen moved to hold H 286 until a Time Certain at the discretion of the Chair to allow enough time for the bill sponsors to reorganize Section 3 to include a cost and benefit analysis.

**AMENDED
SUBSTITUTE
MOTION:**

Rep. McGeachin moved to hold H 286 in committee. She stated that the passing of this bill will increase cost to the tax payers, and the Legislature will have to pay for the program. She questioned where the money is going to come from.

A roll call vote was taken on the Amended Substitute Motion:
Rep's Sali, McGeachin, Nielsen, Loertscher, Shepherd voted Aye
Rep's Block, Garrett, Ring, Bilbao, Henbest, Martinez, Rusche
voted Nay. The amended substitute motion failed.

A roll call vote was taken on the Substitute Motion:
Rep's McGeachin, Nielsen, Loertscher, Shepherd voted Aye.
Rep's Block, Garrett, Sali, Ring, Bilbao, Henbest, Martinez,
Rusche voted Nay. The substitute motion failed.

A roll call vote was taken on the Motion:
Rep's Block, Garrett, Ring, Bilbao, Henbest, Martinez, Rusche
voted Aye.
Rep's Sali, McGeachin, Nielsen, Loertscher, Shepherd voted Nay.
The motion passed.

Rep's Henbest, LaFavour, Martinez, Bilbao, Black will sponsor the bill.

H 250

Day care, requirements

Rep. Saylor addressed the committee. He began by explaining that this effort started after a Coeur d'Alene police officer, looking for a day care provider for his child, walked into a center in 2003 and saw evidence of drug use taking place. Since then, the Childcare Summit and a coalition in North Idaho have been discussing how to make the child care centers safer, which has lead to this legislation. This bill revises and extends the state's licensing requirements for day care providers. This bill will require licensure of all day care facilities, including group home day cares. He explained the exemptions excepted that are currently in code (see attached). This bill would remove the cap on the license fee and provide that costs of fire and health inspections would be paid by the providers. It would also add first aid and pediatric rescue breathing training as requirements for child care providers.

Rep. Saylor explained that the goal was to make this revenue neutral. The groups have worked with the Department and providers and have concluded that licensing fees would cover the costs of the inspections. The funding for 3.4 FTE's that would be required to do the work associated with the increase in licenses and background checks would come from a federal grant through the Idaho Child Care fund and the increase in fees. The representative stated that there is a need for minimum requirements and that almost 65,000 children in Idaho are cared for in some type of day care facility.

Chairman Block invited members from the public to testify.

Harriet Shaklee, spoke in support. She said that this bill extends the standards currently provided for the protections of children. Forty-seven percent of child care providers are home providers. She commented that fire inspection, CPR, first aide should be welcomed. She thinks that this will be a minimal economic impact on the provider and the parent.

Cathy Kowalski, Cd'A community member and member of Childcare Summit group, and owner of Loving Care Children's Center in CdA, who has been working on the legislation for a year and a half, yielded to a question by saying that the Department will determine what the fees will be. She explained that the maximum fee will not exceed the actual cost of the fire and health inspections and the background checks. **Ken Deibert**, from the Department, yielded to a question by stating that the workload will expand because there will be 2400 additional licensees due to the expansion of numbers of children, i.e., six and below and two or above. He answered another question by stating that a trailer bill will be required in order to hire the additional FTE's.

Tiffany Eden, Twin Falls community member, addressed the committee. She shared that she does believe stricter regulations need to be in place. However, she wants an amendment that will separate/differentiate home day cares with day care centers.

Brenda Breidinger, ID Association for Education of Young Children, IdahoSTARS Project Director, addressed the committee. She explained some of the facts relating to Idaho's focus on early care and education and some of the resources that are available on a statewide basis for child care providers that would make implementation of statewide licensure requirements outlined in H 250 a smooth transition (see attached testimony).

James Wilson, with ID Head Start, spoke to the committee in support of this bill (see attached testimony).

Karen Mason, Executive Director of the ID Association for the Education of Young Children, explained that their mission is to increase the quality of care for children in Idaho. She said that 60% of working women in the state put their children in day care, and this bill is asking for minimum safety standards (see attached testimony).

Virginia DeSpain, Family Child Care Operator. Explained that she has the only accredited day care home in the state. She does agree with having minimum standards. However, she has three concerns: 1) Having to be grouped into and along with a "center"; changing her label to a center. 2) Having to pay fees that will increase from \$35 to \$200, which is a 600% increase. 3) Clarifying ages and number of children in the home when considering her own.

Cathy Kowalski addressed the committee explaining that there needs to be a minimum standards system. The majority of providers are home providers with six or less children. She stated that, physiologically, children in home settings are more susceptible to problems, including accidents, exposure to contaminants, and other dangers. (see attached colored map indicating the number of unregulated providers in the state.)

Elinor Chehey, President of the League of Women Voters of Idaho, submitted a letter to the committee in support of the bill. She wrote that this law will require health, fire and safety inspections to be done with the full cost covered by fees paid by the day care operators. Criminal background checks will be required for all staff and for all volunteers over the age of 13 years who have unsupervised direct care of children (see attached letter for further testimony).

There were more questions and discussion from the committee. Some of the concerns were the misdemeanor language, no cap on the licensure, planning and zoning issues.

MOTION: **Rep. Rusche** moved to send H 250 to the Floor with a Do Pass recommendation. Committee discussion followed.

During the committee discussion that followed, some members shared that this bill will create more problems than it solves. Rep. Nielsen asked if, for example, the lady or grandmother in the neighborhood who has lovingly and carefully watched the kids for most of their young lives should have to be regulated. Rep. Sali commented that he did not see a need to change the regulations. He further commented that if we enact this legislation, we will kill day care homes in Idaho. Rep. Shepherd commented that this does not fit for the smaller towns in Idaho. He said that in small towns a day care provider will not be able to afford the increase in fees. He can understand this working for Boise and the larger towns, but not for rural Idaho. Rep. Henbest commented that she is amazed that there could be such opposition for legislation that deals with the protection of children.

A roll call vote was taken.

Rep's Garrett, Ring, Bilbao, Henbest, Martinez, Rusche voted Aye.

Rep's Block, Sali, McGeachin, Nielsen, Loertscher, Shepherd voted Nay. The motion failed by a tied vote.

ADJOURN: Chairman Block adjourned the meeting at 5:40 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 10, 2005

TIME: 2:05 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached sign-in sheet.

Chairman Block called the meeting to order. She announced that at the request of leadership, SCR 104 will be referred to the Ways and Means Committee. There was no objection and SCR 104 will be referred to Ways and Means as requested.

MOTION: The minutes of March 8, 2005 were reviewed.
Rep. Rusche moved to accept the minutes of March 8, 2005. The motion carried by voice vote.

H 188

Child abuse, investigation requirement

Rep. McGeachin addressed the committee regarding this bill and the accompanying amendment. She explained that the intent of this bill which was brought before the committee on February 28 was to update Idaho Code with the federal protections required under the Keeping Children and Families Safe Act of 2003". The committee held the bill for a Time Certain giving opportunity for the groups to derive language that would be acceptable to all the parties. She said that they have met with Ken Deibert, Shirley Alexander and Jody Carpenter from the Department, and Heather Reilly, prosecuting attorney. There is no opposition with the language in the amendment. The prosecuting attorneys are taking a neutral position.

Rep. McGeachin explained that the problem with language in the bill was the reference to language that applies to the training requirements relating to what applies to the fourth amendment and parents' rights. The change makes language more specific applying to only those who are in the Child Protective Services system rather than generally anyone in the Department. She referred to the language in the amendment and explained that the curriculum shall include information regarding their legal duties and how to conduct their work in conformity with the requirements of this chapter, information regarding applicable federal and state laws with regard to the rights of the child, parent and others who may be under investigations under the child protective services system, and the applicable legal and constitutional parameters within which they are to conduct their work.

Rep. McGeachin responded to a concern expressed by Rep Rusche's regarding the matter of the implication to a the individual being considered of whether it is really only a concern rather than an allegation. She responded by saying that this amendment removes the word "specific" from the language which allows consideration for that issue. Rep. Ring asked if this bill basically puts into code what the Department has already been doing for some time. Ken Deibert yielded to the question by agreeing that this just changes the statute to be in compliance with code.

MOTION:

Rep. Nielsen moved to send H 188 to the Amending Order with the amendment attached. There was discussion on the motion. Rep Ring commented that he believes that there is no need for this legislation because it is superfluous to what is already in code. Rep. McGeachin responded by saying that this codifies what is current management policy to ensure federal funding. The motion passed by voice vote. Rep. McGeachin will sponsor the bill.

H 265

Resident/assisted-living facility

Randy May Deputy Administrator, Division of Medicaid addressed the committee. He directed the members to follow along the eleven-page handout they had been given as he described the achievements and changes that have been made as a result of the activities of the task force that were put together after HCR 49 was passed in the 2004 session. Page one lists the ten areas where the Department was develop improvement strategies to address. Page two lists the twelve members of the Residential Assisted Living Restructure Group participants and activities and hours spent in this effort, many of whom spent over 100 hours at the table helping shape the program changes. The handout includes key recommendations, a sample checklist providing guidelines for compliance for a facility. He added that the Department now provides training and education plans for providers, more technical assistance, more coaching, and more sharing of best practices to help improve the quality of services residents receive. Also included are charts illustrating the impacts of all of their changes, survey timeliness, provider quality, and provider feedback. In summary Mr. May stated that they have made significant progress and the effort has been a long arduous one, but they believe it has paid solid dividends to the Department, providers, stakeholders, and particularly to the residents (see further presentation/testimony and handout).

Mr. May introduced H 265, with amendments.

After committee discussion regarding the amount of time to allow for testifying, Chairman Block announced that the major players, RALF, CoAd, Nursing Homes, Assisted Living, Assisted Living Nurses, AARP, Council on DD, and Office on Aging, would be allowed 7 minutes and the remaining testifiers, 3 minutes.

Rovert Vande Merwe, Executive Director of the Idaho Health care Association addressed the committee. He stated that they are in full support of the bill with the amendments. Of the twenty-two facilities, representing over five hundred residents, approximately 10% consists of the assisted living industry. He pointed out three parts of the bill that the association considers the most important:

- 39-3302(10) Core Issues - Facilities should provide adequate care
- 39-3302(15) Inadequate care - not taking or keeping "residents over the level of care they can provide" without providing adequate nursing staff
- 39-3307(10) Admissions - Informing patients of their Medicare benefits which could pay for a short term-rehab stay in a SNF (see attached testimony).

Michelle Glasgow, who represents the Idaho Assisted living Association (IDALA), addressed the committee. She expressed that the committee has an opportunity to make the statute simpler, not more complex. She explained that they are in agreement with the department on most of the proposed statute with the amendments proposed today. The following are issues that have been concerns of IDALA:

- 39-3302 "Inadequate care" - level of care
- 39-3303 Payment levels
- 39-3307 Admissions
- 39-3309 Negotiated service agree.
- 39-3316 Resident rights - the right to be communicated with
- 39-3355 Inspections

Regarding unannounced/announced surveys, Ms. Glasgow explained that some unannounced surveys have merit. She stated that if the goal is compliance and a facility works toward compliance, anticipating a survey, then the goals have been met. Major non-compliance can not be covered up with a 48 hour notice. Unannounced surveys would still take place for annual fire and life safety, complaint surveys and quarterly ombudsman visits. The amendments have taken care of most of their concerns. However, some issues of concern still remain (see attached testimony).

Jim Baugh, who represents CoAd, explained that they can support this statute and accompanying amendments.

Cathy Hart, Idaho State Ombudsman for the elderly with the Commission on Aging addressed the committee. She explained that since 1991 when the statutes were originally written and amended in 1996, the complexion of care in these facilities has changed. People who used to have extended stays in the hospital are now residents in nursing homes, and those who used to be in nursing homes are now showing up in assisted living facilities. This bill is a more efficient and user-friendly product for the operation of these facilities. The number of assisted living beds in the state has doubled from 3170 in 1996 to 5197 in 2005. She said that good oversight is essential. It is unreasonable to expect loved ones to assist potential residents and to expect them to negotiate contracts and standards of care the facility will follow (see testimony attached). She believes that surveys should be unannounced.

Duke VanCampen, assisted living nurse, spoke in support of the bill. He explained that this is one of the fastest growing industries. There is a high percentage of chronic patients in these facilities, which does not necessarily warrant skilled nursing care.

Marilyn Sword, Executive Director of the Idaho Council on Developmental Disabilities, addressed the committee. She stated that the Council is in support of the bill with its amendments, with the exception of the language in section 14, pg. 11, line 22, "This requirement can be met by family members, facility staff, or via telephonic translation services,". She recommends that this issue be addressed in rule. Individuals in some instances may not be knowledgeable about complex medical terms and/or may not be appropriate in some circumstances. Ms. Sword stated

that they are not in favor of the removal of the annual inspection requirement, but are supportive of unannounced inspections.

Ken Thorson, member of AARP's Capitol City Task Force, addressed the committee, thanking the Department for incorporating most of AARP's suggested changes to this legislation. However, they are gravely concerned by the elimination of annual unannounced inspections which will be eliminated by this bill. He believes that annual inspections are a necessary component to ensure residents' rights and consumer protections (see attached letter of testimony).

Kelly Buckland, who represents State Independent Living Council, addressed the committee remarking that they were not included in this process of creating this legislation. He explained that they would stand in support of this bill with the exception to section 14 requirement which allows the family member to be the default. Asking a family member to take this responsibility would be appropriate in some systems, but not in others. He supports the idea that this should be addressed in rule.

Keith Holloway, CEO of Western Health Care Corporation, briefly explained that he is in support of the bill with the amendments and will stand for questions if needed.

Jerry Mitchell, Vice President of ID Assisted Living Association and owner and operator from Idaho Falls, spoke in support of the bill with a few exceptions. One of them being that most of his members are small operations with 15 beds or less and unannounced inspections are not practical as he could be out on a field trip with clients when a survey may be announced.

The remaining people wishing to testify were given a 3 minute time limit.

Scott Burpee, CEO of Valley Vista Care Services in North Idaho, spoke in support of the bill with amendments. He believes unannounced surveys are critical.

Rob Redford, CEO of Latah Health Services in Moscow, spoke in support of the bill. He said he is in support of unannounced surveys because this allows standards to be created and a mentality that says that this is how it is going to be done. This also helps consumers know what is expected.

Teresa Pendleton, owner and operator of a facility in Shoshone spoke in favor of both unannounced and announced surveys.

Bryan Elliott, president of the Idaho Assisted Living Association and operator of a Boise assisted living center said that "We've come a long way." He is in support of unannounced and announced surveys. He believes the announced survey results in fiscal responsibility as it saves him time as well as the facilitators.

Terese Sackes, owner and operator of several residential care facilities spoke in support of the bill. She explained that her facilities specialize in Dementia and Alzheimer's and she and her staff take great care in giving the resident the ultimate in love and compassion when they become critical and ready to "pass." She thanked everyone who worked on this effort. She spoke in favor of the announced surveys because they allow her the opportunity to be available at the designated time. She stated that circumstances are changing very rapidly and she appreciates the chance to learn and become educated on matters that she may not have been if she were not present.

James Bruce, a citizen with a loved one in an assisted living facility,

spoke to the committee in support of the bill. He said that he is grateful for the care his loved one, who suffers from Alzheimer's, has received as a resident at the facility.

Steve Millard, representing the Idaho Hospital Association, spoke in support of the bill. He explained that one of his member hospitals in the state owns an assisted living facility. The hospital associations stand in support of the bill.

Lee Long, a citizen, who has a mother in an assisted living facility, addressed the committee. He explained that he appreciates the opportunity to have a choice for his mother.

There being no one else to testify, the committee opened for debate.

Rep. Garrett commented that from the testimony given today, the issue of unannounced vs. announced surveys should be taken up another day. Mr. May suggested a pilot project to meet quarterly, and have an established date rather than just conjecture.

Rep. Sali yielded to **Jim Baugh** asking why the language in Section 2, page 3, line 9-10, persons who are mentally ill, developmentally disabled or physically disabled, was stricken. Mr. Baugh said that they did not want these individuals to be singled out and the intent of the language does not exclude them. **Mr. May** testified that the elimination of the terms "mentally ill, developmentally disabled or physically disabled" on page 3, lines 9-10 and 20, page 18, line 25 and elsewhere in the bill was not intended in any way to preclude mentally ill, developmentally disabled or physically disabled from being residents in residential care or assisted living facilities.

Mr. May yielded to a question regarding a concern with language on page 5, line 12, "facility engages in violations of residents' rights". He stated that there needs to be a level of common sense that can be applied. He said that they are interested in driving towards the outcome of the best care of patients. With respect to this language on page 5, line 12, **Mr. May** testified that there was no intention to include technical violations of residents' rights, but that violation of substantive residents' rights certainly would be included and the gray area in between would be worked out in rule.

MOTION:

Rep. Garrett moved to send H 265 to the Amending Order with the amendments attached, except for the language on page 11, line 22 in the amendment to section 14 to be worked out in rule. There was discussion on the most appropriate way to address this amendment to derive at acceptable language.

SUBSTITUTE MOTION:

Rep. Loertscher moved to hold H 265 to a Time Certain on Monday, March 14, 2005, giving time to review the amendments.

The Chairman put the committee at ease at 5:10 P. M. in order to allow time for to formulate amendments. The committee was called to order at 5:17 P.M.

**AMENDED
SUBSTITUTE
MOTION:**

Rep. Sali moved to send H 265 to the Amending Order with amendments attached as follows:

RS 14465A2 with the following changes:

Line 4, add an s to the word term

Line 31, add an 's to the word resident

Line 33, after the word On, delete the rest of line 33, all of line 34 and line 35 through the word on

H 265 with the following changes:

Page 4, line 45, delete the word "includes" and insert the word "means"

Page 7, line 38, after the word shall, insert the words, ",through negotiated rule making,"

Page 19, line 40, delete the words All inspections, and add the word "Inspections"

Page 19, line 41 after the word at insert the words "the discretion of the department and at"

Page 21, line 45, delete the word "includes" and add the word "means"

Page 22, line 7 delete the word "means" and insert the words "occurs when" delete "imple-" and on line 8 delete "ment" and insert "provide the services required to meet the terms of"; linr 11 delete "and which facility" and insert "or"; line 12 after who delete "require more than the level of care they can provide" and insert "have been admitted in violation of the provisions of section 39-3507, Idaho code.

Rep. McGeachin stated that she thinks some of the language under Assisted Living, Chapter 33, should mirror language under Certified Family Homes, Chapter 35.

Rep. Sali asked for Unanimous Consent that his motion be changed so that language on page 21, line 45 for Idaho Certified Family Homes, relating to the word "includes" being replaced with the word "means", would mirror the language for Residential Care and Assisted Living Act, page 4, line 45. There was no objection. Committee debate continued.

Rep. Martinez called for the question. Chairman Block asked the committee to vote. There was s 2/3 majority by voice vote.

The Amended Substitute Motion carried by voice vote. Rep. Garrett will sponsor the bill.

ADJOURN:

The meeting was adjourned at 5:45 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 14, 2005

TIME: 2:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached sign-in sheet.

Chairman Block called the meeting to order at 2:30 P.M.

The committee reviewed the minutes of March 10, 2005.

MOTION: **Rep. Loertscher** moved to accept the minutes of March 10, 2005 as written.

H 282

Medical indigence, applicant resource

Rep. Loertscher addressed the committee. He explained that this bill does not consider the people who do not have the resources. It is for those who do have them. This legislation extends from three to five years the ability of individuals to pay medical expenses before the counties and the Catastrophic Fund are required to pay those expenses. He stated that those who do have the income should be allowed to meet those obligations.

Steve Millard, representing the Idaho Hospital Association, addressed the committee. He stated that the association stands in opposition to the bill. He said that even though this legislation only changes one word in the bill, the impact to hospitals will be great. He stated that this clearly will be a cost shift. He questioned the issue of who will carry the debt and stated that hospitals are not lending institutions. There are forty-four counties and thirty-nine hospitals. Mr. Millard encouraged the committee to hold the bill and give this to a protocol committee, similar to the one that met in the summer of 1995, consisting of representation from both the counties, hospitals.

Mr. Millard was asked to explain the issue of the payment process from the time a patient enters the hospital for services. He said that first, the hospital provides the care and next, evaluates available resources. They look at the individual's availability to pay through benefits, Medicaid, Medicare, Social Security. Once determination is made that there are no funds available to pay for the services, the hospital will consider first- charity, second- bad debt and third and last- county. Mr. Millard answered a question by explaining that he believes that hospitals can charge interest. He responded to another question by saying that there is a medical lean law that provides that a medical association cannot place

a lean against property.

Karen McWilliams, a board member of the Idaho Community Action Network (ICAN), addressed the committee. She provided a 34-page report from Boise State University that investigates the indigency program in detail. She explained that qualification determinations for the county fund are too arbitrary and lack consistency, and will remain so under this bill. She further explained that the process of attaching liens to real and personal property does not maintain consistent standards that promote clear and fair practices within and between counties. She said that the lien system does not promote financial self-sufficiency and responsibility (see attached testimony and handout). **Matt Haney**, ICAN, yielded to **Rep. Garret's** question of who carries the bill. He said that the loan is held by the counties. The individual who has received the hospital service files application with the county, then at that time, the county files a lean on the property. He remarked that this is good in the short-term, but in the long-term, it could fall back on the hospital.

Rep. Loertscher stated that if the county pays the bill, they will work out a payment plan for the indigent. He further stated that this provides a mechanism so that a person can have a chance to pay the bill without being declared indigent.

Roy Eiguren, attorney representing St. Alphonsus spoke in opposition of the bill. He stated that the concept of holding the bill, sending it to the protocol committee, and bringing it back next year is a great one. Mr. Eiguren addressed the issue of determining indigency. He explained that he believes that the current process of calculating income and realistic household expenses is not an accurate one. He added that there needs to be a better policy in place for the 60-day time period.

Robert Vasquez, Canyon County Commissioner, spoke in favor of the bill. He explained that county indigency is not an endless resource. He stated that three to five years gives individuals the opportunity to repay their obligations. Extending the time makes it more manageable, for example, changing payments from \$500 to \$300 per month.

Woody Richards, representing Intermountain Hospital, spoke in opposition of the bill. He stated that the hospital does not have the ability to reject patients based on the ability to pay; the hospitals will lose money, the counties will make money. He further stated that they believe that this legislation should be held until the counties and hospitals can sit together at the table with a protocol committee.

Toni Poinelli, Idaho Association of Counties, addressed the committee. He explained that when the individual files the application, the counties take sixty days to review the application and look for available resources and then decide whether there is a case of indigency or not. Resources are always the first resort, county indigency, the last. Sometimes the county will relieve the debt and then remove the lien. He stated that this bill will allow a person to pay the debt off in a 5-year period.

MOTION:

Rep. Shepherd moved to send H 282 to the Floor with a Do Pass

recommendation. Rep Loertscher spoke to the motion by saying that the objective is not to shift charity care to the hospitals; in the end the county is responsible to pay. The bottom line is that there are people who want to be responsible and pay their debt. This will save tax payer dollars.

SUBSTITUTE MOTION:

Rep. Bilbao moved to send H 282 to the Amending Order with the following amendment attached: that the hospitals would have the option to charge interest at the prevailing rate. The Substitute Motion failed by a show of hands vote – 4 in favor, 7 opposed.

AMENDED SUBSTITUTE MOTION:

Rep. Ring moved to hold H 282 for further study similar to the study conducted in the 1995 protocol committee.

A roll call vote was taken on the Amended Substitute Motion:
Rep's Garrett, Ring, Henbest, Martinez voted Aye.
Rep's Block, Sali, McGeachin, Nielsen, Loertscher, Bilbao, Shepherd, Rusche voted Nay.
The Amended Substitute Motion failed.

The Substitute Motion failed by a show of hands.
4 in favor – 7 opposed.

A roll call vote was taken on the Original Motion:
Rep's Block, Sali, McGeachin, Nielsen, Loertscher, Shepherd, Rusche voted Aye.
Rep's Garrett, Ring, Bilbao, Henbest, Martinez voted Nay.
The Original Motion Passed.

In response to a concern voiced by Rep. Nielsen relating to the \$10,000,000 increase in the Medicaid budget, there was no discussion.

ADJOURN:

The Chairman adjourned the meeting at 4:20 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 16, 2005

TIME: 2:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** Rep. Garrett

GUESTS: Please see sign in-sheet.

The committee reviewed the minutes of March 14, 2005. Rep. Rusche noted the amount of \$10,000, page 3 was incorrect. The correct figure is \$10,000,000 and will be corrected in the minutes.

MOTION: **Rep. Bilbao** moved to accept the minutes of March 14, 2005 as amended. The motion carried by voice vote.

Chairman Block informed the committee that there had been a correction made to the minutes of March 10, page 2, paragraph 2, line 5. The word code was incorrectly written and replaced with the words current management policy, which is correct. There was no objection. The minutes are corrected.

S 1154 **Pharmacist license, temp reciprocal**
JoAn Condie, Director of the Idaho State Pharmacy Association, addressed the committee. She explained that this bill allows a pharmacist transferring into the state of Idaho to work as a pharmacist immediately upon fulfilling the requirements for "temporary licensure" as outlined in this legislation. With the current shortage, there is a need for pharmacists to be able to work upon entering the state, instead of having to wait sometimes up to fourteen weeks for other states to fulfill requests for information regarding a pharmacist's license in another state. Ms. Condie asked the committee for their vote.

She noted that there is no fiscal impact to the state. The application pays all related fees and the fees are non refundable. Ms. Condie asked the committee for their vote.

MOTION: **Rep. Nielsen** moved to send S 1154 to the floor with a Do Pass recommendation. There were questions from the committee. The motion carried by voice vote. Rep. Shepherd will sponsor the bill.

H 324 **Medicaid, experimental services**
Rep. McGeachin addressed the committee explaining that this legislation was undertaken by both she and **Rep. Rusche** to work on language relating to medical procedures that had been brought before the

committee and addressed in rule. The intent of this effort has been to develop a sound policy for Idaho. This bill addresses two criteria:

- experimental treatments
- procedures considered investigational

She stated that this bill will enable Idaho to have cost savings in the Medicaid budget and provide assistance to the Department when making the decision of whether or not to provide treatment, adding that they do need guidance. Rep. McGeachin explained that this legislation adds, under the title in section 56-209d, Medical Assistance Program, the language, "Experimental Services or Procedures Excluded." Under this section the following new language has been added, "The cost of physician, hospital or other services deemed experimental are excluded from coverage. The director may allow coverage of procedures or services deemed investigational if the procedures or services are as cost effective as traditional, standard treatments."

Representatives McGeachin and Rusche had originally drafted H 189 with similar language but language that held concerns with some of the committee members. Rep. McGeachin requested that H 189 be held in committee. The request was granted.

Rep. Rusche answered a question regarding certain investigational procedures allowed by the Department. He explained that the purpose of this language was to allow the Department to have some discretion where there is no good standard treatment but where beneficial, cost saving treatment is developing. Examples might be for uncommon congenital disorders or inborn errors of metabolism.

Rep. Henbest commented that the terms, experimental and investigational lack a clear definition. **Dr. Terry Gibson**, Medical Director for Medicaid explained that most of the time they see a policy's lack of a clear definition, and this is true for the commercial side. Rep. Henbest stated that she believes this issue would be better addressed in rule rather than in statute. Dr. Gibson replied by saying that he agrees that perhaps having it in statute would make it a more difficult matter.

Paul Leary, Bureau Chief, Division of Medicaid, was asked if this language would require an amendment with the state medical plan. He answered by saying that the Department does not cover unproven procedures, and this language is currently in the plan.

Rep. Rusche commented that the intent of this bill was to provide the Department with tools to allow for those practices outside the scope that will not be covered, and for those that would be considered reasonable and would appear to be a better result and less costly.

Mr. Leary yielded to Rep. Rusche's question, "Does this help you?" by responding, "This does not do anything for us or against us." Rep. Henbest commented, "What is in existence now is not adequate, and we need something in rule." Rep. McGeachin commented that they had worked with the Department during this process of drafting the legislation and the Department had indicated that the language in this bill was acceptable.

MOTION: **Rep. Martinez** moved to hold H 324 in committee. He stated that he is not comfortable with the definition of experimental and believes the language needs some sidebars.

Rep. Nielsen commented that both Rep. McGeachin and Rep. Rusche have worked with the Department and the Department has already admitted that this would not be detrimental.

SUBSTITUTE MOTION: **Rep. Nielsen** moved to send H 324 to the floor with a Do Pass recommendation. There was discussion on the motion. The Substitute Motion carried by voice vote. Representatives Henbest, Martinez, Sali will be recorded as voting No. Representatives McGeachin and Rusche will sponsor the bill.

ADJOURN: The meeting was adjourned at 3:30 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 18, 2005

TIME: 1:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED** None

GUESTS: See attached sign-in sheet.

Chairman Block called the meeting to order at 1:30 P.M. The minutes of March 16, 2005 were reviewed by the committee.

MOTION: **Rep. Rusche** moved to accept the minutes of March 16, 2005 as written. The motion carried by voice vote.

H 351 **Rep. Sali** addressed the committee. He explained that the original law passed in 2000 was largely upheld in U.S. District Court. However, on appeal the Ninth Circuit Court of Appeals disagreed with the U.S. District Court and opined that Idaho's definition of "medical emergency" was insufficient and constitutionally flawed, therefore, none of the statute could be enforced. This bill addresses the concerns expressed by the Ninth Circuit Court of Appeals and the U.S. District Court for the state of Idaho. He further explained that with the amendments, a lawyer and guardian ad litem will be required for each minor who seeks to bypass a parent's consent by seeking a court order. Rep. Sali explained that the number of abortions for minors fell by an average of thirty percent (30%) in the three years following the enactment of the 2000 parental consent bill. There is no impact to the general fund, but could be a possible property tax impact.

Rep. Sali stated that a petition for certiorari has been filed with the Supreme Court. If the U.S. Supreme Court decides not to take the case, then the ruling by the Ninth Circuit Court stands. This bill, if passed by the Legislature, will provide automatic enactment of these amendments to protect young women in Idaho in the event the petition for certiorari is denied.

Rep. Sali proceeded to walk the committee through the provisions outlined in the bill. A few of the provisions he cited are as follows: The definition of "medical emergency" has changed which, he added, is the same definition as most of the states. The venue has been "fixed" by removing language and providing that a petition shall be filed in the county where the woman resides or is present; the requirement of counsel and guardian ad litem has been established; removes provision for statutory rape to be reported by a court and transfers it to the guardian ad litem; time frames for ruling on a petition for judicial bypass have been

shortened– the complete process will not take more than 26 days at most; additional reporting requirements have been added. Committee discussion followed.

Rep. Sali answered **Rep. Garrett's** question regarding the intent of language in Sections 6, 7, and 8 by explaining that these sections will not go into statute; they are only for the purpose of helping the courts.

Kerry Uhlenkott, Legislative Coordinator of Right to Life, addressed the committee in support of the bill. She explained that this legislation will protect minors by allowing them the benefit of their parents' counsel rather than the minor girl herself making this life changing decision alone or with strangers. Twenty-four states have passed similar legislation and in every state that this law has passed, the abortion rate has lowered. She explained that this bill will provide for the prevention of fraudulent representation by persons other than the parents themselves (see attached testimony).

Julie Lynde, Executive Director of Cornerstone Institute of Idaho, addressed the committee in support of the bill. She explained that the State is not mandating a private conversation, it is affirming a relationship. She stated that knowing full well that there are parents who may not handle news of their daughter's pregnancy in her best interest, the judicial bypass and guardian ad litem are there for her. And because most parents have their child's best interest at heart and are best able to manage their daughter's care, H 351 secures parental rights (see attached testimony).

Newell Squyres, Attorney with Planned Parenthood and American Civil Liberties Union (ACLU), addressed the committee in opposition to the bill. He stated that this law is unconstitutional and goes far outside the envelope. He further stated that there will be litigation if this bill is passed.

Dr. William Rainford, representing the Roman Catholic Diocese of Boise and Catholic Charities of Idaho addressed the committee in support of the bill. He stated that Bishop Driscoll urges the committee to support H 351. No relationship on earth is more sacred than the parent-child relationship. No decision is more important than the protection of life. He further stated that this committee and the legislature of Idaho must protect a child who is pregnant by insisting upon the counsel of parents prior to the choice of abortion (see attached testimony).

Marty Durand, attorney for the ACLU, addressed the committee in opposition to the bill. She stated that this legislation fails to protect the rights and health of women, as well as violating physicians' rights. She proceeded to explain the following objections to the bill: (see attached testimony)

- I. Post-emergency parental notification provisions are unconstitutional because:
 - post-emergency bypass proceeding breaches minor's confidentiality.
 - grounds for granting post-emergency bypass are constitutionally deficient.
 - requiring post-emergency notification threatens minors health and is unconstitutional.
 - the physician's post-emergency duties are impermissibly vague.
- II. Judicial bypass procedure fails to meet constitutional norms

because of the following:

- requiring a guardian ad litem to report criminal conduct to law enforcement or a prosecuting attorney is unconstitutional. Because sex between unmarried persons is the crime of “fornication”, § 18-6603, this provision will require a report for every minor who seeks a bypass.
- requiring the guardian ad litem to conduct an investigation is unconstitutional.
- requiring the court to serve the order breaches the minor’s confidentiality.

III. Court reporting requirements breach the minor’s confidentiality.

Ellie Merrick, Director of Public Affairs for Planned Parenthood of Idaho, addressed the committee in opposition to the bill. She stated that this is not safe legislation for those teens who are subjected to abuse and incest in their homes and do not have the support from parents, and are unable to talk with their parents. She further stated that women need to have access to the confidential judicial bypass for safety reasons.

Reverend Susan J. Watterson, Pastor of First Congregational Church, addressed the committee in opposition to the bill. She stated that this bill will not accomplish the goal of keeping girls and woman and their families more safe and secure. She cited statistics from the July 1003 report from the National Bureau of Justice: Nearly 2/3 or 67% of all victims of sexual assault reported to law enforcement agencies were juveniles. Thirty-three percent of all victims of sexual assault reported to law enforcement agencies were under the age of six. Thirty-nine percent of the victims were assaulted by an acquaintance – friend of the family, or family member themselves. Children should not have to get the consent, in many cases, from the person who assaulted them (see attached testimony).

Pat Burnam, Idaho citizen and parent, addressed the committee in support of the bill. She stated that we cannot jeopardize and sacrifice the innocent because of someone else’s irresponsibility. She further stated that the United Nations advocates rights; however, the United States has refused to ratify the convention on the Rights of the Child because it supports parental authority. The U.S. supports parental authority and national sovereignty.

Lee Flynn, program director for the Idaho Women’s Network, addressed the committee in opposition to the legislation. She noted three main points: (see attached testimony)

- The factor of teens who do not involve a parent because of possible physical or sexual abuse; former Governor Phil Batt vetoed similar legislation in 1998 because of this type of possible consequence (journal attached).
- The factor of the shared goal of reducing the number of abortions in the state; Idaho needs to look at preventative measures and work together to decrease the number of unplanned and unwanted pregnancies.
- Idaho Women’s Network believes that abortion should be legal, safe and rare. H 351 only serves to make abortion less accessible for young women, but does nothing to address the problem of teen pregnancy.

There being no one left to testify, the Chairman invited the committee to debate the bill.

Jeremy Chou, Deputy Attorney General, yielded to Rep. Henbest's concern regarding issues such as "medical emergency" and confidentiality breach with respect to guardian ad litem. Mr. Chou said that it is his understanding that the bill amends the parental consent provisions to address the five main concerns, including the constitutionality of: (1) the definition of "medical emergency"; (2) the judicial bypass time frame; (3) the appointment of a guardian ad litem rather than an attorney; (4) the requirement for courts to report criminal conduct; and (5) the post medical emergency notification provision. He also answered her question regarding HIPPA by explaining that HIPPA does not apply in this case. (See attached letter from the Idaho Attorney General dated March 18, 2005)

MOTION: **Rep. Nielsen** moved to send H 351 to the floor with a Do Pass recommendation.

SUBSTITUTE MOTION: **Rep. Henbest** moved to hold H 351 to a Time Certain. She commented that she believes that those issues that may be potential problems, for example, the potential breach of confidence and guardian ad litem, needs more extensive work. She expressed concern that we will be back in court. She wants legislation to be upheld in a higher court. Committee discussion followed.

In response to the issue raised by **Marty Durand**, Planned Parenthood of Idaho and the ACLU, that the guardian ad litem must report all criminal activity (except statutory rape) and that would necessarily include fornication pursuant 18-6603, **Rep. Sali** referred the committee to page 12, line 37. He said it was not the intent of the sponsors to include a requirement that fornication be reported, but that only serious crimes such as incest, forcible rape and those who are sexual predators be reported. Reporting of fornication should not be considered a problem in any event because fornication is never prosecuted in this state. Rep. Sali also pointed out that the word "or" on line 45 of page 8 is a typographical error and should be "of".

On a roll call vote the Substitute Motion failed.

Rep's Ring, Bilbao, Henbest, Martinez, and Rusche voted AYE.
Rep's Block, Garrett, Sali, McGeachin, Nielsen, Loertscher and Shepherd voted NAY.

On a roll call vote the original Motion passed.

Rep's Block, Garrett, Sali, McGeachin, Nielsen, Loertscher, Bilbao and Shepherd voted AYE.
Rep's Ring, Henbest, Martinez and Rusche voted NAY.

MOTION: **Rep. Nielsen** moved that the committee reconsider SCR 107 which deals with the smoking rules. He stated that because two of the members of the committee were not present the day the bill was voted upon, ending in a tied vote, the matter needs to be addressed again.

MOTION: **Rep. Sali** moved to adjourn.

ADJOURN: The meeting was adjourned at 4:00 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 22, 2005

TIME: 3:30 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached sign-in sheet.

The committee reviewed the minutes of March 18, 2005. Rep. Martinez noted the word sited in the last paragraph, pg 1, needs to be replaced with the word cited.

MOTION: **Rep. Martinez** moved to approve the minutes of March 18 with the correction. The motion carried by voice vote.

S 1163 **Podiatrist, surgical treatment**
Larry Benton, representing the ID Podiatric Medical Association, addressed the committee. He explained that this legislation clarifies the surgery scope of practice for podiatric physicians and surgeons to include procedures reflecting current education, training and experience. The standard for performing advanced foot and ankle procedures in hospitals and surgical centers, including a peer review process, is identical to the standard required of medical doctors in Idaho. He stated that there has been no opposition.

Dr. Russ Newcomb, representing the ID Medical Association, addressed the committee explaining the association is in support of the bill.

MOTION: **Rep. Ring moved** to send S 1163 to the floor with a Do Pass recommendation. The motion carried by voice vote. Rep. Shepherd will sponsor the bill.

S1086 **Medical assistance, recovery**
Larry Tisdale, with the Department, addressed the committee. This bill provides for the recovery of medical assistance (Medicaid) payments made after the recipient reaches age 55, from the probate estate of the Medicaid recipient and the recipient's spouse. Recovery is made only after the death of both spouses and only when there is no minor or disabled child. Recovery is made through the probate estate process, but can be made from all of the couple's assets, including those assets otherwise passing outside probate through trusts, life estates, and similar arrangements.

The change to the Medicaid lien provision would permit the Department to

foreclose its Medicaid lien directly (after death of both spouses), instead of recovering through the probate estate. This process would avoid unnecessary time and expense of the Department, the public administrators, and the probate courts. The time frame for filing a lien is also increased from two years to three years to comport with the change made to the probate code in 2004 which allows three years to file a probate claim.

The exempt property allowance is intended to permit a decedent's children to keep a limited amount of family mementos and heirlooms. However, the probate code permits the exempt property allowance to be paid in cash or from other assets of the estate such as the real property. Children of Medicaid recipients would be allowed to keep personal property up to \$10,000 in value, but not allowed to cash payments made until the Medicaid claim has been paid. The Director's subpoena power will permit the Department to locate and discover assets of decedents whose estates are subject to claims by the Department. There is an estimated positive impact of \$25,000.

Robert L. Aldridge, Attorney and Chairman of Trust & Estate Professionals of ID (TEPI), provided written testimony (see attached). TEPI has reviewed the original language of S 1086 and in coordination of the Department of Health & Welfare Estate Recovery Division has written the revised language which comprises S 1086 as amended.

MOTION:

Rep. Henbest moved to send S 1086 to the floor with a Do Pass recommendation. The motion carried by voice vote. Rep. Bilbao will sponsor the bill.

S 1140

Family planning demonstration waiver

Rep. Henbest presented the bill to the committee. She explained that the recipients of this benefit would include mothers who are in the Pregnant Women & Children Program (PWC) and Children's Health Insurance Program (CHIP). This is for women who are clearly in their childbearing years and have already had a child and used state assistance for one of these programs and who would be interested in receiving voluntary family planning services. This service would give them the ability to better control the spacing of their children and have their children at a time when they are in good health and when their family and their lives are stable. The federal government pays for 90% of the cost of providing family planning services under Medicaid compared with the 70% match for regular Medicaid or the 80% match received under CHIP. Because Medicaid pays for 40% of all the births in Idaho, the state of Idaho would realize an estimated cost savings after two years due to a decrease in unplanned pregnancies. There would be fewer incidences of untreated STD's and fewer babies born premature, or with low-birth weights.

Rep. Henbest introduced **Sen. Keough**, the co-sponsor of the bill.

Sen. Keough explained that this bill seeks to direct Health and Welfare to apply for a demonstration waiver to extend family planning services to this narrow population who are on Medicaid and over the age of 19 years. Twenty-two states have obtained these waivers and are saving money as a result of the health care these services provide. Family planning services include: comprehensive health exams, mammograms to screen for breast cancer and pap tests to screen for cervical cancer. Idaho rates

50 out of 52 states in the percentage of women who have had a pap test within three years; 51st on the percentage of women who have had a routine check-up; 52nd on the percentage of women receiving the recommended mammogram and cholesterol screening. These services are needed to avoid the medical and economic costs of illness and disease that could be more easily taken care of when first discovered rather than caught when full-blown. These services also provide contraceptives, but not abortion and are provided by Medicaid providers, public health district, private physicians, and Planned Parenthood. In 2004 a total of 5,895 clients were served at a cost of \$696,289.64; of those, 368 were seen by Planned Parenthood who received a total of \$23,115.94.

Rep. Henbest answered a question asked by **Rep. Garrett** regarding the kinds of treatments that are included in family planning services and what does that mean. She said that these services involve the birth control pill, the Depo-Provera Injection, the IUD, the Diaphragm, counseling related to natural family planning services, health exams, screening for Sexual Transmitted Diseases (STD's) and breast cancer, tubal ligation, vasectomies, and pregnancy exams when warranted.

Barbara Gough, Nursing student and Associate Director of Generation Life, addressed the committee in opposition to the bill. She stated that this bill is not in the best interest of women and especially low income women. Planned Parenthood will receive millions of dollars over the next several years. She said, "this is a wolf in sheep's clothing." She further stated that she does not want her tax dollars going to Planned Parenthood.

Judy Last, ID Chapter of the National Association of Social Workers, addressed the committee in support of the bill. She stated that John F. Kennedy endorsed contraceptive research and the use of modern birth-control methods as a way to address the world's population growth. Lyndon B. Johnson's War on Poverty resulted in family planning services becoming more widely available. At that time, studies showed that the rate of unwanted childbearing among poor people was twice as high as it was among the more affluent population. This difference was attributed to the lack of available family planning services for poor women. By 1965 federal funds were made available to support family planning services for low income women as a way of alleviating poverty, expanding economic independence, and decreasing dependency on welfare. S 1140 will provide an option to women to have some control over their health and pregnancy planning, reduce abortions, and encourage emotional stability (see attached testimony).

Judy Walker, a Catholic and a tax payer opposes the bill. She opposes any funding that would go to Planned Parenthood and be used for any type of abortion services.

Pat Burnam, ID citizen, spoke in opposition to the bill. She stated that she does not believe that this is in the best interest of families. Planned Parenthood has not opposed abortion or promiscuity. She remarked that, "we do not want intrusion into our homes."

Dr. Russ Newcomb, representing the ID Medical Association, addressed the committee in support of this bill. He explained that the program is a proactive family planning program with Medicaid, which promotes sexual responsibility for those who volunteer for these services. This program

provides counseling, which promotes abstinence when appropriate and education relevant to risk behaviors. This program promotes proper use of contraception and will result in fewer unintended pregnancies and a decline in STD's (see attached testimony).

Stacy T. Seyb, MD at St. Luke's Regional Medical Center, specializing in high risk pregnancies, addressed the committee in support of the bill. He stated that many unintended pregnancies are among poor married women who do not have the means to afford reliable contraception. Reduction of unintended pregnancies has been demonstrated in other states by making contraception services more widely available and affordable. Planned pregnancies are associated with improved success and healthier babies. He further stated that this bill will expand access to contraceptive care for poor women. It will provide preventive health care by preventing unintended pregnancies and decreasing the number of premature babies and newborns with lifelong health issues (see attached testimony).

Lee Parsons, MD, OBGYN, addressed the committee in support of the bill. He stated that contraception clearly diminishes the chances of unintended and unplanned pregnancy. This is a volunteer program and will steer people toward their primary providers which is better care. Women would be free to go to the provider they are most comfortable with and would not have to believe that Planned Parenthood was their only choice.

Ted Epperly, MD, Chairman and Program Director of Family Medicine Residency of ID, spoke in favor of the bill. He said that this bill is about wellness and good quality medical care. He stated that this is not a Planned Parenthood bill and is not about abortion. This will help optimize the care he provides to mothers after the delivery of their children. He explained that currently the program provides 60 days follow-up, but the 60 days begin the month of delivery. Consequently, if the baby is born on the 25th of the month, the 60 day count starts the 1st day of the month they delivered in; so the patient would only get 35 days of follow-up care (see attached testimony).

Kathy Holley, Director of Central District Health Department, spoke in support of the bill. She stated that the health districts are a safety net for low-income women wishing to have preventive health services to space the birth of their children or to postpone pregnancy. Their typical client is a 24-year old woman working at minimum wage who does not have health insurance. If possible they evaluate the woman's financial eligibility for the PWC program and refer her for prenatal care to one of the healthcare providers in the area who accepts Medicaid patients. An average uncomplicated pregnancy costs the state \$8,900. A year of contraceptives and wellness costs the state \$500. Every woman eligible for PWC who adds a year of spacing saves the state \$8,400 (see testimony attached).

Lynn Kammermeyer, Director of Program Services for the March of Dimes Idaho Chapter, spoke in support of the bill. She stated that their mission is to improve the health of babies by preventing birth defects and infant mortality. Pre-term birth, low birth weight and infant mortality are all correlated with both unplanned pregnancies and pregnancies spaced too close together. The March of Dimes recognizes the value of pre-pregnancy health care and family planning in reducing the risks of birth defects, low birth weight, and infant mortality. They support access to family planning services for all women of childbearing age, regardless of

income. She stated that in 2002, the average hospital charge per infant stay with principal diagnosis of prematurity or low birth weight was \$79,000. By comparison, for a newborn without complications that hospital stay is \$1,500 (see attached testimony).

Judy Cross, Clinical Nurse Specialist, specializing in the Postpartum Depression Program (PPD), spoke in support of the bill. She explained that recent studies have shown that women dealing with psycho social and financial strains experience PPD at a higher rate than the rest of the population. Thirty to thirty-three percent of their moms depend on Medicaid for prenatal and early postpartum care and are among their most vulnerable. They know from research that access to medical follow-up during the first year postpartum can decrease and sometimes prevent PPD. Infants of mothers who have no treatment demonstrate delayed social development, delayed language skills, have difficulty learning trust, are more irritable and angry and are at greater risk for child abuse. The benefits from this bill will include less cost to our healthcare system and state and promote healthier mothers and babies and provide ongoing care (see attached testimony).

Paula Bermudo, ID Public Health Association, spoke in support of the bill. She stated that women who are currently enrolled in PWC only have access to family planning health services for 60 days after they give birth. In order to improve the health of Idaho women, this coverage needs to be extended. A study conducted in 1999 revealed that the highest rates of unintended pregnancy occurred among women covered by Medicaid, with lower rates among women covered by other insurance. This was linked to the lack of follow-up care needed to assist families with prevention of unwanted pregnancies. She further stated that access to health care family planning services is needed to avoid the medical, social, and economic costs of unintended pregnancy (see attached testimony and maps showing how Idaho ranks in health insurance coverage compared to other states).

David Ripley, Executive Director of Idaho Chooses Life, explained that he opposes this legislation. He listed three areas of concern with this legislation: 1) it encourages abortion counseling; 2) it authorizes tax dollars for emergency contraception, for example, the morning after pill (MAP); 3) it promotes the political and social calender for Planned Parenthood of Idaho who will greatly benefit financially. Mr. Ripley shared that Planned Parenthood has filed lawsuits against the state of Idaho. Two of the lawsuits overturned Idaho's abortion statutes. The statutes were about parental consent and partial birth abortion.

Chia Wood, ID citizen, spoke in support of the bill. Ms. Wood explained that she had been an unwanted and abused child and has had a miserable childhood. However, she values her life very highly today and is a happy individual in spite of her childhood. She believes this bill will help prevent unwanted babies from being born and subjected to the same kind of life experiences that she was.

Additional testimony is attached for:

Julie Lynde, Cornerstone Institute of Idaho

Neva Santos, ID Academy of Family Physicians, Inc.

Chairman Block invited questions and debate from the committee.

Kathy Holley yielded to **Rep. Nielsen's** question regarding the ages of

young people who receive their services with or without parental consent. She said that those from ages 14 to 16 can be screened for STD's without parental consent; those 16 and above can receive all of their services without parental consent.

Rep. Nielsen had concern regarding the follow-up time frame for care provided to mothers after delivery of their children as addressed in **Dr. Eberly's** testimony. **Patty Campbell** from the Department yielded to **Rep. Nielsen** and explained that the time period is rarely 60 days and is most often 45 days. **Rep. Nielsen** asked if the factor of allowing the time period to be a full 60 days, regardless of the time of month that the patient delivers, could be addressed in rule. There was discussion on this issue. **Ms. Campbell** yielded to a request by **Rep. Garrett** to agree to provide a letter indicating the best way to change/correct this provision in order to allow a full 60 day follow-up plan.

Rep. Henbest presented her closing remarks. She said that this is a voluntary benefit for women who may not have access to these services. This will allow that person to access any, all, or none of these services. Studies have shown that women will remain in the care of their own providers. Once the service is available, there is a clear movement of the patient to stay in their medical home.

Sen. Keough, in closing, said that this applies to those who are 19 years of age and older. She thanked the committee for their fairness in consideration and deliberation today on this issue.

MOTION:

Rep. Ring moved to send S 1140 to the floor with a Do Pass recommendation. There was discussion on the motion. He said that he thinks that this is a marvelous bill and will actually steer patients away from Planned Parenthood.

SUBSTITUTE MOTION:

Rep. McGeachin moved to hold S 1140 in committee. She said that she represents a large constituency that doesn't even believe that contraception is necessary or correct or even appropriate in their lives, and they have a really difficult time using their tax dollars to support it. She added that it is upsetting to her when the U.S. Supreme Court says that we can't pledge allegiance to our God and we can't have prayer or the Bible in our school, but we can have this. She stated that she doesn't believe that this is the proper role of government.

Rep. Sali remarked that he believes the fiscal impact will be great. He is concerned that we will see increased costs for STD screening and treatment, and increased cost for providing contraception.

Rep. Nielsen remarked that this is about treating the symptom and not looking at the cause of the problem. Government subsidizes have not caused the problem to go away. He stated that we are not teaching abstinence; but are treating the symptoms and expecting the tax payers to bear the cost.

Rep. Ring remarked that "Abstinence is not a good alternative for a 20 year old married woman with a couple of children. It just does not work very well."

Rep. Martinez reiterated that this is a voluntary program. He doesn't want to put "roadblocks" on the poor.

MOTION: **Rep. Sali** moved to table S 1140.

The Motion to table S 1140 was passed on a roll call vote.
Rep's Block, Garrett, Sali, McGeachin, Nielsen, Loertscher,
Bilbao, and Shepherd voted Aye.
Rep's Ring, Henbest, Martinez, and Rusche voted Nay.

ADJOURN: The meeting was adjourned at 6:05 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 24, 2005

TIME: 2:40 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached sign-in sheet.

The Chairman called the meeting to order at 2:40 P.M. The committee reviewed the minutes of March 22, 2005.

MOTION: **Rep. Rusche** moved to approve the minutes of March 22 as written. The motion was carried.

S 1196 **Child/adult care, background check**
Dave Butler, Deputy Director and Division Administrator for Management Services for the Department, presented S 1196. He explained that this legislation allows the Department to participate in a federally funded pilot project that will evaluate performing criminal history background checks on individuals who have access to vulnerable residents in long-term care facilities. This project will run through September 2007. Mr. Butler provided handouts showing those individuals who provide direct care and services who are currently required to have criminal history background checks. The following are those who do not have that requirement but will with the passing of this bill: Home health, hospice, institutional care facilities for the mentally retarded, long-term care hospitals or hospitals with swing beds, nursing homes, and residential care or assisted living facilities. He also provided copies of letters of support from their partnering state agencies and provider associations. The pilot is 100% federally funded (see attachments). **Mond Warren**, Bureau of Audits and Investigation with the Department, was available to answer questions.

MOTION: **Rep. Nielsen** moved to send S 1196 to the floor with a Do Pass recommendation. The motion carried. Rep's Nielsen and Martinez will sponsor the bill.

A 1158 **Naturopathic physicians, license**
Kris Ellis, representing the ID Association of Naturopathic Physicians presented the bill to the committee. She stated that the naturopathic community in Idaho is united on this bill that deals with two groups of practitioners. This is a licensure bill providing a way for those who are medically educated and trained to practice to the extent of their education and training, yet allows those who are not licensed to continue to practice as they have since the Supreme Court Ruling of 1956 in the State vs.

Smith decision. Ms. Ellis continued by going through the bill and briefly explaining how both groups are affected, what each section does, and how it interrelates with the Medical Practice Act (see attached presentation). There were questions from the committee.

Chairman Block put the committee at ease at 3:14 P.M. as the members were called to the House floor to vote on a bill. The members returned and the Chair called the meeting back to order at 3:46 P.M.

Speaker Newcomb addressed the committee explaining that he has concerns with S 1158. He stated that he is in no way against naturopathy. He shared from his own personal experience with health issues, that his oncologist is very much in support of holistic medicine and has recommended at times the use of various types of alternative choices of medicines. The Speaker explained that he recommends the changes that are included in the proposed amendments that the members had been given a copy of. He explained that these amendments will provide fairness to those who have sacrificed and gone through the formal process of education and training and have completed the necessary requirements to warrant the title of doctor.

Sen. Geddes, a co-sponsor of the bill addressed the committee. He stated that he has dealt with this issue for years. He recited a quote that he had heard from another representative to help make his point that some kind of action is needed to take care of this issue, "The Way to make people respect the law is to make the law respectable." He expressed that he thinks that this is what this bill does. It complies with the court case of 1956. Those who have had the schooling and training have not been able to distinguish themselves from those who have only taken the minimum requirements to practice. He said that it is too late in the session to amend the bill again. "These amendments break the coalition; they break the agreement."

Nancy Parker, a student of naturopathy and representing the Idaho Coalition of Natural Health (ICNH), spoke in support of the bill without amendments. She explained that natural health care is lower in cost and addresses preventive types of medicine. It is designed to keep people healthy.

Chairman Block put the committee at ease at 4:10 P.M. in order for the members to vote on legislation before the House. The Chair brought the meeting back to order at 4:15 P.M.

Michelle Morgan, President of ICNH spoke in support of the bill without amendments. She explained that this bill will put an end to years of legislative battles, title issues and scope of practice positioning between two groups; the Traditional Naturopaths who are natural health care practitioners with a non-medical approach and the Naturopathic Physicians educated with a medical influence in natural health care. She said that this collaboration has taken nearly 20 years to achieve and affords the natural health care community the opportunity to stand unified on licensing issues for the very first time. It has been written with the hope that the bill would set a precedent for other states that currently have similar naturopathic licensing issues (see attached testimony).

Susan Crane, representing ICNH, spoke in support of the bill without amendments. She asked the committee to please either pass the bill without amendments or not pass anything at all.

Rena Marie Vilano, a consumer, spoke in support of the bill without amendments.

Dr. Joan Haynes, a naturopathic physician in Boise, spoke in support of the bill without amendments. She explained that she has been active in licensing efforts in Idaho since 1997. She currently holds a license to practice in Oregon. Oregon, Montana, Utah, Washington, California, Arizona, Alaska, Hawaii, Vermont and more all license naturopathic physicians. She further explained that she graduated from a 4-year accredited naturopathic medical school and has over 4000 hours of training, 2-year clinical internship, sat for the 5-day national licensing exam, 1-year residency in family practice completion. She makes payments to Sallie Mae of \$1000 each month to pay back the \$100,000 in loans for her education. She is educated and trained in modalities that she is unable to offer to her patients in Idaho. She continued by saying that this bill will give naturopathic physicians an appropriate scope of practice and provide licensing which allows Idaho citizens access to the services naturopathic physicians are qualified to provide (see attached testimony).

Bob Willhite, Board Certified Alternative Medical Practitioner, spoke in support of the bill without amendments. He gave two unresolvable issues that the amendments create:

1) The amendments would deny the right of the majority of graduates to use the title or letters N.D. of their earned degree. The amendments attempt to require that "naturopaths cannot be doctors unless they graduated from schools that promote drugs and surgery" (American Naturopathic Medical Association. Traditional Naturopaths are not seeking the role of title of "Physician."

2) The amended "Legislative Purpose" (54-5101) does not protect the public interest in that "state administrative supervision" actually means "Pharmaceutical Medicine Supervision." The amendment deletion of subsection (8) describes natural health care that includes Traditional Naturopathy. Most patients turn to Traditional Naturopaths and Alternative Practitioners when the medicine/pharmaceutical approach has failed them. The amendments wrongly attempt to combine medical and traditional naturopathy (see attached testimony).

Charles Lempesis, lobbyist for the ICNH, spoke in support of the bill without amendments. He said that this bill gives a framework for those who have not been medically trained but have had extensive years of study and experience. These people are trying to provide alternative healthcare. The court ruling says that these people are doing no harm. He said to the committee, "if you choose to adopt these amendments, the Coalition will be destroyed." He stated that the notion that a naturopathic practitioner should not be able to use the title of doctor is absurd. He said that the word doctor is a generic term, as is naturopathic doctor.

Debbie Dalrumple, the publisher of The Alternative Magazine, and representing ICNH, spoke in support of the bill without amendments. She said that this bill will severely limit options for the people in Idaho. She commented, "Keep the right to choose what the people want in the hands of the people of Idaho."

Ken McClure, Attorney and lobbyist for the ID Medical Association, spoke in support of the bill with the amendments. He stated that the Association

has concerns that this bill expands the scope of practice of those who are not licensed. The amendments provide that a naturopath may not call himself/herself a doctor of naturopathy unless they are licensed. Those who have practiced can continue to practice as they always have.

Jennifer Rizzuti, consumer and representing ICNH, spoke in support of the bill without amendments. She shared that when she lived in Oregon and sought alternative care for herself and her family, the only way to get in touch with someone in this line of practice was through word of mouth. She urged the committee to pass the bill as it is.

The Chairman invited the committee to begin debate.

Ms. Ellis yielded to Rep. Sali who asked her if she would support the bill with the amendments. She said that she would not. Rep. Sali asked the same question of Mr. Lempesis who responded by saying that they will vehemently oppose the amendments. Rep. Sali asked Mr. McClure if he had been included in the process of the formation of this legislation. He responded by saying that "in some ways, yes, and in some ways, no."

MOTION:

Rep. McGeachin made a motion to send S 1158 to the floor with a Do Pass Recommendation. She explained that she believes that this is a good bill and the people in this practice have worked a long time together to arrive at this point. She stated that she thinks that this will keep down the costs of health care in our state. There was discussion on the motion.

Rep. Henbest commented that her concern rests with the fact that there are two different methods of providing naturopathic services addressed here, the Traditional Naturopaths, and the Naturopathic Physicians, those with a medical background. One can prescribe and provide certain treatments and one cannot; one has had medical training, and one has not. She commented that the amendments clarify the scope of practice for both groups and begins to make a distinction between the two that she believes people need to be aware of.

SUBSTITUTE MOTION:

Rep. Henbest moved to send S 1158 to the Amending Order with the amendments that were presented by Speaker Newcomb attached.

AMENDED SUBSTITUTE MOTION:

Rep. Sali moved to send S 1158 to the floor without recommendation. There was discussion on the motion.

Rep. Garrett stated that she believes that it is the responsibility of the committee to make a recommendation. "This sets up the framework to start to do this.....to get us there. The amendments provide an opportunity to come back next year if necessary."

Rep. Martinez called for the question, requiring a 2/3 majority vote. On a roll call vote of 6 to 6, the motion failed.

Rep's Garrett, Ring, Bilbao, Henbest, Martinez, and Rusche voted Aye.

Rep's Block, Sali, McGeachin, Nielsen, Loertscher, and Shepherd voted Nay.

Rep. Loertscher commented that the practice of these people is enormous and the public is not confused by this bill. He further

commented that these amendments will stop a group of people from being able to help people who are seeking other alternatives. Rep. Nielsen disclosed Rule 38. He shared a personal story related to making the choice of treating a condition of a family member by choosing medical means and surgery. However, because of complications and intense pain resulting from the surgery, he and his family appreciate the benefit of being able to have the choice of alternative medicine as another avenue if they so choose. Rep. Sali commented that there will not be any sponsors for this bill if it is passed with the amendments; and undoing a court case is not good. Rep. Rusche responded by commenting, that we go against court cases all of the time, that is what the Legislature does.....make new laws. Loertscher commented, "If this goes with amendments, a whole bunch of people will be put out of business." Rep. Rusche commented, "it is a title law, not a practice law. It clarifies the title, not the practice." Rep. Sali stated that this bill with the amendments goes against the State vs. Smith Supreme Court case in trying to regulate the practice of naturopathy. He agrees that people will be put out of business if this bill becomes law.

On a roll call vote the Amended Substitute Motion failed by 7 to 5.

Rep's Sali, McGeachin, Nielsen, Loertscher, and Shepherd voted Aye.

Rep's Block, Garrett, Ring, Bilbao, Henbest Martinez and Rusche voted Nay.

On a roll call vote the Substitute Motion passed by 7 to 5.

Rep's Block, Garrett, Ring, Bilbao, Henbest, Martinez, and Rusche voted Aye.

Rep's Sali, McGeachin, Nielsen, Loertscher, and Shepherd voted Nay.

Rep. Sali asked to be recorded that he has requested that his name be removed from the Statement of Purpose (SOP) as a sponsor and asked that the Chairman request of those sponsors who wish to be removed from the SOP be recorded as doing so at this time. The Chairman responded by explaining that those individuals who wish to be removed may contact her or the secretary at their convenience.

ADJOURN:

The Chairman adjourned the meeting at 6:05 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES
HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 28, 2005

TIME: 4:25 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

ABS./EXC. None

GUESTS: See attached sign-in sheet.

Chairman Block dispensed with the reading of the minutes of March 24, 2005. She invited **Sen. Broadsword** to the podium to present SCR 118.

SCR 118

Prescription drugs, access

Sen. Broadsword addressed the committee. She explained that after extensive debate about the benefits and the problems concerning the AARP Prescription Drug Program and because the cost would be nearly ½ million dollars, it was decided to turn it down. In the course of holding the hearings it became evident that there are a number of excellent programs that are available through private pharmaceutical manufacturers. Some of these programs give big discounts for prescription drugs and sometimes they are given freely, depending on the poverty level of the individual. A process will be developed to gather information for public and private prescription drug programs so that such information may be more available to Idaho residents who need assistance.

She explained that the Department will be able to take advantage of existing resources so the financial impact will be minimal. Any funding required will come from partnerships with others including pharmaceutical manufacturers. There will be no impact on the state's general fund. Sen. Broadsword provided a handout that was printed from the National Multiple Sclerosis Society web site illustrating the accessibility and the link to some of the web sites that provide information for some of these benefits, for example, the Idaho Rx site.

Bill Roden, representing PhRMA, addressed the committee in support of SCR 118. He explained that one of the programs that will provide assistance to individuals who are eligible is the Idaho CareLine. He presented a printout from the web site of the Idaho CareLine to demonstrate how these individuals can access information from the web site. Their aim is to heighten public awareness of the programs that are available. These programs are targeted for those who qualify as low-income and are eligible to receive drugs at a discount. Mr. Roden also provided a booklet, titled Rx Idaho illustrating what the program is about and how it works. He commented that he thinks this is a marvelous idea to be able to provide this kind of benefit to those who really need the service (see attached booklet).

MOTION: **Rep. Garrett** moved to send SCR 118 to the floor with a Do Pass recommendation. The motion carried. **Rep. Garrett** will sponsor the bill.

Rep. Sali noted two typographical errors in the Statement of Purpose. They will be corrected by the secretary.

PRESENTATION: **Mental Health Task Force**
Bob Seehusen who represents the Idaho Medical Association (IMA), presented an overview on the subject of the Priority Needs for Access to Mental Health Care. The association was asked by the two co-Chairman of the Legislative Health Task Force, Sen. Cameron and Rep. Deal, to put together a report addressing the priority needs for mental health service delivery in Idaho. He acknowledged Representatives Garrett and Henbest who sat in on this committee. He began by stating that the issue/problem of substance abuse equates to 40% of those diagnosed with mental illness. He said that access to mental health care is considered to be a very weak link in Idaho's healthcare delivery system. In 2001, Idaho ranked 46th in the U.S. in mental health dollar expenditures. The Idaho Department of Corrections reports that 26 percent of inmates housed in Idaho's adult prisons have a mental illness.

Mr. Seehusen continued by explaining that the IMA requested priorities from medical and other professional associations, state and county agencies, and consumer groups, and then summarized the responses as illustrated in the attached handout (Appendix A) and their ranking (Appendix B). He continued to explain some of the critical issues that are facing our state. More short-term beds are needed for those with mental illness. State hospitals have very few available beds and they are always filled; it may take several weeks to get someone admitted. Jails are a defacto holding place for the mentally ill. This is illegal in Idaho, but continues to be done every day. There are more long-term beds needed as well. There is a shortage of mental health professionals. More outpatient services are needed. He mentioned the ACT teams (community-based case management) as a very inexpensive way to keep patients out of the system. This program will provide for tracking and following-up on patients and, for example, monitoring them so that precautions may be taken that keep them from ending up back in the system.

Mr. Seehusen stated that they are asking the committee to acknowledge the concerns that these issues raise and to be thinking about suggestions and solutions before the next legislative session. He said that they intend to work with the Legislative Task Force in drafting legislation and asking for funding. He stated that if the legislature will support up-front problems early on, the long-term cost will be reduced. Early diagnosis and treatment is less expensive than crisis intervention and emergency care. Committee discussion followed.

ADJOURN: The meeting was adjourned at 5:24 P.M.

Representative Sharon Block
Chairman

Jennifer O'Kief
Secretary

MINUTES
HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 30, 2005

TIME: 1:32 P.M.

PLACE: Room 404

MEMBERS: Chairman Block, Vice Chairman Garrett, Representatives Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd(8), Henbest, Martinez, Rusche

ABS./EXC. Rep. Sali and Rep. McGeachin

GUESTS: Bill Walker, Emma Strong

The Chairman called the meeting to order at 1:32P.M.

MOTION: The committee reviewed the minutes of March 24, 2005. **Rep. Nielsen** moved to approve the minutes of March 24. The motion carried.

MOTION: The committee reviewed the minutes of March 28, 2005. **Rep. Nielsen** moved to approve the minutes of March 28. The motion carried.

Chairman Block began the final meeting by thanking the members. She commended them for their commitment and their willingness to work as hard as they have. She commended them for the way in which they have conducted themselves throughout the session during debate and in dealing with tough issues. She thanked them for their patience in enduring some very long meetings, and with her as she has progressed through her first year as chairman.

Rep. Henbest responded to Chairman Block by commending and thanking her for her leadership in this committee and for her leadership and hard work in coordinating the budget subcommittees. The Representative shared that Chairman Block has been an example for the rest of the committees in the House and in the Senate in her fair and gracious conduct for some very tough meetings. She further expressed that the tone in the meetings was as positive as it was because of the way she conducted the meetings. The committee was unanimous in acknowledging their agreement.

Chairman Block presented gifts to the secretaries, Jennifer O’Kief and Barbara Allumbaugh (Health & Welfare budget subcommittee secretary), and thanked and commended them for their work during this session. She presented a gift to the page, Tara Ridinger, and thanked her for all of her help on the committee and wished her the best for her future.

ADJOURN: The meeting adjourned at 4:44 P.M.

Representative Sharon Block
Chairman

Jennifer O’Kief
Secretary