

# House Health & Welfare Committee

Minutes  
2006



## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 12, 2006

**TIME:** 1:30 PM

**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 and Loertscher were absent.

**GUESTS:** Marty Durand, Attorney, ACLU; Bill Walker, Deputy Director, Department of Health and Welfare; Johathan Parker, Lobbyist; Dennis Stevenson, Rules Coordinator; Steve Millard, Idaho Hospital Association; Fred Riggers, Nez Perce.

**Chairman Block** welcomed the members and guests. She introduced the page, **Tiffani Sessions**, and recognized **Matt Ayers**, who will be working for the Chairman as an intern, but who was not present due to a prior commitment. The Chairman read through the list of “Legislative Rules of Decorum for Legislative Hearings,” copies of which were given to members and guests.

**Chairman Block** introduced **Dennis Stevenson**, Administrative Rules Coordinator, and invited him to present a review of the Administrative Rules process. **Mr. Stevenson** stated that the Health and Welfare Committee receives the majority of the rules, about 42 in all. He proceeded to explain some of the improvements that have been made to the publications making them more concise. He gave an explanation of what to look for by noting that the fiscal impact must appear on a proposed rule and a pending rule, as well as the public hearing schedule, and a description of the negotiated rule making. He explained that rejecting part or all of a pending rule must be done by a concurrent resolution; rejecting part or all of a temporary or fee rule must be done by an omnibus concurrent resolution.

**Rep. Nielsen** brought up the idea of having access to the statute that is recorded with each docket; allowing the members to refer to the corresponding statute when reviewing the rules. Committee discussion followed and **Mr. Stevenson** agreed to make available to the secretary an analysis of the proposed rule making from Legislative Services on each docket as requested by the members. He stated that the agencies are given rule making authority by the Legislature who, in turn, has the overriding authority over the agency. The Chairman thanked **Mr. Stevenson** for his presentation.

**Chairman Block** proceeded to assign the following three subcommittees to review administrative rules:

1. Rep. Garrett Subcommittee  
Rep. Garrett, Chairman,  
Representatives Nielsen, Ring, Martinez
2. Rep. McGeachin Subcommittee  
Rep. McGeachin, Chairman  
Representatives McGeachin, Shepherd, Henbest
3. Rep. Loertscher Subcommittee  
Representatives Bilbao, Rusche

There were no new announcements. The Chairman stated that the Medicaid Reform issues will be addressed in upcoming meetings. The next meeting will be January 16, 2006.

**ADJOURN:** The meeting was adjourned at 2:20 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

MINUTES  
**HOUSE HEALTH AND WELFARE COMMITTEE**

**DATE:** January 16, 2006

**TIME:** 1:30 PM

**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:** Please see attached list.

**Chairman Block** called the meeting to order at 1:35 PM. She requested the committee review the minutes of January 12, 2006.

**MOTION:** **Rep. Ring** moved to approve the minutes of January 12, 2006. The motion carried by voice vote.

**Chairman Block** welcomed the guests. She introduced **David Rogers**, Administrator for Medicaid, Department of Health and Welfare (DHW), and asked him to present his report on Medicaid reform.

**Mr. Rogers** began by giving a preview of what will be presented to the Joint Appropriations Finance Committee (JFAC). He explained that there have been months of meetings since July, 2005, with germane committees, the Health Care Task Force, stakeholders, and the public. In December, the report on the technical version of the Medicaid reform plan was presented to CMS, Center for Medicare/Medicaid Services, for review. He mentioned that one aspect of the reform has been to introduce a new concept which is based on the health needs of diverse populations, realizing their differences, and develop appropriate goals indicative to each group instead of the "one size fits all" approach. Another aspect is matching the appropriate performance measurements and benefit packages to the population served.

In January, 2006, a version of the technical proposal titled "Modernizing Idaho Medicaid: Value-Based Reform - Technical Proposal" was published; copies of which were given to the committee (see Exhibit 1). He also provided to the members a 2-page document which contains public feedback—questions and comments-- regarding the Medicaid reform proposals (see Exhibit 2).

**Mr. Rogers** stated that legislative proposals are now being considered. He mentioned the Governor's "Framework" for Legislative Proposals, separating Medicaid into three sections: Medical assistance for 1) Low-Income Families with Children, 2) Individuals with Disabilities or Special Health Needs, 3) and Elders. Other categories are personal health accounts and personal savings accounts, cost sharing, incentives for positive behavior, and health information technology.

**Rep. Garrett** made reference to Medicaid for workers with disabilities as not being included in the "Framework." **Mr. Rogers** said that this group will be addressed in separate legislation because there will be a fiscal impact connected to the program. **Rep. Martinez** expressed concern for individuals, for example low income, who may not have access to the internet to access this type of information. **Mr. Rogers** assured him that the Department will make every effort to work with individual groups and review the current proposals in detail. **Mr. Rogers** added that he anticipates that there will be upcoming changes in rule, which will provide another opportunity to meet. **Rep. McGeachin** asked a question regarding the level of federal approval for the various reforms. **Mr. Rogers** explained that he anticipates federal approval on many of the proposals; consequently, a waiver may be required before they can be implemented.

**Mr. Rogers** proceeded to give an account of the Governor's budget recommendation. He stated that this is designed to affect the rate of growth in Medicaid, i.e., reducing the rate of increase for the Medicaid program. He stated that under the Governor's recommendations, the total Medicaid expenditure of Federal and State General Funds actually increased from \$1,291,000,000 to \$1,294,000,000. He explained that there would be a reduction in the rate of change of growth from 12.7% to 12.3% in the state general fund. He further explained that this is a modest reduction, but will create savings in the long term.

He broke down by percentage, the 2007 Medicaid budget request as follows:

- Low-Income Children and Working Adults - 35.4%
- Disabilities or Special Needs - 43%
- Elders - 16.2%
- Administration and Medical Management - 5.4%

**Mr. Rogers** briefly described some of the following concepts of the reform plan and their impact to the General and Total Funds.

(See Exhibit 3 for monetary reduction to the General and Total Funds in the following categories).

- *Selective Contracting* – ensuring that selected providers provide reliable services.
- *Pay for Performance* -- re-structure provider payments in order to offer incentives for delivery of key services within each state plan; for example, focusing on prevention services including well child checks in the plan for Low-Income Children.
- *Elders* – policy goals to improve coordination with Medicare coverage, increase long-term care financing, and ensure dignity and quality of life; integration with Medicare Part D Drug coverage; asset transfer restriction and increase in the look-back period for state recovery; Medicaid Estate Recovery plan – the two-year filing period increases to move to the time of the beneficiary death or death of spouse.
- Individuals with Special Health Needs – empower individuals to improve their quality of life.

- *Low Income Children and Adults* – most of the changes will take place in this population -- establishes limits for children and adults without serious mental illness, prevention services -- targeting obesity, tobacco usage, etc. (nicotine patch).

**Rep. Nielsen** stated that “we are currently destroying the economic base by slipping away from education.” He commented that If we continue to take dollars away from education and put them into the welfare system, we will become a socialistic society; eventually entailing services that are currently provided to be forced to end. “We must do a stronger job than what is being proposed in this current proposal plan.” **Mr. Rogers** agrees that this does not get us to where we want to be; but hopefully this will provide a framework to move in another direction that will provide savings over the long term. He concluded his presentation.

**Chairman Block** asked the subcommittee chairmen to report on the progress of the rules’ hearings. **Rep. Garrett** stated that her first of two subcommittee meetings will meet today in Room 404 at 3:00 PM; and the second meeting will be on Wednesday, January 18 at 3:00 PM in Room 406. **Rep. McGeachin** reported that her first of two subcommittee meetings will meet today in Room 406 at 3:00 PM; and the second meeting will be Wednesday, January 18 at 3:00 PM in Room 404. **Rep. Loertscher** reported that his first meeting will be Wednesday, January 18 upon adjournment of the full committee. The second meeting will be scheduled at a later date.

The **Chairman** announced that the next meeting will be held on Wednesday, January 18, 2006.

**ADJOURN:** The meeting was adjourned at 3:00 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE SUBCOMMITTEE

**DATE:** January 16, 2006

**TIME:** 3:00 PM

**PLACE:** Room 406

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

**ABSENT/  
EXCUSED:**

**GUESTS:**

**Chairman McGeachin** called the meeting to order at 3:00 pm. She announced that the purpose of the meeting was to review certain Dockets pertaining to the Department of Health and Welfare and the Board of Nursing.

**16-0210-0501** This docket pertains to Idaho Reportable Diseases. Dr Leslie Tengelsen stated that currently there are conflicts between the Idaho Reportable Diseases rules and the newly-rewritten Idaho Food Code rules. The alignment of language between these chapters of rules eliminates possible sources of confusion for those who are using both chapters of rules to manage food employees with infectious diseases, thereby reducing risk to the public from food borne infections.

The proposed changes involve infections with E coli, Salmonella, Shigella, and Hepatitis A, and these are also known as the Big 4 by the FDA. They have such serious public health consequences that anyone working as a food employee must be completely excluded from working at the food facility until they are cleared medically to return to work.

The docket further is proposing to make Norovirus reportable. This disease has gotten a lot of press in the past as the culprit for many cruise-ship disease outbreaks. It is a highly contagious virus spread easily between infected persons and through contaminated and is no longer just a culprit on cruise ships. The department wishes to track these infections more closely in Idaho.

Reporting times for some diseases have been shortened to better protect the public health; among these diseases is Tularemia, a potential agent of bio-terrorism. For Hantavirus, current language requires the use of a long drawn-out CDC-derived environmental investigation form. This form is no longer used by ICDC and so the reference to the use of that long form was removed from the rule.

**MOTION** **Rep Shepherd** moved that this committee recommend to the full committee that **Docket 16-0210-0501 be accepted.**

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

**16-0612-0501** Terri Meyer spoke to this docket and stated under current rules, unemployed parents are able to receive child care assistance indefinitely under the ICCP as long as they document that they are looking for work. This lack of a time limit on searching for work provides little incentive for them to find work and is inconsistent with the program's goal of moving people into the work force. These rules add a three-month limit on the length of time, in a calendar year, that parents looking for work can receive child care assistance. Up to eighty hours of job search time will be allowed for each of the months. This time may either be used in one lump sum or could possibly occur throughout the year, but there still remains a 3 month total time limit during the year.

This rule change gives the Department the ability to limit the amount of time parents can receive child care assistance while looking for work. This will encourage people to take jobs, conserve ICCP funds by reducing the opportunities for fraudulent use of child care assistance, better assure accurate payments for child care, limit the need for monthly tracking, and still make it possible for parents to receive child care assistance while they search for work for a reasonable length of time.

**MOTION:** **Representative Henbest** moved that this committee recommend to the full committee that **DOCKET 16-0612-0501 be accepted.**

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

**16-0304-0501** Terri Meyer stated this docket change will help reduce the Department's Food Stamp error rate by eliminating unnecessary work and clarifying definitions. The federal government directed the Department to extend the certification period for families with no income from three to six months. This docket also makes definitions more clear and eliminates inconsistencies. This Docket is not establishing anything new but becoming consistent with the federal government.

The question was asked if there were any plans to look at how food stamp money could be used and what it could buy. Ms Meyer responded that she was not aware of the states having the ability to check into what food stamps could buy.

**MOTION:** **Rep Shepherd** moved that this committee recommend to the full committee that **DOCKET 16-0304-0501 be accepted.**

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

**16-0602-0501** Chuck Halligan stated that recent improvements initiated by the Department in children's programs have made the current semi-annual licensing visit requirement redundant.

As allowed under statute, the Department proposed to increase the maximum length of time between on-site licensing visits from 6 months to 12 months for licensed foster homes, licensed children's agencies, licensed children's therapeutic outdoor programs, and licensed children's residential care facilities.

The change will free up time for licensing workers to do the critical tasks of recruiting, training, and licensing of new foster families and better respond to

the increasing demand for new foster homes. It also enables staff to meet the annual survey requirement for the agencies they license and dedicate more time to follow-up on those with issues that are operating under corrective action plans.

**MOTION**                    **Rep Henbest** moved that this committee recommend to the full committee that **DOCKET 16-0602-0501 be accepted.**

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

**23-0101-0501**                Sandra Evans stated this Docket will increase the cost of renewal of licensure from \$50 to \$90 for the two-year renewal period and endorsement of licensure from \$85 to \$110. This proposed rule-making is necessary, based on projections for agency needs in the next two to five years. The needs involved are additional administrative costs which are a direct result of recently passed legislation enacted by this body involving background checks. The last increase implemented was in 2001. There have been no negative comments received regarding the pending rules.

**MOTION**                    **Rep Henbest** moved that this committee recommend to the full committee that **DOCKET 23-0101-0501 be accepted.**

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

**ADJOURN**                    There being no further business, the meeting was adjourned at 3:55 pm.

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Rep Janice McGeachin  
Sub Committee Chairman

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Barbara L Allumbaugh  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 16, 2006

**TIME:** 3:00 PM

**PLACE:** Room 404

**MEMBERS:** Chairman Garrett, Representatives Nielsen, Ring, Martinez

**ABSENT/  
EXCUSED:** None

**GUESTS:** Karl Malott, Professional Firefighters of Idaho; Michael McGrane, Director of Air St. Lukes; Linda Palmer, Program Manager, Department of Health and Welfare (DHW); Peggy Cook, Program Manager, DHW; Willard Abbot, Deputy Attorney General, DHW; Pharis Stanger, Program Manager, DHW; Dia Gainor, Bureau Chief, DHW; Richard "Mick" Markuson, Board of Pharmacy; Aaron Long, Idaho State Pharmacy Association (ISPA); JoAn Condie, ISPA.

The meeting began at 3:05 PM.

**16-0203-0501**

#### **Emergency Medical Services**

**Dia Gainor**, Department of Health and Welfare (DHW), addressed the committee regarding this docket. HB 697 directs the Board of Health and Welfare to include criteria for air medical services utilized by Emergency Medical Services (EMS) personnel at emergency scenes. A new section of rule is being added to this chapter that outlines the clinical and operational factors influencing air medical use and decision making by EMS personnel. The result of this rule will be locally developed protocols that optimize patient care and transportation choices made by EMS personnel at emergency scenes. **Mike McGrane**, Director, Air St. Lukes, stated that he had participated in the interim talks and meetings and believes this will be for the benefit of everyone that is affected in the state. **Karl Malott**, Professional Firefighters of Idaho, stated that as written, the rule provides a guideline that is easy for them to follow. (See Ms. Gainor's attached testimony for further detail).

**MOTION:**

**Rep. Nielsen** moved to recommend to the Full Committee to accept **Docket 16-0203-0501**. The motion carried by voice vote.

**16-0305-0502**

#### **Rules governing Eligibility for Aid to the Aged, Blind, and Disabled - Revocable Trusts**

**Peggy Cook**, Program Director, DHW, addressed the committee. **Ms. Cook** explained that this docket has been modified and now has seven changes, two are content changes (Sections 801 and 742) and five are updates to legal authority and to numbering or reference cites. Changes in Section 801 clarify existing policy. A person who is not eligible for Medicaid solely because he does not meet immigration status requirements can receive coverage only in a medical emergency. She further explained that the primary change is a clarification to Section 742. This rule allows a couple who must live apart because one of them must

enter a nursing home to divide their assets equally according to a set of federally established allowances, which increase annually.

**MOTION:** **Rep. Ring** moved to recommend to the Full Committee to accept **Docket 16-0305-0502**. The motion was carried by a voice vote.

**16-0608-0501** **Rules and Minimum Standards for DUI Evaluators**  
**Pharis Stanger**, Program Director, DHW, addressed the committee. This rulemaking is needed to improve the quality of DUI evaluations performed by qualified professionals licensed by the department. This will be accomplished by strengthening and clarifying the criteria for initial application and renewal of a license. The rule assures that evaluations performed for those accused of driving under the influence meet the demands of the courts. These rule changes will benefit DUI evaluators by providing clear information on the licensure process, continuing education requirements, and statistical reporting. The safety of Idahoans will be improved if those convicted of driving under the influence are properly assessed and referred to appropriate services. (See Mr. Stanger's attached testimony for further detail).

**MOTION:** **Rep. Martinez** moved to recommend to the Full Committee to accept **Docket 16-0608-0501**. The motion carried by voice vote.

**27-0101-0501** **Identification of Persons Obtaining Prescriptions**  
**Mick Markuson**, Board of Pharmacy, addressed the committee. This rule change clarifies the existing requirement that pharmacies have positive identification for persons receiving controlled substances to better outline the means of compliance with this requirement. **Mr. Markuson** explained that individuals receiving a controlled substance must show positive identification, including a picture, with a current and valid drivers license, passport, or identification card. He further explained that as long as the pharmacist can personally identify the individual, there is no need to show proof of identification. This rule change also adds a requirement that the pharmacy prescription record reflect the means of positive identification used.

**JoAn Condie**, ISPA, brought to the committee's attention some of the concerns the ISPA has with this rule. She explained that they want a more consistent and uniform interpretation of the process applied in all investigations and with all investigators. This would include a specific description of the type of record kept, and the recording of that record; one that will not be left to interpretation. She stated that as long as **Mr. Markuson** satisfactorily addresses these concerns in a letter, before the hearing on the rule in the full committee, she will accept the pending rule. Committee discussion followed. The committee approves of the "positive identification" aspect of the rule but is concerned with the vague description of the type of file and how it will be recorded.

**MOTION:** **Rep. Ring** moved to recommend to the Full Committee to accept **Docket 27-0101-0501**. There was discussion on the motion.

**SUBSTITUTE  
MOTION:**

**Rep. Nielsen** moved to recommend to the Full Committee to hold **Docket 27-0101-0501** until the Sub Committee receives a letter of agreement from the Board of Pharmacy that satisfies the Idaho State Pharmacy Association. There was discussion on the motion. **Rep. Garrett** commented that the rule is unclear about what constitutes a file and how it will be recorded. She suggested tabling the rule pending additional documentation.

**Rep. Nielsen** yielded to **Dennis Stevenson**, Legislative Services Rules Coordinator, who explained that a letter is not sufficient enough to be part of the interpretation of a rule. He also explained that a rule should not be left open to interpretation. Another issue raised is that of the pharmacists' personal identification of the individual as being a sufficient record.

**Rep. Nielsen** withdrew his motion explaining that the intent of positive identification is an improvement over the current procedure and should be in rule. He encouraged the effort to return next year with improved language.

**Rep. Garrett** stated that as the rule is written currently, a description of the means of positive identification is the only requirement.

The committee voted on the original motion by **Rep. Ring**. The motion carried by voice vote.

**21-0101-0502**

**Drug Product Selection Applicable to Medicaid Law**

**Mick Markuson** addressed the committee. **Mr. Markuson** explained that this is a housekeeping rule. This rule is necessary to conform to changes in applicable Medicaid law. This rule change eliminates the reference to drug product selection for Medicaid patients, which is no longer applicable under current law.

**MOTION:**

**Rep. Martinez** recommended to the Full Committee to accept **Docket 27-0101-0502**. The motion was carried by voice vote.

**ADJOURN:**

The meeting was adjourned at 4:45 PM.

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Representative Kathie Garrett  
Chairman

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Jennifer O'Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 18, 2006

**TIME:** 1:30 PM

**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:** Kathy Haley, Idaho Women's Network; Lynn Young, CCTF-AARP; Paul Leary, Department of Health and Welfare (DHW); L. Perin, AARP, Thomas Couch, USDHHS-CMS; Frank Powell, DHW.

**Chairman Block** called the meeting to order at 1:30 PM. She dispensed with the reading of the minutes until the next meeting, January 24, 2006.

**DOCKET NO.  
16-0309-0506**

#### **Investigational Procedures - Temporary Rule**

**Mr. Paul Leary**, Bureau Chief, Medicaid, DHW, presented this docket. These rules are amended to allow Medicaid coverage of investigational medical treatments and procedures when the medical review process indicates that such procedures are necessary and would benefit the health of the participant. These rule changes also provide operational definitions of what constitutes an investigational or experimental service or procedure to comply with HB 324, which passed in 2005, that prohibits Medicaid coverage of experimental medical services or procedures.

**Mr. Leary** explained that the review process will assess the health benefit and risks of the procedure or treatment and the cost; the cost of the anticipated long-term medical costs that would be incurred if the procedure is allowed or not allowed; and the cost of the potential long-term impact on the Medical Assistance program. There were questions from the committee.

**Rep. McGeachin** referred to page 11, Section 069. 01, *Surgery for the Correction of Obesity*, and asked if the docket could be held momentarily until concerns relating to this section could be addressed by a member who had been detained at another meeting.

**Rep. Garrett** asked **Rep. Ring** if requiring a psychiatric evaluation is common practice before authorization can be submitted for surgery for an obesity condition. He answered, "yes." He believes this should be done. **Rep. Nielsen** commented that we should scale back medical costs and doesn't believe tax payers should be paying for this type of problem.

**Rep. McGeachin** requested that the committee recess until 2:00 PM, giving **Rep. Rusche** the opportunity to comment on this docket.

By unanimous consent, the committee agreed to recess until 2:00 PM. The meeting was called back to order at 2:10 PM.

**Rep. Nielsen** asked **Mr. Leary** what was the cost for obesity related problems to Medicaid in Idaho. He stated that he thought that there were ten to twelve cases last year. He said that the cost was about \$70 million. **Rep. Henbest** commented that she believes the figure is closer to \$100 million, and will provide that information for Rep. Nielsen.

**Rep. Henbest** questioned whether the recipient of surgery was ready to accept the consequences of the surgery, should there be complications. **Mr. Leary** replied that they must pass a psychiatric evaluation and be prepared to accept the consequences. She stated that there should be some sort of guideline/parameter/generic prior authorization, or personnel that look at all of the requirements to be sure that they have been met, and asked who that might be. **Mr. Leary** said that they have asked Qualis Healthcare to take that responsibility.

In response to **Rep. Martinez's** question regarding description of the company, **Mr. Leary** explained that this is a quality improvement organization that includes nurse and physician reviewers, and sub-specialists to review cases, among others.

**Mr. Nielsen** asked if the rules are adopted, will this reduce, or increase the budget? **Mr. Leary** said that the highest quality services should be provided at the lowest cost.

**Rep. Block** brought to the attention of the committee the correct procedure for making motions regarding administrative rules. She stated that the motion should be stated as follows: *"I move to recommend to the full committee that Docket (No.) be accepted as presented."*

**Rep. Nielsen** stated that he was not prepared to vote either yes or no. He stated that the condition of obesity is the responsibility of the individual, not the state. "Put the responsibility back on the individual when it is possible."

**Rep. Garrett** asked what the state's requirement was to cover obesity. **Mr. Leary** said that he would get back to the committee with an answer.

**Mr. Leary** responded to **Rep. Martinez's** question by saying that there have been eight to ten individuals who were approved for surgery. **Rep. Martinez** commented that the department would do due diligence to find out who is in dire need.

**Rep. Rusche** stated that when considering obesity surgery, there should be in place, a center that maintains a set of performance standards. There is a large difference in experience and efficiency and complication rate depending on the facility. Many insurance carriers require a center of excellence. He stated that this should play a part in the authorization process. **Mr. Leary** stated that the rule does imply that the department will consider evidence-based national standards of medical practice when considering prior authorization of surgery for obesity.

**Rep. McGeachin** questioned the fact that the rule does not include an outcome-based measurement criteria or cost benefit analysis. She suggested adding relevant language.

**Dennis Stevenson**, Administrative Rules Coordinator, yielded by explaining that since the rule making was being promulgated as a proposed and temporary rule, when the agency adopts the rule as pending, new language could be added at that time.

**MOTION:**

**Rep. McGeachin** moved to hold **Docket 16-0309-0506** at the Call of the Chair until the committee has received written documentation from the department.

**Rep. Loertscher** commented that if this body is going to restrict this coverage, the cost will go to the counties, if it is "*medically necessary*", which is the current language in the rule.

**Rep. Rusche** answered a question from a member by saying that most commercial plans exclude obesity surgery unless deemed more cost effective than paying for future complications. However, more larger companies are looking at this coverage and widening the parameters.

**Mr. Leary** explained that the major part of **Rep. McGeachin's** concern is addressed in the rule. At this point, **Rep. McGeachin** requested that her motion be withdrawn. By unanimous consent, the committee agreed that **Rep. McGeachin's** motion be withdrawn.

**MOTION:**

**Rep. McGeachin** moved that the committee accept **Docket 16-0309-0506** as presented. The motion carried by voice vote.

**Matt Ayers**, an intern for Chairman Block, was introduced to the committee. **Mr. Ayers** is a political science major at Northwest Nazarene University and will be graduating in May.

The administrative rules subcommittee chairmen gave their progress reports on their rule hearings.

**Rep. Garrett** reported that her subcommittee has had their first meeting on rules and they have been referred to the full committee to be accepted. The rule Docket 27-0101-0501 dealing with pharmacies receiving positive identification for persons receiving controlled substances was accepted; however, some issues still remain, and the parties involved are working toward a resolution. Their final meeting will be held today at 3:00 PM in Room 406.

**Rep. McGeachin** reported that her subcommittee has had their first meeting on rules and all were referred to the full committee to be accepted. Their final meeting will be held Thursday, January 19 at 4:00 PM in Room 408.

**Rep. Loertscher** reported that their first meeting will be held upon adjournment of this meeting in Room 404, and the final meeting will be held Tuesday, January 24 in Room 404 upon adjournment of the full committee meeting.

The target date for rules to be completed is February 3.

**Hannah Alexander**, an intern was introduced. **Ms. Alexander** is a freshmen and a political science major at Boise State University. She

also plays the harp and has performed before the House of Representatives.

**ADJOURN:**

There being no further business, Chairman Block adjourned the meeting at 3:05 PM.

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Representative Sharon Block  
Chairman

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Jennifer O'Kief  
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE  
GARRETT SUBCOMMITTEE**

**DATE:** January 18, 2006

**TIME:** 3:00 PM

**PLACE:** Room 404

**MEMBERS:** Chairman Garrett, Representatives Nielsen, Ring, Martinez

**ABSENT/  
EXCUSED:** None

**GUESTS:** Please see attached sign-in sheet.

The meeting was called to order at 3:06 PM. The first order of business was to approve the minutes of January 16.

**MOTION:** **Rep. Nielson** moved to accept the minutes of January 16, 2006 as written. The motion carried by voice vote.

**DOCKET NO.** **Eligibility of Health Care Assistance / Families and Children**  
**16-0301-0501** **Linda Palmer**, Program Specialist, Division of Welfare, addressed the committee. She stated that the rule change in the first section makes the rules consistent with the Medicaid State Plan and brings them into compliance with federal regulations; clarifies language that supports the department's eligibility decisions in the Family Medicaid Programs; and improves accuracy and consistency of rule application by department staff. The proposed language states that there is no asset transfer penalty for any family Medicaid program.

The proposed rule change in the second section would eliminate the current asset test for children applying for CHIP B or the Access Card. This change removes the minimum income limit for CHIP B and Access Card and allows Idaho families access to health coverage that would currently be denied because of excess resources.

There was some questioning from the committee regarding the language on page 79, Section 331 which states, "*When determining Medicaid eligibility for any family medical coverage group, there is no asset transfer penalty.*" **Ms. Palmer** explained that asset transfer rules only apply to nursing home care or home and community based services. She also explained that this has always been a policy and is required by federal law.

**Rep. Martinez** asked how many children could benefit from CHIP B but who have not been considered due to the lack of resources it would take to seek out those families/children. **Ms. Palmer** said that information is available through the care line number, 211, and advertising.

**Rep. Garrett** asked **Ms. Palmer** If she could provide the number of eligible children who are enrolled in the CHIP B and Access Card

programs. She noted from a document titled, "Health Insurance for Adults and Children - November 2005." There were a total of 2291 eligible children as of August, 2005; 10,589 applicants from the time period of July, 2004 to August 2005. There were a total of 5196 ineligible children from the time period of July, 2004 to August, 2005. Some of the reasons that determine ineligibility are that income is too high, they are eligible for Medicaid, failure to clarify information, and other reasons. (see Attachment 1)

There was more discussion on the asset transfer penalty being removed.

**Mary Lou Kinney**, Project Director, for Covering Kids and Families, addressed the committee. She stated that she supports CHIP B and Access Card and coordinates families to use the lowest cost options. She explained that in determining eligibility based on asset criteria, many families go without unfairly. For example, there recently was a case where a family had a \$5,000 CD investment for the purpose of saving for a down payment for a house. This should not be a reason to exclude a family from needed health coverage.

**MOTION:** **Rep. Ring** moved to recommend to the full committee to accept **Docket 16-0301-0501** as presented. The motion carried by voice vote.

**DOCKET NO. 16-0305-0501** **Work Incentives / Aid to the Aged, Blind, and Disabled (AABD)**  
**Linda Palmer** addressed the committee. This rule change provides more opportunity for people with disabilities to work without losing Medicaid benefits. This change is limited to individuals already receiving Medicaid and AABD state cash assistance, and allows them to begin working or increase their earnings and still maintain their Medicaid coverage. There was some questions from the committee.

**MOTION:** **Rep. Ring** moved to recommend to the full committee to accept **Docket 16-0305-0501** as presented. The motion carried by voice vote.

**DOCKET NO. 16-0305-0503** **Alignment / Social Security Act/Medicare Part D (AABD)**  
**Peggy Cook**, Program Manager, Division of Welfare, addressed the committee. She explained that there are two sets of federally required changes in these rules as well as one department change. The first change authorizes the department to implement the Medicare prescription drug plan to allow individuals to participate. The second is to align with minor eligibility criteria changes in the Social Security Act. **Ms. Cook** explained that one advantage from this rule will be to allow the participant to have one vehicle.

**MOTION:** **Rep. Nielsen** moved to recommend to the full committee to accept **Docket 16-0305-0503** as presented. The motion carried by voice vote.

**DOCKET NO. 16-0305-0601** **Personal Needs Allowance Increase (AABD)**  
**Peggy Cook** addressed the committee. This rule change increases the basic needs allowance for AABD participants from \$67 a month to \$87 a month. This increase of \$20 will help meet the cost of prescription drugs. With only \$67 to purchase personal products such as soap, shampoo and over the counter medications, as well as clothing and other essentials, the added cost of prescriptions could result in some very difficult choices.

**Ms. Cook** explained that the Senate has had a hearing on this rule and is holding the rule pending further discussion with the Division of Medicaid and providers regarding how and to whom this additional \$20 will be disbursed.

**Rep. Garrett** commented that because of the Senate's action to hold this rule, she recommended to advise the full committee to table the rule until a report from the department has been received.

**DOCKET NO.  
16-0316-0501**

**Adult Access Card**

**Patti Campbell**, Division of Medicaid, addressed the committee. This docket adds a new chapter of Administrative Rule describing parameters of "Adult Access Card program, which provides health insurance premium assistance for employees or spouses of employees working in small businesses. The chapter explains eligibility criteria, benefits and reimbursement. (See Attachment for testimony in detail)

There were questions from the committee. **Ms. Campbell** commented that this is an optimal plan for those who want to participate. She also said that there has been a lot of positive feedback from both employees and employers.

**MOTION:**

**Rep. Ring** moved to recommend to the full committee to accept **Docket 16-0316-0501** as presented. The motion carried by voice vote.

**ADJOURN:**

**Rep. Garrett** announced that the work of this committee has been completed with the exception of one rule, **Docket 16-0305-0601**, relating to the personal needs allowance increase. There may be one more subcommittee meeting regarding the reviewing of this rule. The meeting adjourned at 4:30 PM.

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Representative Kathie Garrett  
Chairman

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Jennifer O'Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 18, 2006

**TIME:** 3:15 PM

**PLACE:** Room 404

**MEMBERS:** Subcommittee Chairman Representative Loertscher, Representatives Bilbao, and Rusche

**ABSENT/  
EXCUSED:** Representative Rusche

**GUESTS:** Nancy Kerr, Executive Director, Idaho State Board of Medicine and Chuck Halligan, Program Manager for Children and Family Services, Department of Health and Welfare

**DOCKET NO.  
16-0601-0501** Mr. Halligan explained the rule concerning adoption assistance, a program designed to encourage adoption of children with special needs—children who have a medical, physical, mental, or emotional disability; or are members of a sibling group; or because of their age. The federal government through public law 96-272, the Adoption Assistance and Child Welfare Act of 1980, encouraged adoption assistance by allowing states to offer the same benefits of foster care to adoptive parents. Adoption assistance allows financial payments and Medicaid for a child to assist the adoptive parents in meeting the child's special needs. Of course Medicaid would cover the child's medical needs, and financial assistance is also used for non-medical needs.

A contract is the basis for the adoption assistance agreement with the families. It is negotiated between the adoptive parents and the state prior to the finalization of the adoption. Any change to the agreement must be agreed upon by both parties. The Department can only terminate the agreement under three conditions. These conditions are outlined in both federal and state statutes. The three conditions for terminating the adoption assistance agreement are when the adoptive parents are no longer responsible for the child, the child is no longer financially supported by the adoptive parents, or the child turns 18.

On page 164 Section 911 paragraph 02, the rule deletes the reference to suspending or terminating adoption assistance if the family fails to complete the annual verification. The paragraph will make it clear that termination of the adoption assistance can only occur under the three previously mentioned conditions. The first three sections of the rules on page 163 are simply updates and corrections.

**MOTION:** Representative Bilbao recommended to accept Docket No. 16-0601-0501 and refer it to the main germane committee for approval. The motion passed with a voice vote.

**DOCKET NO.** Ms. Kerr explained that Section 010 pending fee rule reorganizes the

**22-0101-0501** rules and simplifies language and removes outdated waiting periods and references to a state examination and oral examination no longer in use. Section 050 eliminates sections and combines various portion of the old rule into one section defining qualifications for licensure for all applicants. Section 051 deletes old terminology, clarifies and simplifies requirements for foreign medical graduates. Section 052 changes references in rule to reflect the new section number. Section 076 establishes qualification and requirements for a temporary license.

Further, Section 077 eliminates redundant explanations and clarifies the qualifications for an inactive license. Section 078 defines prorated fees to bring license expiration in line with next regularly occurring expiration date. Section 080 establishes requirements and licensing framework for a volunteer license. Section 100 eliminates outdated state examination and oral examination license fees, establishes a zero dollar issue and a renewal fee for the volunteer license. Section 101 adds requirements and definition of adequate medical records, clarifies misuse of volunteer license for financial gain as grounds for discipline, and adds interfering with an investigation or disciplinary proceeding as a grounds for discipline.

**MOTION:** Representative Bilbao recommended to accept Docket No. 22-1010-0501 and to refer it to the main germane committee for approval. The motion passed on a voice vote.

**DOCKET NO. 22-0105-0501** Ms. Kerr explained that Section 010 removes reference to the Physical Therapy Advisory Committee and provides housekeeping changes and clarification of terminology. Section 016 provides housekeeping changes and removes ambiguous language (a degree no less than Line 04). Section 020 changes the Physical Therapy Advisory Committee to a licensure board, defines Board membership, adds public membership, and provides a framework for meeting frequency, and provides housekeeping changes for clarity. Section 31-32 provides housekeeping clarification to terminology and clarification to application and fee requirements. Section 33 indicates requirements for license renewal including the addition of continuing education requirements. Finally Section 35 establishes the continuing education requirement, establishes the criteria for approved programs, establishes reporting and audit requirements, and establishes specific waiver and exemption criteria including those for military service and illness, and establishes penalties for failure to comply with the requirements.

**MOTION:** Representative Bilbao recommended to accept Docket No. 22-0105-0501 and to refer it to the main germane committee for approval. The motion passed on a voice vote.

**DOCKET NO. 22-0111-0501** Ms. Kerr summarized the changes. She stated Section 005 contains a general housekeeping change that was made to add the web address of the Board of Medicine. Section 32 provides for a prorated fee for licenses and permits issued for less than one full year. Section 034 provides for a prorated fee for licenses or permits that expire less than one year after issue.

**MOTION:** Representative Bilbao recommended to accept Docket No. 22-0111-0501 and to refer it to the main germane committee for approval. The motion passed on a voice vote.

**ADJOURN:** The meeting adjourned at 3:30 PM.

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Representative Tom Loertscher  
Subcommittee Chairman

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Carolyn Johnson  
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE  
SUBCOMMITTEE**

**DATE:** January 19, 2006

**TIME:** 4:10 p.m.

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** None

**GUESTS:** See Attachment 1

**Introduction:** **Chairman McGeachin** opened the subcommittee hearing. She asked the guest to introduce themselves.

**Minutes:** **Chairwoman McGeachin** asked for a motion to approve the minutes from the Subcommittee hearing held on January 16, 2006.

**Motion:** **Rep. Henbest made the motion to accept the minutes as written. The motion passed by voice vote.**

**Introductions:** **Chairwoman McGeachin** asked **Alan Pearce, DDS, Oral Surgeon**, to introduce himself, and give the members an overview of his profession. **Dr. Pearce** talked about his education, and the duties he performs. He informed the members that his office authorizes the permits to oral surgeons/dentists for administering of anesthesia to dental patients.

**Chairwoman McGeachin** discussed a letter she received from Dr. Joe Ballenger, DDS, and informed the Committee Members that Dr. Ballenger is a partner in Dr. Pearce's office.

**Chairwoman McGeachin** introduced Rayola Jacobsen, Bureau Chief, Board of Occupational Licensing (IBOL).

**24-0601-0501** **Ms. Jacobsen** opened the hearing by introducing Dorothy Ring and Roger Hales, Department Administration attorney.

She informed the members that the three dockets before the Committee today is a chapter repeal. A new law was developed that combines the three Boards into one. The Board of Hearing Aid Dealers & Fitters, and the Board of Social Work Examiners, were combined with the Board of Speech and Hearing Services.

**MOTION:** **Rep. Henbest** moved that the subcommittee recommend to the full committee that **Docket 24-0601-0501 be accepted. The motion**

**passed by voice vote.**

**24-1401-0501;24-2301-0501**

**Ms. Jacobsen** informed the members this docket for the Board of Speech & Hearing is for a increase in fees. Based on the statute from last session, this docket establishes fees for the new board, which is currently in the process of receiving registration fees. She stated this is a temporary rule from the 2005 Legislature. The Board members and other interested parties who attended the board meeting were in full support of these new fees. **Ms. Jacobsen** informed the Committee these rules establish authority, and the office addresses of the Idaho Speech offices located throughout the state of Idaho. She addressed each rule and explained what they do, such as; hours, exemptions, testing, cancellation, and refunds. She talked about the Board's responsibilities for applications, quarterly reports, and etc.

**Questions from Committee Members:**

**Rep. Henbest** asked if there was any objection to the fees by the Licensure Board. **Ms. Jacobsen** replied no. She said there is one account through the IBOL, who disperses the funds that can be tracked. As funds come in to IBOL from the various Boards that money is placed back into the IBOL account.

**Motion:**

**Rep. Henbest** moved that the subcommittee recommend to the full committee that **Docket 20-2301-0501 be accepted. The motion passed by voice vote.**

**24-1401-0501**

**Ms. Jacobsen** said this docket updates the contact information and addresses the requirements. She discussed an incident of a person that had their license taken away due to a misunderstanding of the requirements. She said this rule is a result of that incident.

**Questions from Committee Members:**

**Chairman McGeachin** asked if this rule had been made into law from the last session. **Ms. Jacobsen** said the rule had been rejected. She also informed the committee that the person in question, and the Board Chairman have worked through the issue, and both are agreeable to this final document.

**Motion:**

**Rep. Shepherd** moved that the subcommittee recommend to the full committee that **Docket 24-1401-0501 be accepted. The motion passed by voice vote.**

**19-0101-0501**

**Michael Sheeley, Executive Director, Idaho Board of Dentistry (IBD)**, introduced the docket stating it is a housekeeping rule by incorporating American Dental Association (ADA) national standards that will bring the Idaho Board of Dentistry into compliance. He said that dentists in Idaho have been following these standards since 2000 and 2003. He discussed Dental Hygienists, and the evaluation and supportive recommendations by including the assistant's functions, such as; monitoring topical anesthetic, developing patient care plan,

and duties that are under direct supervision or indirect supervision of the dentist.

**Questions from  
Committee  
Members:**

**Rep. Henbest** asked if there were any comments from the dental hygienists in regard to these rules. **Mr. Sheeley** informed her the hygienists are not organized.

**Chairman McGeachin** wanted to know how the dental assistants receive the information to know what they can and cannot do. **Jerry Davis, Associate Director, Idaho State Dentistry Association (ISDA)**, responded that dentist offices are notified of the accepted changes.

**Motion:**

**Rep. Henbest** moved that the subcommittee recommend to the full committee that **Docket 19-0101-0501 be accepted. The motion passed by voice vote.**

**19-0101-0503**

**Mike Sheeley, Idaho Board of Dentistry**, asked the Committee Members reject this docket. It is a change in the way the Board sends out licenses from annually to biannually. He said that RS15380 is in the process of going through the legislature this session that will deal with this issue. If the RS legislation goes through, the Board will deal with this issue next year.

**Motion:**

**Rep. Henbest** moved that the subcommittee reject **Docket 19-0101-0503. The motion passed by voice vote.**

**19-0101-0502**

**Mike Sheeley, Executive Director, Idaho State Board of Dentistry (ISDA)**, informed the Committee this is the sedation permit that is required for oral surgeons in order to deliver sedation to patients. This rule will clarify, revise, and delineate permissible sedation practices for qualified dentists practicing in Idaho. He said the proposal, and the intent of this rule will divide the permit into two separate sedation permits. 1). Limited (new), and will require only 18 hours of education for a licensed dentist to administer oral sedation in combination with nitrous oxide analgesia to sedate adult patients to a conscious sedation, which allows the patient to maintain physical and verbal command ; and 2). The Comprehensive permit is what the dentists are currently using. This permit requires 60 hours of education. It allows oral surgeons to administer oral sedation, nitrous oxide, and sedation by intravenously to a conscious level.

He discussed the three board members who attended a conference on safety and sedation, and they support the issuance of a limited sedation permit to qualified dentists. He talked about Oregon and Arizona using these limited permits, and numerous other states that do not require a permit. He stated there is no recorded fatality for conscious sedation performed by qualified dentists. The Board is

prepared to do a in-office evaluation of the dentists and their staff in emergency equipment and protocol. **Mr. Sheeley** said the Board and the Idaho Dentist Association support this legislation. He stated that the guidelines to administer sedation and the evaluation is national standards required by the ADA.

**Questions from  
Committee  
Members:**

**Rep. Henbest** said with the adverse event toward adults, she wanted to know if children are included under these guidelines. **Mr. Sheeley** replied that children are excluded. He said only adults, 18 years of age and older, are allowed to be administered this type of sedation.

**Rep. Shepherd** asked if the Board members had any problem with this rule, and also asked if there was any cost involved. **Mr. Sheeley** said that the Board members came to him asking for this legislation.

**Rep. Henbest** stated she cannot locate in the rules the access to both staff and equipment for I. V. recovery. **Dr. Pearce** informed her that it is listed under general requirements the need for personnel, knowledge, and life support.

**Dr. Pearce** informed the committee that the whole permit issue is in error. He said the guidelines are currently in place for conscious sedation, and have been in place for some time. He feels this split for a limited permit is setting a double standard.

**Dr. Jerry Davis, ISDA**, informed the Committee Members that the ISDA trustees have already made their primary recommendation, and have addressed any issues with the Board of Dentistry. He said there was one trustee that questioned conscious sedation. He stated that the ISDA first concern is safety, and he recommended that this rule be approved. He said it is a turf issue between oral and regular dentists

**Rep. Shepherd** asked if the limited permit will hamper the rural areas. **Dr. Davis** responded when people look at this, it will be looked at with a comfort level.

**Dr. Ballenger, Jr, DDS, Nampa**, was asked to respond. He informed the Committee there isn't any need for the limited permit, and felt that the need for standards to remain high should remain with the comprehensive permit and the 60 hours of education.

**Rep. Henbest** asked if the ADA and ISDA have given their blessing on the accredited courses, why not have less education. **Dr. Ballenger** replied that he has belonged to the ADA and the ISDA, and they are political organizations not always looking for the safety of the patients. He talked about the three board members that Mr. Sheeley discussed earlier that had attended the conference on the safety of the limited

permit. He informed the Committee that the three members have never performed oral surgery. He commented that his objection in I.V. sedation and oral is the amount of education hours. He stated that the limited permit is not needed. He suggested that the training be brought to town, and talked about two oral surgeons that did train here. He recommended "why don't we piggy back on this training".

**Mr. Sheeley** closed stating that 80 percent of the dentists in Idaho support this legislation. He said this trend is spreading to more states, and Idaho needs to be on the cutting edge. He commented that the Board members feel they can support this legislation.

**Rep. Henbest** commented that she wasn't sure if she could support or reject this legislation with only three members on the subcommittee. She suggested this legislation be presented to the full committee for better evaluation. **Rep. Shepherd** said he agreed. **Chairman McGeachin** said she didn't object. She said there needs to be more information on the difference between oral and I.V. sedation to make a sound decision.

**Motion:** **Rep. Henbest** made the motion to recommend **Docket 19-0101-0502 to the full committee. The motion carried by voice vote.**

**ADJOURN:** 5:50 p.m.

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Representative Janice McGeachin  
Chairman

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Jennifer O'Kief  
Secretary  
Taken by Cj Johnson

## MINUTES

### HOUSE HEALTH AND WELFARE MEDICAID SAVINGS AND EFFICIENCIES SUBCOMMITTEE

**DATE:** January 20, 2006

**TIME:** 10:30 AM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** None

**GUESTS:** See attached sign-in sheet.

Chairman Block called the meeting to order at 10:30 AM. The minutes of the Subcommittee of December 28, 2005 were reviewed. Rep. Nielsen moved to approve the minutes with the correction of changing the word Legislature to committee on line 4 in the second to last paragraph on page 10. The motion carried.

The Chairman invited David Rogers, Medicaid Division, Department of Health and Welfare, to give an overview of the progress on the governor's reform legislation. Mr. Rogers recognized Kate VandenBroek who has been spearheading this effort as well as Cathy Holland-Smith. He explained that they have been working with LSO on legislation and have three drafts to review today, which are "works in progress." (See attached documents, Draft #3, Draft #9, Draft #3, cont.)

Mr. Rogers referred to Draft #9 which refers to the new Section 56-250 Idaho Code. The document begins with Section 56-251, Intent, by describing the framework legislation which divides the populations into three separate categories, Low-Income Children and Working-Age Adults, Persons with Disabilities or Special Health Needs, and Elders. He said that setting this policy direction will include policy goals with emphasis on prevention and wellness.

Rep. Garrett expressed approval for the prevention and wellness goals in the first two categories and requested the same goal be outlined for the Elder population related to ensuring their quality and dignity of life. She commented that this may be contingent on federal approval.

Rep. Nielsen suggested emphasized preventive care in wellness in all three population areas.

There was discussion on whether or not to proceed with a motion. Chairman Block stated that without objection, the committee would ask the department to include the wellness and dignity of life inclusion.

Rep. Henbest questioned if network management and cost sharing, etc., need to be defined, subsection (3), page 2.

A concern was raised about staying clear from trying to write statute. Rep. Henbest commented that these are general suggestions for the department to use in their drafting of the legislation.

Mr. Rogers referred to Powers and Duties of the Director, Section 56-253, explaining that the director's first duty is to get federal approval; second is to make proposals and implement changes to the medical assistance program. The language states that the director may create health needs categories and develop a Medicaid state plan specific to those categories. Each state plan shall include policy goals for the identified population and a budget process needs to be defined.

Cathy Holland-Smith expressed concern relating to the power of the director, subsection (2), that the legislature should feel a part of the process. She suggested adding the following language: "subject to legislative approval."

Discussion was raised about whether the proposed statute should read may or shall in subsections (4) and (5). Rogers referred to subsection (6) regarding selective contracting explaining that this is nothing new just more explicit. Subsection (7) regarding agreements with Medicare and school districts to provide medical care (healthy schools, healthy day cares) is not a big stretch in terms of the director's authority, he said.

Mr. Rogers referred to Section 56-254A, Eligibility for Medical Assistance. He explained that they did not address the asset transfer for children. Mr. Rogers agreed to move on through the sections, highlighting only the changes. He referred to subsection (b), where eligibility for a pregnant woman is increased through the end of the calendar month to the 90<sup>th</sup> day after the end of the pregnancy falls. Currently, the program is limited to a 60-day period.

Moving forward to Section 56-254B, Medical Assistance Program. Mr. Rogers noted subsection 1, on page 5 (Draft #9) the language that includes outpatient mental health services limited to 26 hours per year and subsection 2, inpatient psychiatric facility services limited to 10 days per year. There was discussion and concern regarding using the term limited. Rep. Rusche commented that language allowing flexibility should be considered. Mr. Rogers commented that the order of eligibility may need to be reversed.

Moving forward within the same section, to page 6, subsection (ii). The new language states that participants in the 133% to 150% of poverty level will be required to pay \$10 premiums, limited to not more than \$30 per month per family. Families above 150% of poverty limited to not more than \$45 per month. Concerns raised were that the base needs to remain simple and it will be easier to implement. Currently there is no cap in administrative rule. Discussion continued regarding amount of the premium, splitting the premium, etc.

Referring to Draft #3, Personal Health Accounts, Mr. Rogers presented the proposed statute change to establish personal health accounts for Medicaid participants enrolled in Low-Income Children and Working-Age Adults. These accounts are proposed for participants who keep risk assessment appointments with their primary care provider. The

department will set a base dollar amount by rule and add to it when the participant complies with recommended preventive care and exhibits healthy behaviors. Unmet copayments and delinquent premium payments will be deducted from the personal health account.

Referring to Copayments (draft #3), Mr Rogers explained that the legislation provides for charging copayments to participants who use the emergency room inappropriately. Mr. Rogers agreed to add definitions of "inappropriate emergency room usage" and "prudent layperson" for determining whether an emergency room visit was appropriate. That is, if a prudent layperson would have sought emergency treatment, no co-payment would be charged. There was concern that a missed appointment might trigger a co payment. A representative asked how having a benefit one couldn't use would change behavior. A representative asked if the hospitals agreed to the concept and whether this would be in the rules. Mr. Rogers responded that nonemergent would be determined by the hospital and said most infants would not be turned away.

Referring to Health Information Technology Task Force, Draft #3, cont'd., Kate VandenBroek explained that this legislation establishes what the Task Force is and what it does. The original plan was to give grants to providers to improve their technology. The focus changed and the department was advised to look at how technology is handled by health insurers like Blue Cross, Regence Blue Shield, etc. These companies are working on their own versions of electronic health records. The proposal needs to be strengthened and details added about would be on the task force and its goals.

A representative asked how much the Health Information Technology Task Force would cost. Ms. VandenBroek said the Task Force would cost \$400,000, while grants to providers would cost \$10 million for 40 providers. She said the idea was taken to an advisory group hosted by the Idaho Medical Association. Mr. Rogers stated not all the \$400,000 would be needed for the Health Information Technology Task Force. A representative suggested that the Task Force be funded by federal money or the Robert Wood Johnson Foundation. Mr. Rogers responded that the \$400,000 included \$100,000 in State General Fund. He said the goal was to create a stable funding source to move technology forward.

Chairman Block said some hospitals and providers were already implementing electronic health records and asked how the department plans to interface with these providers. Ms. VandenBroek said she had met with staff from St. Alphonsus Hospital to discuss this.

Chairman Block asked Ms. VandenBroek if there was anything else of interest to the Committee. Ms. VandenBroek listed more Medicaid Reform issues, including grants for aging and disability resource centers, health information technology for long term care, buy-in for workers with disabilities, premium assistance, reducing barriers to enrollment, allowing enrollment in the Children's Health Insurance Program (CHIP) for Medicaid-eligible children, a pilot Medicaid program for insurance for spouses and removal of the asset test for Low-Income Children Medicaid. Asset transfer penalties are being stiffened and the "lookback" for asset transfers increases from within 3 years of application to within 5 years of

application.

Chairman Block thanked the department for making this a partnership effort.

**ADJOURN:** The meeting was adjourned at 12:30 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

MINUTES  
**HOUSE HEALTH AND WELFARE COMMITTEE**

**DATE:** January 24, 2006

**TIME:** 1:30 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Representative Sali

**GUESTS:** Please see attached sign-in sheet.

The meeting was called to order at 1:35 PM. The first order of business was to approve the minutes of January 16 and 18, 2006.

**MOTION:** **Rep. Ring** moved to approve the minutes of January 16, 2006 as written. The motion carried by voice vote.

The minutes of January 18, 2006 were held for further clarification on the \$100 million figure that had been quoted, paragraph 1, page 2, referring to obesity. The minutes will be reviewed at the next meeting, January 24.

The subcommittee chairmen gave their reports on the administrative rules. **Rep. Garrett** reported that a Department of Health and Welfare rule was tabled pending on a decision with the department. A rule from the Board of Pharmacy has had some action on it and they are waiting on clarification on that rule. The subcommittee may need to meet one more time on Friday, January 27. **Rep. McGeachin** reported that her subcommittee has heard all of their assigned rules. The Board of Dentistry requested that one of the rules be rejected; the subcommittee made a motion to recommend that it be rejected. Another Board of Dentistry rule was recommended to be accepted; however, there were issues that were raised in the subcommittee that will necessitate being addressed in the full committee. **Rep. Loertscher** reported that the rules heard at their first meeting have been recommended to the full committee to be accepted. The second and final subcommittee meeting will meet upon adjournment of the full committee today.

**RS 15518**

**Idaho - Suicide Prevention Plan**

**Rep. Kathie Garrett** addressed the committee. Idaho's suicide rate is consistently higher than that of the United States as a whole. The Idaho Suicide Plan was developed to address the problem of suicide in Idaho as a guide for agencies, organizations, and individuals. This resolution acknowledges the seriousness of the suicide crisis facing Idaho and supports Idaho's Suicide Prevention Plan. The committee was provided a booklet entitled, "Idaho's Suicide Prevention Plan." Included in the booklet are letters of support from Governor Kempthorne, and from Patricia Kempthorne and Representative Margaret Henbest. (See attached booklet)

**Rep. Garrett** asked that the committee send **RS 15518** to Print.

**MOTION:** **Rep. Nielsen** moved to send **RS 15518** to Print. The motion was carried by voice vote.

**DOCKET NO.** **Mental Health Credentialing**  
**16-0309-0601** **Pat Guidry**, Policy Expert, Division of Medicaid addressed the committee. The 2005 Legislature under HB 385 appropriated \$350,000 for the department to contract with an outside vendor who will credential psychosocial rehabilitation agencies and mental health clinics serving persons with mental illness. This rule establishes the credentialing program to assure providers meet quality standards, utilize qualified providers, and have services that meet the needs of Medicaid participants. The agencies and clinics will be required to undergo a department-approved credentialing process prior to being authorized to deliver and bill for services. (See attached testimony)

**Leslie Clement**, Administrator, Division of Medicaid, yielded to a question from **Rep. Nielsen** regarding the \$350,000 by explaining the amount was appropriated and given to the department last year. This appropriation is to be used by the department to contract an outside entity to initiate the credentialing process. She said that the appropriation is part of their base line budget and was recommended for their budget for this year.

**Ms. Clement** answered a question of **Rep. Garret's** by explaining that they are in the middle of the purchasing process and are getting bids. The money will cover such things as the web site, single point of entry, education, assessment, and on-going maintenance of the credentialing process over time. **Ms. Garrett** asked **Ms. Clement** what will happen if the rule is rejected. **Ms. Clement** said that they will go back to the table and develop new rules. She also said that the \$350,000 will get them "scraping by."

**Ms. Guidry**, proceeded to go through the pages of the rule, as directed by the committee, emphasizing the changes in the rule. Questions from the committee followed.

**Rep. Garrett** questioned the additional staffing for therapists. **Ms. Clements** replied that these are not new rules; they where suppose to have been complying with this policy for the past three years. **Ms. Clement** agreed to provide a letter for **Rep. Garrett** acknowledging the reason for the requirement for the benefit of those who have brought the issue to her.

**Rep. Rusche** referred to page 20, subsection h., iv., "*The provider agency or provider agency applicant has been denied or has had revoked any health facility license, or certificate.*" He questioned if this will cause participation to be prohibited. **Ms. Guidry** explained that they will work with the agency so that there will not be a disruption of service. If irregularities or problems are uncovered, they will work with the agency to bring up the standard.

**Rep. McGeachin** referred to the President's New Freedom Initiative for Mental Health, which was released in April of 2002, which lists as one of the goals of the Commission, to improve the mental health service delivery system for adults and children with serious mental illness.

Another goal is to focus on the desired outcomes of mental health care, which are to attain each individual's maximum level of employment, self-care, interpersonal relationships, and community participation. She stated that she does not see where this principle is reflected in the rule. She doesn't see that the department is working toward providing quality of care and helping people to get over being sick, which should be their ultimate goal. **Ms. Clement** agreed that outcomes and quality of care does need to be enhanced and stated that she will provide the section of rule where this has been addressed.

There was discussion regarding the status of a temporary rule. If the committee extends the rule, the rule will be back before the committee as a pending rule during the next session. The rule will be published as a proposed rule and go through the public comment period and then be adopted as a pending rule. A temporary rule can be amended to reflect changes made from the proposed to pending rule and would be published concurrently with the pending rule as an amended temporary rule.

The Chairman invited those who wished to testify to address the committee.

**Gregory Dickerson**, representing the Mental Health Provider Association of Idaho, addressed the committee. He explained that they are in support of the rule. However, they have identified a technical correction that needs to be addressed, and have reached an agreement with the department to draft necessary amendments following this legislative session. He went on to explain that the language in sections 455 for PSR, Psychosocial Rehabilitative Services, and 465 for Mental Health Clinics are structured basically the same with one notable exception. Section 465 does not allow for any due process protections for providers under investigation by the department, nor does it specify how existing providers under credential will be treated pending the outcome of an investigation. He further explained that this will have detrimental effects on competent providers who are under investigation, and who are ultimately cleared of allegations of wrongdoing. (Testimony attached)

**Mr. Dickerson** requested that the committee accept the docket, as he and the department and providers plan to continue their negotiations in good faith.

**Rep. Nielsen** asked if **Mr. Dickerson** wants new language. He replied that as long as negotiation continues, he thinks they can resolve these issues.

**Margo Stone**, a recipient of mental health care services, addressed the committee. She said that the center is her lifeline and has been her major support in her recovery.

**Rep. McGeachin** asked **Ms. Guidry** how many inspectors would be needed. She replied that there are about 1,000 locations that need to be inspected and they anticipate it will take three years to reach all of them. **Ms. Guidry** did not have a definite number. She said that it will depend on distance, new applicants, and other variables.

**MOTION:**

**Rep. Henbest** moved that **Docket No. 16-0309-0601** be accepted as presented. She explained that there seems to be good will on both sides to protect the public and have high quality services. The tax payers' dollars really will go towards protecting people. She asked for the support of the committee.

**Rep. Garrett** said that she thinks we have a work in progress and we need to continue to move forward with the good recommendations that have been brought up today.

**Rep. Nielsen** asked **Mr. Dickerson** if he is comfortable with the company that has been contracted and questioned if we are going to have standards specific to the budget that we have been given. The question was deferred to **Ms. Clement** who explained that the company has not been selected yet. She stated that they are confident that they can find the expertise, but the challenge will be to maintain the cost within that budget.

**Rep. Rusche** commented that he will support the motion, but he asks that we spend at least as much time on programmatic success as facility services.

**Rep. Loertscher** stated, "no one can fault credentialing providers." However, he stated that his concern is that this creates another agency within Health and Welfare to do work that is already being done.

There was discussion regarding rejecting Section 460, *Building Standards for PSR agency locations*. The comments made supporting this were that there are already agencies inspecting food service, fire, water, etc.

**SUBSTITUTE MOTION:**

**Rep. McGeachin** moved to reject **Docket 16-0309-0601**. She stated that she has come to the same conclusion as **Rep. Loertscher** and agrees that building standards, food safety, fire standards, etc., are important but are not a prerequisite to being credentialed. These are standards that are already in place. She cited subsections under section 460, page 22 to 25, referencing requirement standards for electrical installations and equipment, meal preparation, deodorizer usage, garbage disposal, and lighting levels, etc. She referred to each category and posed the question, "What does this have to do with quality of care?" The focus should be on making sure people are getting better. She stated that building standards should be addressed, but she is not sure that they should be part of the credentialing process.

**Rep. Henbest** stated that the outcome of mental health service and general improvement of the people that are served are of the utmost importance. She further stated that it has been evident that there are concerns of health and safety among some agencies.

**Ms. Clement** commented that they have been aware in some cases of serious problems. However there are agencies who already comply.

**AMENDED**

**Rep. Nielsen** moved to accept **Docket 16-0309-0601**, with the exception

**SUBSTITUTE  
MOTION:**

of all of Section 460, pages 22 to 25. He explained that this is his recommendation due to the fact that fire safety and food rules are already in place. He commented that we should not risk having the fundamentals of care jeopardized.

Committee discussion continued. The suggestion came up of rejecting all of Section 472, *"Building Standards for Mental Health Clinics,"* as well. This section is already codified in rule.

**Rep. Nielsen** was granted his request to restate his motion to include rejecting Section 472.

**Rep. Nielson** moved to accept **Docket 16-0309-0601** with the exception of all of Section 460, pages 22 to 25, and all of Section 472, pages 40 to 42, so that there will be consistency between PSR and Mental Health Clinics.

Questions arose regarding the correct procedure to follow in order to accomplish this, and whether or not this was possible, since this is a temporary rule.

The Chairman put the committee at ease at 3:40 PM, while clarification was sought.

The committee was brought back to ease at 4:02 PM.

**Paige Parker**, Legislative Services and Budget Analyst, was asked to address the committee regarding the proper procedure of rejecting part of the rule. He deferred to **Dennis Stevenson**, Administrative Rules Coordinator who addressed the committee. **Mr. Stevenson** explained that a codified rule could be rejected in whole or in part (section by section), but he cautioned to make sure that it doesn't cause problems or complications later on. If statute requires the rule to be in place, it may not be prudent to remove it. He said the Senate would have to agree to reject a codified rule as well.

**Rep. Rusche** commented that this is a temporary rule and has been accepted by the Senate. **Mr. Stevenson** replied that any action taken on the temporary rule would have to be done by an Omnibus Concurrent Resolution (OCR) and that the Senate must agree with the action taken. There were questions from the committee. **Mr. Stevenson** explained that both Houses have to agree to reject any part or all of the temporary rule in the OCR. If one house rejects and the other accepts, the docket would be removed from the OCR and would be dealt with in a separate concurrent resolution. He further explained that two separate issues are being discussed—the rejection of Section 460, which is a temporary rule and properly before the committee (the new proposed changes) and the rejection of Section 472, which is already codified in rule. He said it would require two separate actions by the committee since the issue before them is to reject or accept the temporary rule. Rejection of a codified rule would require a separate review and motion to reject and would require a concurrent resolution and approval of the Senate to reject the already codified rule.

The Chairman called for a vote on the Amended Substitute Motion.

**Vote: Amended Substitute Motion** A roll call vote was taken on the Amended Substitute Motion: Representatives McGeachin, Nielsen, Loertscher, Shepherd voted Aye. Representatives Block, Garrett, Ring, Bilbao, Henbest, Martinez, Rusche voted Nay. The Amended Substitute Motion failed.

**Vote: Substitute Motion** A roll call vote was taken on the Substitute Motion: Representatives McGeachin, Nielsen, Loertscher, Shepherd voted Aye. Representatives Block, Garrett, Ring, Bilbao, Henbest, Martinez, Rusche voted Nay. The Substitute Motion failed.

**Vote: Main Motion** By a show of hands the Main Motion passed.

**ADJOURN:** The next meeting will be Thursday, January 26, 2006. The meeting was adjourned at 4:25 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** January 24, 2006
- TIME:** 4:30 PM
- PLACE:** Room 404
- MEMBERS:** Subcommittee Chairman Loertscher, Representatives Bilbao and Rusche
- ABSENT/  
EXCUSED:** None
- GUESTS:** David Hales, Attorney for Bureau of Occupational Licenses, Sandee Hitesman, Administrative Assistant, Bureau of Occupational Licenses, Bill Walker, Deputy Director, Health and Welfare Department (DHW), David Simnitt, Division of Medicaid (DHW)
- 24-0301-0501** **Sandee Hitesman** addressed the committee. The purpose of this rule is to update contact information for the board for public access, define athletic trainer, and set standard. The rule also provides for supervision of athletic trainers in compliance with Title 54, Chapter 39. It sets deadline for appeals on peer review conducted by the committee. There was no public testimony.
- MOTION:** **Rep. Rusche** moved to recommend to the full committee to accept **Docket 24-0301-0501**. The motion carried by voice vote.
- 24-1101-0501** **David Hales** addressed the committee. He explained that this is mainly a housekeeping rule. The purpose of the rule is to update incorporation by reference, update board contact information, clarify podiatric residency requirements, change examination dates, clarify acceptable examination and documentation, and provide a scope of practice. He explained that podiatrists need to be held to the same standard.
- Dr. Stanley Leis**, Podiatrist in Boise spoke in support of the rule.
- MOTION:** **Rep. Bilbao** moved to recommend to the full committee to accept **Docket 24-1101-0501**. The motion carried by voice vote.
- 24-1501-0501** **Mr. Hales** presented this pending fee rule. The purpose of the proposed rulemaking is to add supervision and continuing education requirements that are needed to further protect the public; increase the number of supervisors to allow more supervisory opportunities in the rural portions of Idaho; add deadline for application review to avoid last minute rushes; and add an administrative fee for the examination. There was no public testimony.
- MOTION:** **Rep. Rusche** moved to recommend to the full committee to accept **Docket 24-1501-0501**. The motion carried by voice vote.
- 24-1901-0501** **Mr. Hales** presented this pending fee rule. The purpose of the rule is to

update board contact information, revise the suitability portion of qualifications for license, revise educational and training requirements of courses other than pre-approved, revise the continuing education course approval process, and increase the annual renewal fee to \$100. There was no public testimony.

**MOTION:** **Rep. Bilbao** moved to recommend to the full committee to accept **Docket 24-1901-0501**. The motion carried by voice vote.

**16-0503-0501** **Bill Walker** addressed the committee. This rule has to do with Contested Case Proceedings and Declaratory Rulings. These rule changes will reduce the number of appeals that need to be reviewed by the director, saving both time and money. Three sections of this rule will be revised to clarify the following issues: when an appeal is to be filed; the hearing officer must dismiss an untimely appeal; and a proposed order of default must be issued if someone fails to appear for a hearing allowing fourteen (14) days to show just cause to the hearing officer as to why the hearing was missed. **Mr. Walker** explained that these rules add clarity and consistency and decrease staff time. He stated that the changes to these rules are minor changes. There were questions from the committee. There was no public testimony.

**MOTION:** **Rep. Bilbao** moved to recommend to the full committee to accept **Docket 16-0503-0501**. The motion carried by voice vote.

**16-0319-0502 & 16-0319-0501** **David Simnitt** addressed the committee. He explained that these rules have to do with certified family Homes. This chapter of rules is being repealed and rewritten to better serve Idaho's population of vulnerable adults living in certified family homes. The rules being repealed had requirements more suited for larger facilities and were not always appropriate for a family home. The repeal of this chapter was published under Docket 16-0319-0501. Legislation adopted in 2005 made statute changes for certified family homes. These rules are being adopted as temporary rules to align with statute changes that are effective July 1, 2005. There were questions from the committee. There was no public testimony.

**MOTION:** **Rep. Rusche** moved to recommend to the full committee to accept **Docket 16-0319-0502**. The motion carried by voice vote.

**MOTION:** **Rep. Rusche** moved to recommend to the full committee to accept **Docket 16-0319-0501**. The motion carried by voice vote.

**ADJOURN:** The meeting adjourned at 5:30 PM.

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Representative Tom Loertscher  
Subcommittee Chairman

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Jennifer O'Kief  
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE**

**DATE:** January 26, 2006

**TIME:** 1:30 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Representative Loertscher

**GUESTS:** Please see attached sign in sheet.

The meeting was called to order at 1:32 PM. The first order of business was to approve the minutes of January 18, 2006.

**MOTION:** **Rep. Garrett** moved to approve the minutes of January 18, 2006. She stated that she would accept the minutes as written because the \$100 million figure noted on page 2, paragraph 1, had been quoted as an approximate amount.

**Rep. Garrett** reported that an agreement has been received on Docket 27-0101-0501 which had been tabled in the subcommittee, and which will be addressed in the final subcommittee meeting, Friday January 27. She will give a final report to the full committee January 30. **Rep. McGeachin** reported that she will give a final report to the full committee January 30. **Chairman Block** spoke in **Rep. Loertscher's** absence stating that he would give his final subcommittee report to the full committee January 30, as well.

**RS 15464**

**Ban Smoking in Bowling Alleys**

**Rep. Ring** addressed the committee. He explained that the purpose of this legislation is to prohibit smoking in bowling alleys, with an exception for designated smoking rooms that meet requirements to minimize any mixing of air from a smoking room into the bowling alley. He further explained that provisions were made for smoking rooms because bowling requires special shoes. The resulting grit on shoes from sending smokers outside, could potentially damage varnished floors and rented bowling shoes. The bill provides for very strict restrictions on the rooms.

**MOTION:** **Rep. Rusche** moved to print **RS 15464**. The motion carried by voice vote.

**16-0309-0503**

**Reimbursement / Medicaid Providers**

**Leslie Clement**, Deputy Administrator with the Medicaid Division, addressed the committee. (See attached testimony)

She provided four handouts:

- 1 – Identifies current costs of audits to the state that are currently required by state and federal law for select providers. (Exhibit 1)
- 2 -- Support Broker Rate of Pay Analysis (Exhibit 2)
- 3 -- Developmental Disabilities Program E-Bulletin (Exhibit 3)
- 4 -- Community-Based Provider Reimbursement Review and Report - November 30, 2005 (Exhibit 4)

**Rep. Garrett** stated that she has not seen in these rules any type of model that would set rates. In response, **Ms. Clement** drew the attention of the committee to the handout referencing Support Broker Rate as a new entity (Exhibit 2). She described a Support Broker as one who could be a neighbor, a provider, one from the community or private business.

**Ms. Clement** explained that the information in the 3<sup>rd</sup> handout (Exhibit 3) provides an analysis of what other states are doing and a background in costs to compare to what Idaho is facing.

**Rep. Garrett** referred to subsection 06., page 168, "Rate Change Recommendations," which does not include considerations for inflation, cost of new requirements, cost of doing business, low-market rates, high turnover, or job qualification. She asked why some of these factors were not recommended in this section; they were spelled out in statute. **Ms. Clement** said that she believes they were covered in the report (Exhibit 4).

In response to a question from a member, **Ms. Clement** deferred to **Sheila Pugatch**, Principal Financial Specialist, Medicaid Division. **Ms. Pugatch** explained that the information on page F3 of the report (Exhibit 4) illustrates the range of rate and wages paid.

**Ms. Clement** said they received a 2% response to the survey from providers when questioned by **Rep. Martinez**. **Rep. Nielsen** commented that one can only speculate that maybe people were overwhelmed by the survey tool and that it was much too confusing.

**Rep. Nielsen** commented that the department skirted the statute because people wanted to see a permanent rate result from this effort. **Ms. Clement** said that they spent far more hours than they intended to spend, about 500 instead of the intended 100. She said, "I think we did comply with statute."

There being no further questions, **Chairman Block** invited the presenters to begin their testimony. She allowed 7 minutes of testimony for directors/managers of various agencies and 3 minutes for others.

**Mike Wilson**, Program administrator of Living Independently Forever, Inc., a Developmental Disabilities Agency and Residential Habilitation Agency in Meridian. He is also Vice President of the Idaho Residential Supported Living Association. He stated that the survey tool is inherently flawed. The findings of the survey merely represent the current cost of doing business, not the current cost of providing quality services. **Mr. Wilson** requested that the committee recommend to JFAC to increase reimbursement rates to providers this year given an adequate methodology for determining rates was not developed. (See attached

testimony)

**Rep. Henbest** asked what he wanted the legislature to do if they reject the rule. **Mr. Wilson** recommends having the opportunity to come to the committee and have discussion. **Rep. Henbest** replied that there is not enough information to accomplish what the providers are asking for.

**Greg Olsen**, Olsen and Company, CPA's, Meridian, Idaho, addressed the committee. **Mr. Olsen** explained that his firm was asked to analyze the Idaho Medicaid Developmental Disability and Mental Health survey data to determine fair and reasonable reimbursement rates for their market segment. He explained that the State's Human Resource information along with overhead costs, and the FY 2006 Legislative Budget Book were used to determine a fair and reasonable wage rate.

**Mr. Olsen** reported that the proposed solution that has been outlined by his firm states that all adult services are prior authorized and referred by a Healthy Connections physician; children's services are managed through Healthy Connections, and utilization of all services is capped in rule. No private agency has a carte blanc for providing unlimited or unnecessary services. (See Exhibit #5)

**Bill Benkula**, owner and administrator of Delta Developmental Services and W.D.B. Inc., and also Twin Falls, representing the Idaho Association of Developmental Disabilities Agencies, addressed the committee. He stated that the "frozen reimbursement rates have led to a staffing crisis in the industry." He further stated that turnover rates are over 400%. **Mr. Benkula** requested that the rules be rejected. He also requested that the committee recommend to JFAC that a rate increase be implemented this year. (See further testimony attached)

**David Hoffmann**, operator of a Developmental Disability Agency in Rexburg, addressed the committee. He stated that neither the department's report nor the rules present a plan or a roadmap for the intent of HB 190. The report and the rules presented today contain no viable methodology for a fair review of the rates. They provide a methodology to maintain the status quo. (See further testimony attached)

**Rep. Henbest** asked if his licensees filled out the survey. **Mr. Hoffmann** replied that there had been concerns about the amount of time it would take to retrieve and assemble the data, and complete the form given the time constraints that the survey had to be returned.

**Rep. Sali** asked what he thought should be done. **Mr. Hoffmann** replied that the rules need to be more specific and address methodology, high turnover rate, and cost of living.

**Bob Van Arnem**, representing himself, addressed the committee. He has a mother living in a skilled nursing care facility. He explained that her daily rate is \$163 per day or \$59,495 per year for room and board alone. She has incurred a 30% increase in room and board in five years. He explained that if the nursing home lowers the rate it charges a private resident, then the State lowers the reimbursement rate. Therefore, there is no incentive to lower costs or charges, insuring that Medicaid reimbursement rate increases continually; and his mother's rate of private

pay increases as she continues to subsidize the Medicaid patient. He stated, "I believe that wise stewardship of the peoples' money is a hallmark of superb statesmanship and that opportunities to improve this without sacrificing essential services exist." He further stated that because government entities spend their budgets to avoid receiving less money the next year, there is not the incentive to save, only spend. (See attached testimony for more detail provided by Mr. Arnem)

The Chairman and members thanked him for taking the time to be with the committee this day and sharing information that is valuable to the committee.

During the testimony of Mr. Arnem, **Rep. Sali** called for a point of order requesting that Mr. Arnem could be given longer time to present. Chairman Block stated that his point was well taken and for the sake of fairness, presenters would be given 5 minutes to testify.

**Steve Hansen**, President of the Case Management Association of Idaho, addressed the committee. He stated that the association is in opposition to these rules. They are in support of HB 190. He said that the rules drafted in this docket fall short of complying with Idaho Code. He proceeded to cite sections of the rule in support of their position. He said, "We did not expect a rate increase, we expected a methodology that we could count on and we still don't have it." (See further testimony attached)

**Mr. Hansen** stated that many individuals did not respond to the survey because they did not think that their information would be considered and they felt they would be put on the spot. **Mr. Hansen** replied to **Mr. Nielsen's** inquiry about the survey by saying that some of the questions were misleading. Completing the survey was extremely difficult. He stated that relying 100% on the survey alone should not be done because of the chance for margin of error by those taking it.

**Rep. McGeachin** asked if he would consider having providers put a survey together of their own that would match their industry, taking these issues that have been raised into consideration. Then, having good representation of their members, submit the information to the department. **Mr. Hansen** replied that he would be concerned that that kind of effort may be perceived as being self serving.

**Jim Baugh**, Executive Director Co-Ad, Inc., Disability Advocacy Services, addressed the committee. He stated that their interest in these rules is non-financial. They are interested in how the rates are set and will contribute to the quality of services for the individuals they serve. He stated that his concern is people being turned away from services because it is not economically feasible for businesses to provide them. He stated, "Access and quality of service is a problem." The cost to serve some individuals is more expensive than others.

**Charles Williams**, employee for a certified family home in Boise, addressed the committee. He stated that there are fewer certified homes because the margin is not there. He said that one of the biggest reasons for not participating in the survey was the distrust with the department. He also said that some of the questions were not suitable.

**MOTION:**

**Rep. Garrett** stated that it is important that we have a system that assures that people with disabilities are kept in our communities. "It is important that we get it right." She stated that both Houses unanimously passed HB 190 last year and we have a commitment to our fellow legislators. "We have an obligation to the people."

**Rep. Henbest** stated that in reviewing the report, it appears that the department did comply with statute. She further stated that maybe a private contractor should be hired, because of the trust issue.

**Rep. Sali** stated that the results are not about setting rates but about setting methodology. He further stated that information that was required in statute to be collected by the department is not addressed in these rules. He said, "The rule gives us information but does not tell us how to establish rates." He stated that the rules do not reflect the intent of the Legislature.

**Rep. Sali** moved to reject **Docket 16-0309-0503**. Committee discussion continued.

**Rep. McGeachin** asked the providers if they would be willing to work with the department in developing a methodology that would be acceptable.

Some of the comments heard from providers were the following considerations: level of job skill with rate of pay; workmen's compensation and liability costs; staffing costs compared to what the market is bearing in the public and private sector; costs to provide quality of services; increase in costs of doing business; look at the overall picture; consumer representation included with the department and provider decision-making and recommendation process; more comprehensive survey, looking at more than just the costs currently being incurred.

**Rep. Henbest** stated that she believes this process has already been done. She said that a survey was negotiated and sent out and only 2% responded. She stated that she does not expect the Legislature to make a decision without knowing what the market place is like. She further stated that if the providers are not willing to provide information, then it is not possible to help them.

**Rep. Garrett** stated that she believes that everyone came together and worked very hard. However, the survey tool is only one tool by which to determine rates. She commented that she wanted someone to champion the effort among the providers and tell us what we need to know.

**Rep. Rusche** stated that a 2% survey return rate is not adequate and it is impossible to say that rate setting based on this is a fair and equitable process. He said that he thinks the rule should be rejected.

**Rep. Nielsen** commented that he is concerned about solving this problem this year, and coming up with something that JFAC will accept, so that services can be provided. **Mr. Wilson** commented that anything at this point to get them closer to establishing a solid methodology next year.

**Rep. Sali** stated that more information is needed if we are going to make adjustments. He further stated that by either rejecting or by accepting

**VOTE:** these rules there will not be an increase. He suggests to reject the rule, and go forward and make an analysis.

**Rep. Martinez** called for the question. The committee voted.

The motion was carried by voice vote.

**Rep. McGeachin** suggested offering a reimbursement for the increase in the cost of gas to the providers, and asked them if they could come up with a dollar amount and bring the information back to the committee. There was discussion among the members and providers.

**Rep. Bilbao** suggested a time limit to have this information back to the committee. Some of the providers said that gas reimbursement is unique to case management service coordinators. There was discussion on a sufficient amount of time to allow providers to return to the committee. There was discussion about taking this issue up in the Medicaid Savings and Efficiencies Task Force Subcommittee.

**MOTION:** **Rep. Bilbao** moved to request that the providers find out the increase in gas prices and bring this information back to the Medicaid Savings and Efficiencies Task Force Subcommittee within fifteen days. There was discussion on the motion.

**MOTION:** **Rep. Garrett** moved that this committee ask the Medicaid Savings and Efficiencies Task Force Subcommittee to look at provider reimbursement rates and take testimony and make recommendations.

**Rep. Nielsen** called for a point of order. He stated that **Rep. Bilbao** had a motion on the table.

**Rep. Garrett** withdrew her motion.

**MOTION:**  
**Restated** **Rep. Bilbao** restated his motion. He moved that the providers bring back to the Medicaid Savings and Efficiencies Task Force Subcommittee information that can be researched by the state, within fifteen days of today, so that a determination can be made on reimbursement rates.

**Rep. McGeachin** commented that her intent was to provide some form of temporary assistance because of energy increases. There was feedback from providers.

**Mr. Wilson** commented that because some are over paid, this will drive up over-utilization of services. He recommended coming up with specific recommendations from procedural codes. **Ms. Clement** responded by saying that providing this information can easily be accomplished.

**Rep. Sali** spoke against the motion explaining that not all of the members are on the subcommittee and he would like an opportunity to vote on this in the full committee.

**Rep. Henbest** requested that the providers keep this revenue neutral.

**SUBSTITUTE** **Rep. Nielsen** moved to accept Mr. Wilson's comments about proceeding

**MOTION:** according to the current rate-of-pay schedule and bring the information back to this committee. Discussion followed.

**SUBSTITUTE MOTION Restated:** **Rep. Nielsen** restated his motion. He moved that the providers and the department will work together on reimbursement rates and bring that information back to the full committee as soon as possible.

**AMENDED SUBSTITUTE MOTION:** **Rep. Sali** moved that the matter be referred to the Medicaid Savings and Efficiencies Task Force Subcommittee. Discussion followed.

Prior to the vote, **Rep. Garrett** stated that her husband owns a mental health clinic and 5% of his business is Medicaid.

**Rep. Rusche** called for the question. The committee voted on the amended substitute motion.

**VOTE:** By a voice vote the amended substitute motion passed.

The committee recessed at 5:08 PM before continuing with the remaining two dockets.

The committee was called back to order at 5:20 PM.

**16-0411-0502** **Developmental Disabilities Agencies (DDAs) - rewrite**  
**Cameron Gilliland**, Program Manager for Family and Community Services, addressed the committee. These changes will make DDA programs more effective, clarify what is expected of providers, and assure the continuum of services for individuals with a developmental disability as required by Idaho Statute. (See further testimony attached)  
There were questions from the committee.

**Rep. Henbest** questioned the 30 day time period for returning medication as being too long for the agency to retain a prescribed medication that is no longer being used by the participant. Mr. Gilliland assured her that her concern will be considered when the providers and stakeholders and department meet again.

**Corey Makizuru**, Idaho Association of Developmental Disabilities Agencies, addressed the committee (IADDA). He began by stating that IADDA endorses these rules and appreciates the efforts of the department and the workgroup that developed these rules. He stated that they support the rules under the supposition that the department will fulfill its written agreement to add a professional-level service that meets the objectives of supportive counseling as defined in the Rules of the State Board of Social Worker Examiners. This process will include making changes in rule, amending Medicaid, and establishing a fair reimbursement rate. He cautioned that by adding requirements, resulting expense will be incurred due to increase in paperwork, personnel, training and operational costs, etc. (See 12-page detailed testimony attached)  
There were questions from the committee.

**Bill Benkula**, addressed the committee. He stated that he thinks that these rules are good rules and add substance for providers; but there is a

cost associated with them. He further stated that if you want the rules, you need to tie reimbursement rates to them for providers. (See attached testimony) There were questions from the committee.

**MOTION:** **Rep. Nielsen** moved to accept **Docket 16-0411-0502** as presented, with the providers making their requests known to the department.

Discussion continued. **Rep. Shepherd** questioned the increase in cost if the rules are implemented. **Mr. Gilliland** replied that most of the cost is already in rule. There are only a few added costs.

**Rep. Martinez** called for the question. The committee voted

**VOTE:** The motion was carried by voice vote.

**16-0411-0501** **Development Disabilities Agencies - repeal**  
**Mr. Gilliland** explained that this is a repeal of the chapter.

**Rep. Rusche** moved to accept **Docket 16-0411-0501** as presented.

**Rep. Nielsen** called for the question. The committee voted.

**VOTE:** The motion carried by voice vote.

**ADJOURN:** There being no further business, the meeting was adjourned at 6:20 PM.

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Representative Sharon Block  
Chairman

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Jennifer O'Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE GARRETT SUBCOMMITTEE

**DATE:** January 27, 2006

**TIME:** 8:00 am or upon adjournment

**PLACE:** Room 408

**MEMBERS:** Chairman Garrett, Representatives Nielsen, Ring, and Martinez

**ABSENT/  
EXCUSED:**

**GUESTS:** Peggy Cook, DHW Manager; Ken Mordan, DHW Rules Specialist; JoAn Condie, Executive Director, ISPA; and Mick Markuson, Board of Pharmacy

The meeting as called to order by Chairman Garrett.

**MINUTES** **Rep Nielsen** moved that the minutes of January 18, 2006, be approved as written.

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

**Docket  
27-0101-0501** **Chairman Garrett** stated the previous decision of this committee was to recommend to the full committee that **Docket 27-0101-0501** be approved, but then extensive discussions were held on the interpretation of the ruling in regards to required identification and in what form. Chairman Garrett said there were about three options that could be considered, accept the first decision to recommend approval by the full committee, reject the rule, or accept the rule with some clarification.

**Rep Nielsen** said he did not see anything out of line with the rule as written and **Rep Ring** agreed with him. He feels the pharmacy could use a form that has a box to be marked as to type of ID or whether the person was known personally to the pharmacist.

**Mr Markuson, Executive Director , Idaho Board of Pharmacy** said that almost all pharmacies are obtaining identification. There is a sign used by pharmacies that says "We verify all controlled substance abuse prescriptions". He said positive identification is required.

He further presented a letter to the members of the committee which addressed concerns the committee had in regards to Rules 433, 463, and 464. The letter stated there needs to be a description of the means of positive identification obtained by the pharmacy when required. It further said compliance with Rules 463 and 464 would include a photocopy of the means of identification. IDAPA 27.01.02.433.10 spells out what positive consists of.

**Rep Nielsen** took exception to this letter because the rule itself made no mention of a photocopy of the means of identification. He felt rules should be plainly written so everyone would understand them without leaving them

open to interpretation. There is a discrepancy between the Rule and the Pharmacy Board in regards to the need to include a photo copy .

**Pam Eaton, Idaho Retailers Association, said the Idaho State Pharmacy Association** opposes the rule. They feel it is still vague in interpretation in that the rule does not ask that documentation be required. She had a letter from **Stanley Gibson, Legislative Chairperson for the Idaho State Pharmacy Association.** He stated the present rule requires positive identification, it does not require any documentation or retrieval of documentation in order to assist the Board of Pharmacy in investigations of controlled substance abuse.

**Pam Eaton** said the pharmacies are nervous about citations being given out because pharmacies are not photo copying identification. She further said these pharmacies find it cumbersome to photo copy or pull photo copies each and every time a prescription is refilled.

**Rep Garrett** questioned whether all pharmacies had copy machines or access to them in their immediate work area.

**Mr Markuson** said if the rule goes into effect an interpretation of the rule could be given.

**Rep Garrett** asked if the rule was in effect and pharmacies did not have a photo copy of the identification, could they get a citation. Mr Markuson didn't think they would, but couldn't promise they would not.

**Rep Garrett** asked **Dennis Stevenson, Administrative Rules Coordinator,** about interpreting rules. Mr. Stevenson said it is always problematic to require additional documentation to state what the rule means. He feels that if you have to rely on that, you should probably revisit the rule.

**Rep Garrett** asked Mr Stevenson if this committee rejects this rule, could Mr Markuson implement a temporary rule after the legislative session ends written in language that would take care of the problem. The answer is that they could.

**Rep Nielsen** asked Mr Markuson which way his group wanted to go, reject this rule and rewrite, or work to clear up this rule.

**Mr Markuson** thinks most pharmacies will read this rule and have something for documentation. He further said it is hard for him to make this decision by himself without checking with his Board.

#### **MOTION**

**Rep Ring** moved that this committee accept **Docket 27-0101-0501,** and recommend to the full committee that it be approved, along with sending a letter from the committee to the Board of Pharmacy asking that they further clarify the description of documentation required by a temporary rule.

#### **SUBSTITUTE MOTION**

**Rep Nielsen** made a substitute motion to reject this rule with a letter from the full committee to the Board of Pharmacy to instruct they put a temporary rule into effect as soon as possible to include the appropriate, clear language that reads "identification information shall be in a form retrievable by the

pharmacy.”

**Rep Garrett** asked Mr Stevenson if the committee could write this letter of recommendation.

**Mr Stevenson** replied it could be done but normally would not be, since the legislature is not in the business of rule writing. The best simple solution would be to accept the rule and let the department issue a temporary rule.

**Rep Nielsen withdrew the substitute motion.**

**VOTE**

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

**Mr Markuson** apologized that this issue was not resolved among the group involved before coming to this body.

**Docket  
16-0305-0601**

**Peggy Cook, Program Manager, Idaho Department of Health and Welfare**, stated the department had asked for this rule change because of the impact of the Medicare Prescription drug program on some of their clients. This rule, as proposed, increases the client basic allowance from \$67.00 to \$87.00. This would leave only \$4.00 of a \$24.00 Social Security cost of living increase for providers to increase what they charge for rent, utilities and food.

The department was asked by the Senate H & W Committee to work with client advocates and representatives of the provider to negotiate a solution that meets client and provider needs. The group reached agreement in two areas, that clients need an increase in their basic allowance and that providers need to be able to increase their charges to meet increased costs.

A compromise was reached that will change the client allowance from \$67.00 to \$77.00, giving each client an extra \$10.00, leaving \$14.00 available to providers to increase charges for rent, utilities and food.

Since this is a temporary rule the \$87.00 allowance is already in effect and clients received an extra \$20.00 in January. The Department is asking this committee to approve the rule as written. On the first of February the Department will amend this rule with a temporary rule to be published and effective on March 1, 2006 that makes the change to \$77.00.

**Rep Nielsen** wanted to know if this rule involved people who have turned over their Social Security to a provider. He further wanted to know whether all the basic needs could be met. It was explained that now the client was paying a co-pay on prescriptions which could run from \$1.00 to \$3.00 per prescription. Nursing home patients do not have a co-pay. These rules are established by the federal government.

**MOTION**

**Rep Martinez** moved that this committee recommend to the full committee that Docket 116-0305-0601 be approved.

**VOTE**

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

**ADJOURN**

There being no further business the meeting was adjourned at 11:25 am.

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Representative Kathie Garrett  
Chairman

Barbara L Allumbaugh  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 30, 2006

**TIME:** Upon Adjournment of the House

**PLACE:** Room 404

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

**GUESTS:** Please see attached sign-in sheet.

**ABSENT/  
EXCUSED:** Representative Henbest

The Chairman called the meeting to order at 2:08 PM. The first order of business was the approval of the minutes. **Rep. Rusche** noted the word problematic on page 4, paragraph 5 should be programmatic.

**MOTION:** **Rep. Rusche** moved to accept the minutes of January 24 with the correction. The motion was carried by voice vote.

**Chairman Block** welcomed Representative **Les Boch**, Attorney, who was substituting for **Rep Henbest**.

#### **Subcommittee Final Report - Representative Garrett**

**16-0203-0501**

#### **Emergency Medical Services**

HB 697 directs the Board of Health and Welfare to include criteria for air medical services utilized by Emergency Medical Services (EMS) personnel at emergency scenes. A new section of rule is being added to this chapter that outlines the clinical and operational factors influencing air medical use and decision making by EMS personnel. The result of this rule will be locally developed protocols that optimize patient care and transportation choices made by EMS personnel at emergency scenes. The subcommittee recommended that the full committee accept the rule.

**MOTION:** **Rep. Garrett** moved that the full committee accept **Docket 16-0203-0501**. The motion was carried by voice vote.

**16-0305-0502**

#### **Revocable Trusts, Annuities, Life Estates - Aid to the Aged, Blind, and Disabled (AABD)**

This rule has been modified and now has seven changes, two are content changes (Sections 801 and 742) and five are updates to legal authority and to numbering or reference cites. Changes in Section 801 clarify existing policy. A person who is not eligible for Medicaid solely because he does not meet immigration status requirements can receive coverage only in a medical emergency. The primary change is a clarification to Section 742. This rule allows a couple who must live apart because one of them must enter a nursing home to divide their assets equally according to a set of federally established allowances, which increase annually. The subcommittee recommended that the full committee accept the rule.

**MOTION:** **Rep. Garrett** moved that the committee accept **Docket 16-0305-0502**.  
The motion carried by voice vote.

**16-0608-0501** **Rules and Minimum Standards for DUI Evaluators**  
This rulemaking is needed to improve the quality of DUI evaluations performed by qualified professionals licensed by the department. This will be accomplished by strengthening and clarifying the criteria for initial application and renewal of a license. The rule assures that evaluations performed for those accused of driving under the influence meet the demands of the courts. These rule changes will benefit DUI evaluators by providing clear information on the licensure process, continuing education requirements, and statistical reporting. The subcommittee recommended that the full committee accept this rule.

**MOTION:** **Rep. Garrett** moved that the committee accept **Docket 16-0608-0501**.  
The motion carried by voice vote.

**16-0301-0501** **Eligibility for Health Care Assistance/Families and Children**  
**Rep. Garrett** explained that one of the changes in this rule makes the rules consistent with the Medicaid State Plan and brings them into compliance with federal regulations. It clarifies language that supports the department's eligibility decisions in the Family Medicaid Programs and improves accuracy and consistency of rule application by department staff. This provides for no asset transfer penalty for any family Medicaid program. This would eliminate the current asset test for children applying for CHIP B or the Access Card. This change removes the minimum income limit for CHIP B and Access Card and allows Idaho families access to health coverage that would currently be denied because of excess resources. The subcommittee recommended the full committee accept this rule.

**MOTION:** **Rep. Garrett** moved that the committee accept **Docket 16-0301-0501**.  
There was discussion on the motion.

Some of the comments by members were: concern for broadening the program without having an accurate accounting of the revenues going in and out of the Premium Tax Fund; concern that removing the asset transfer penalty allows those who have the resources not to have to pay; this is money that could be used to help those who are in need and do not have the resources.

**Peggy Cook**, Program Manager, Division of Welfare, replied to a question from a member. She explained that by removing the asset test, they expect to see approximately an increase of about 1800 children who will qualify over the next three years.

**Rep. Sali** asked if a family with six children who had an income of \$65,000, would qualify. **Ms. Cook** replied that they probably would, but that determination would be subject to the poverty guidelines for families.

**Rep. Martinez** commented that providing this insurance program will save money in the long run.

**VOTE:** A roll call vote was taken.

Representatives Block, Garrett, Ring, Bilbao, Martinez, Rusche, and Mr. Boch voted Aye.

Representatives Sali, McGeachin, Nielsen, Loertscher, Shepherd voted Nay.

The motion passed.

**16-0305-0501**

**Work Incentives - AABD - Aid to the Aged, Blind and Disabled**

This rule change provides more opportunity for people with disabilities to work without losing Medicaid benefits. This change is limited to individuals already receiving Medicaid and AABD state cash assistance, and allows them to begin working or increase their earnings and still maintain their Medicaid coverage. The subcommittee recommended that the full committee accept this rule.

**MOTION:**

**Rep. Garrett** moved that the committee accept **Docket 16-0305-0501**. The motion carried by voice vote.

**16-0305-0503**

**Alignment/Social Security Act/Medicare Part D**

There are two sets of federally required changes in these rules as well as one department change. The first change authorizes the department to implement the Medicare Prescription Drug Plan to allow individuals to participate. The second is to align with minor eligibility criteria changes in the Social Security Act. The subcommittee recommended that the full committee accept this rule.

**MOTION:**

**Rep. Garrett** moved that the full committee accept **Docket 16-0305-0503**. The motion carried by voice vote.

**16-0305-0601**

**Personal Needs Allowance Increase**

This rule change increases the basic needs allowance for AABD participants from \$67 a month to \$87 a month. This increase of \$20 will help meet the cost of prescription drugs. With only \$67 to purchase personal products such as soap, shampoo and over the counter medications, as well as clothing and other essentials, the added cost of prescriptions could result in some very difficult choices. **Rep. Garrett** explained that there had been an issue over how the money should be divided. The department and providers came to agreement that \$10 would go to the recipient and \$14 to the providers (\$4 already earmarked for the provider).

**MOTION:**

**Rep. Garrett** moved that the full committee accept **Docket 16-0305-0601**. The motion carried by voice vote.

**Rep. Nielsen** made the suggestion of dividing the \$24 equally in half.

**MOTION:**

**Rep. Nielsen** moved to divide the total of \$24 equally between the recipient and the provider.

**Chairman Block** ruled that this will be non-binding. The Chairman ruled that the rule to consider at this point in time is a different rule that would be written by the department.

**16-0316-0501**

**Adult Access Card**

**Rep. Garrett** explained that this rule adds a new chapter describing

parameters of the Adult Access Card program, which provides health insurance premium assistance for employees or spouses of employees working in small businesses.

**MOTION:** **Rep. Garrett** moved that the committee accept **Docket 16-0316-0501**. There was discussion on the motion. One concern expressed was tax payers paying for a non-citizen. Another concern was that of placing fixed amounts on premiums in rule.

In response to a question, **Ms. Cook** said there are currently 277 individuals receiving coverage through private insurance who were previously unable to afford it.

**VOTE:** A roll call vote was taken.  
Representatives Block, Garrett, Nielsen, Ring, Bilbao, Martinez, Rusche, and Mr. Boch voted Aye.  
Representatives McGeachin, Loertscher, Shepherd voted Nay.

The motion passed.

**27-0101-0501** **Identification of Persons Obtaining Prescriptions**  
**Rep. Garrett** explained that this rule change clarifies the existing requirement that pharmacies have positive identification for persons receiving controlled substances to better outline the means of compliance with this requirement. She further explained that there had been an issue with the interpretation of the word "*description*." The subcommittee recommended that the full committee accept the docket on the basis that the Board of Pharmacy will draft a letter specifying a clear definition of what the word "*description*" means and how the pharmacies will be complying with this rule. The subcommittee recommended that the full committee accept the rule.

**MOTION:** **Rep. Garrett** moved that the committee accept **Docket 27-0101-0501**. The motion was carried by voice vote.

**Rep. Nielsen** recommended getting this done before the end of the session. **Dennis Stevenson**, Rules Administrator, yielded. He explained that if this rule goes into effect at the end of the session, a temporary rule can be back dated to Sine Die so that they both go into effect at the same time.

**27-0101-0502** **Drug Product Selection Applicable to Medicaid Law**  
**Rep. Garrett** explained that this rule is necessary to conform to changes in applicable Medicaid law. This rule change eliminates the reference to drug product selection for Medicaid patients, which is no longer applicable under current law.

**MOTION:** **Rep. Garrett** moved that the committee accept **Docket 27-0101-0502**. The motion carried by voice vote.

#### **Subcommittee Final Report - Representative McGeachin**

**16-0210-0501** **Idaho Reportable Diseases**  
**Rep. McGeachin** explained that the alignment of language between the

Idaho food code rules and Idaho Reportable Diseases rules eliminates possible sources of confusion for those who are using chapters of rules to manage food employees with infectious diseases, thereby reducing the risk to the public from food borne infections. Reporting times for some diseases have been shortened to better protect the public health; among these diseases is Tularemia, a potential agent of bio terrorism. The subcommittee recommended to the full committee to accept this rule.

**MOTION:** **Rep. McGeachin** moved that the full committee accept **Docket 16-0210-0501**. The motion carried by voice vote.

**16-0612-0501 Idaho Child Care Program (ICCP)**

**Rep. McGeachin** explained that these rules add a three-month limit on the length of time, in a calendar year, that parents looking for work can receive child care assistance. The subcommittee recommended that the full committee accept this rule.

**MOTION:** **Rep. McGeachin** moved that the full committee accept **Docket 16-0612-0501**. The motion carried by voice vote.

**16-0602-0501 Child care licensing**

**Rep. McGeachin** explained that recent improvements in children's programs have made the current semi-annual licensing visit requirement redundant. The department proposes to increase the maximum length of time between onsite licensing visits from six months to twelve months for licensed foster homes, licensed children's agencies, licensed children's therapeutic outdoor programs, and licensed children's residential care facilities. The subcommittee recommended that the full committee accept this docket.

**MOTION:** **Rep. McGeachin** moved that the full committee accept **Docket 16-0602-0501**. The motion carried by voice vote.

**16-0304-0501 Food Stamps**

**Rep. McGeachin** explained that these rule changes will help reduce the department's food stamp error rate by eliminating unnecessary work and clarifying definitions. The subcommittee recommended that the full committee accept this rule.

**MOTION:** **Rep. McGeachin** moved that the full committee accept **Docket 16-0304-0501**.

**23-0101-0501 Licensure renewal**

**Rep. McGeachin** explained this docket will increase the cost of renewal of licensure from \$50 to \$90 for the two-year renewal period and endorsement of licensure from \$85 to \$110. This proposed rule-making is necessary, based on projections for agency needs in the next two to five years. The needs involved are additional administrative costs which are a direct result of recently passed legislation enacted by this body involving background checks. The subcommittee recommended that the full committee accept this docket.

**MOTION:** **Rep. McGeachin** moved that the full committee accept **Docket 23-0101-0501**. The motion carried by voice vote.

- 24-0601-0501**      **Board of Hearing Aid Dealers & Fitters/chapter repeal**  
**Rep. McGeachin** explained that this is a chapter repeal. A new law was developed that combines the three boards into one. The Board of Hearing Aid Dealers and Fitters, the Board of Social Work Examiners were combined with the Board of Speech and Hearing Services. The subcommittee recommended that the full committee accept this docket.
- MOTION:**      **Rep. McGeachin** moved that the full committee accept **Docket 24-0601-0501**. The motion carried by voice vote.
- 24-1401-0501**      **Board of Social Work Examiners - Information update**  
This docket updates the contact information and addresses the requirements.
- MOTION:**      **Rep. McGeachin** moved that the full committee accept **Docket 24-1401-0501**. The motion was carried by voice vote.
- 24-2301-0501**      **Board of Speech and Hearing Services - Fees**  
This docket for the Board of Speech & Hearing is for a increase in fees. Based on the statute from last session, this docket establishes fees for the new board, which is currently in the process of receiving registration fees. She stated this is a temporary rule from the 2005 Legislature. The subcommittee recommended that the full committee accept this docket.
- MOTION:**      **Rep. McGeachin** moved that the full committee accept **Docket 24-2301-0501**. The motion was carried by voice vote.
- 19-0101-0501**      **Revisions for teaching guidelines**  
This is a housekeeping rule that incorporates American Dental Association (ADA) national standards that will bring the Idaho Board of Dentistry into compliance. The dentists in Idaho have been following these standards since 2000 and 2003. The subcommittee recommended that the full committee accept this docket.
- MOTION:**      **Rep. McGeachin** moved that the full committee accept **Docket 19-0101-0501**. The motion was carried by voice vote.
- 19-0101-0503**      **Biennial licensing systems**  
**Rep. McGeachin** explained that the Board of Dentistry asked the committee to reject this docket. It is a change in the way the board sends out licenses from annually to biannually and there is already legislation in the process to accomplish this. The subcommittee recommended to the full committee to reject this docket.
- MOTION:**      **Rep. McGeachin** moved that the full committee reject **Docket 19-0101-0503**. The motion carried by voice vote.
- 19-0101-0502**      **New sedation permit**  
**Rep. McGeachin** explained that there were issues revolving around the number of days to acquire training for oral sedation certification. The subcommittee recommended that the issues be addressed in the full committee. This will have a hearing at the full committee meeting,

Thursday, February 2.

### **Subcommittee Final Report - Rep Loertscher**

- 24-0301-0501**      **State Board of Chiropractic Physicians**  
The purpose of this rule is to update contact information for the board for public access, define athletic trainer, and set standard. The rule also provides for supervision of athletic trainers in compliance with Title 54, Chapter 39. It sets deadline for appeals on peer review conducted by the committee. There was no public testimony. The subcommittee recommended to the full committee to accept this docket.
- MOTION:**      **Rep. Loertscher** moved that the full committee accept **Docket 24-0301-0501**. The motion carried by voice vote.
- 24-1101-0501**      **State Board of Podiatry**  
**Rep. Loertscher** explained that this is mainly a housekeeping rule. The purpose of the rule is to update incorporation by reference, update board contact information, clarify podiatric residency requirements, change examination dates, clarify acceptable examination and documentation, and provide a scope of practice. The subcommittee recommended to the full committee to accept this docket.
- MOTION:**      **Rep. Loertscher** moved that the full committee accept **Docket 24-1101-0501**. The motion carried by voice vote.
- 24-1501-0501**      **State Board of Professional Counselors and Marriage Family Therapists**  
**Mr. Loertscher** explained that the purpose of the proposed rulemaking is to add supervision and continuing education requirements that are needed to further protect the public; increase the number of supervisors to allow more supervisory opportunities in the rural portions of Idaho; add deadline for application review to avoid last minute rushes; and add an administrative fee for the examination. There was no public testimony. The subcommittee recommended to the full committee to accept this docket.
- MOTION:**      **Rep. Loertscher** moved that the full committee accept **Docket 24-1501-0501**.
- 24-1901-0501**      **Board of Examiners of Residential Care Facility Administrators**  
The purpose of the rule is to update board contact information, revise the suitability portion of qualifications for license, revise educational and training requirements of courses other than pre-approved, revise the continuing education course approval process, and increase the annual renewal fee to \$100. There was no public testimony. The subcommittee recommended to the full committee to accept the docket.
- MOTION;**      **Rep. Loertscher** moved that the full committee accept **Docket 24-1901-0501**. The motion carried by voice vote.
- 16-0319-0502**      **Certified Family Homes - rewrite**  
**Rep. Loertscher** explained that these rules have to do with certified family Homes. This chapter of rules is being repealed and rewritten to

better serve Idaho's population of vulnerable adults living in certified family homes. The rules being repealed had requirements more suited for larger facilities and were not always appropriate for a family home. There was no public testimony. The subcommittee recommended that the full committee accept this docket.

**MOTION:** **Rep. Loertscher** moved that the full committee accept **Docket 16-0319-0502**. The motion carried by voice vote.

**16-0319-0501** **Certified Family Homes - repeal**  
**Rep. Loertscher** explained that this is the repeal to the chapter.

**MOTION:** **Rep. Loertscher** moved that the full committee accept **Docket 16-0319-0501**. The motion carried by voice vote.

**16-0503-0501** **Contested Case Proceedings and Declaratory Rulings**  
**Rep. Loertscher** explained that this rule has to do with Contested Case Proceedings and Declaratory Rulings. These rule changes will reduce the number of appeals that need to be reviewed by the director, saving both time and money. Three sections of this rule will be revised to clarify the following issues: when an appeal is to be filed; the hearing officer must dismiss an untimely appeal; and a proposed order of default must be issued if someone fails to appear for a hearing allowing fourteen (14) days to show just cause to the hearing officer as to why the hearing was missed. There was no public testimony. The subcommittee recommended that the full committee accept this docket.

**MOTION:** **Rep. Loertscher** moved that the full committee accept **Docket 16-0503-0501**. The motion carried by voice vote.

**22-0101-0501** **Licensure to practice medicine, surgery and osteopathic surgery**  
Section 010 pending fee rule reorganizes the rules and simplifies language and removes outdated waiting periods and references to a state examination and oral examination no longer in use. Section 050 eliminates sections and combines various portion of the old rule into one section defining qualifications for licensure for all applicants. Section 051 deletes old terminology, clarifies and simplifies requirements for foreign medical graduates. Section 052 changes references in rule to reflect the new section number. Section 076 establishes qualification and requirements for a temporary license.

Further, Section 077 eliminates redundant explanations and clarifies the qualifications for an inactive license. Section 078 defines prorated fees to bring license expiration in line with next regularly occurring expiration date. Section 080 establishes requirements and licensing framework for a volunteer license. Section 100 eliminates outdated state examination and oral examination license fees, establishes a zero dollar issue and a renewal fee for the volunteer license. Section 101 adds requirements and definition of adequate medical records, clarifies misuse of volunteer license for financial gain as grounds for discipline, and adds interfering with an investigation or disciplinary proceeding as a grounds for discipline. There was no public testimony. The subcommittee recommended that the full committee accept the docket.

- MOTION:** **Rep. Loertscher** moved that the full committee accept **Docket 22-0101-0501**. The motion carried by voice vote.
- 22-0105-0501** **Licensure of physical therapists and assistants**  
Section 010 removes reference to the Physical Therapy Advisory Committee and provides housekeeping changes and clarification of terminology. Section 016 provides housekeeping changes and removes ambiguous language (a degree no less than Line 04). Section 020 changes the Physical Therapy Advisory Committee to a licensure board, defines Board membership, adds public membership, and provides a framework for meeting frequency, and provides housekeeping changes for clarity. Section 31-32 provides housekeeping clarification to terminology and clarification to application and fee requirements. Section 33 indicates requirements for license renewal including the addition of continuing education requirements. Finally Section 35 establishes the continuing education requirement, establishes the criteria for approved programs, establishes reporting and audit requirements, and establishes specific waiver and exemption criteria including those for military service and illness, and establishes penalties for failure to comply with the requirements. There was no public testimony. The subcommittee recommended to the full committee to accept this docket.
- MOTION:** **Rep. Loertscher** moved that the full committee accept **Docket 22-0105-0501**. The motion carried by voice vote.
- 22-0111-0501** **Licensure of respiratory therapists and permitting polysomnographers**  
**Rep. Loertscher** explained that these are house keeping changes. Section 005 contains a general housekeeping change that was made to add the web address of the Board of Medicine. Section 32 provides for a prorated fee for licenses and permits issued for less than one full year. Section 034 provides for a prorated fee for licenses or permits that expire less than one year after issue. There was no public testimony. The subcommittee recommended that the full committee accept this docket.
- MOTION:** **Rep. Loertscher** moved that the full committee accept **Docket 22-0111-0501**. The motion carried by voice vote.
- 16-0601-0501** **Adoption Assistance Services**  
This proposed rule change will help prevent an adoptive family from inadvertently, and without notice, losing benefits for which they are eligible. This change deletes language stating that adoption assistance benefits may be suspended or terminated if the adoptive family fails to complete the annual recertification process. There was no public testimony. The subcommittee recommended to the full committee to accept the docket.
- MOTION:** **Rep. Loertscher** moved that the full committee accept **Docket 16-0601-0501**. The motion carried by voice vote.
- ADJOURN:** The meeting was adjourned at 4:20 PM.

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Representative Sharon Block  
Chairman

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Jennifer O'Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 2, 2006

**TIME:** 1:30 PM

**PLACE:** Gold Room

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

**ABSENT/  
EXCUSED:** None

**GUESTS:** Please see attached sign-in sheets.

**16-0309-0502** **Chris Baylis**, Department of Health and Welfare (DHW), addressed the committee. This rule change establishes a new level of care for people living in Certified Family Homes and Assisted Living Facilities with a specific diagnosis of mental illness, mental retardation or Alzheimer's Disease. The Uniform Assessment Instrument has been modified to better measure the needs and appropriate level of care for these individuals. The new level of care reflects behavioral needs and ties to an established reimbursement rate. This rule change also requires providers to have the skills and training appropriate to meeting the needs of this specific population.

In response to a question from **Rep. Nielsen**, **Ms. Baylis** said that she does not know how this will be lined out in the budget, but she will find out and report back to him.

**MOTION:** **Rep. Ring** moved that the committee accept **Docket 16-0309-0502**.  
**The motion carried by voice vote.**  
**Rep. Sali** is recorded as voting No.

**16-0322-0502** **Randy May**, Administrator, Medicaid Division, DHW, addressed the committee. The purpose of the rule is to protect the health, safety and individual rights of residents in assisted living facilities. (See attached testimony) He directed the committee's attention to a handout that was located in the member's packets that listed text in red that the department proposed to delete from rule (See attached handout entitled, Final Agreed to Deletions Based on Stakeholder Input). He also referred to a letter of intent dated February 2, 2006 addressed to Chairman Block and Committee Members, copies of which were given to the committee (see attached letter).

**Mr. May** proceeded to explain that in addition to deletions listed in the document before them, the department commits to promulgate a temporary rule to modify the requirement in Section 152 regarding Admissions Policies. Mr. May explained that this modification will extend the present "grandfathering clause" for existing facilities licensed prior to July 1, 1992. That extension will have a date certain sunset of July 1,

2010 at which time all facilities accepting residents incapable of self evacuation will have a sprinkler system installed.

**Mr. May** was asked if any of the facilities that have not met the requirements, have been licensed, since 1992. He replied, "No."

In response to a question, **Mr. May** said that if by the sunset date, a facility has not installed a sprinkler system, the resident will need to find another facility with a sprinkler system.

**Michelle Glasgow**, representing the Idaho Assisted Living Association (IDALA) addressed the committee. Ms. Glasgow presented to the committee some of the concerns that they have with these rules and why they are opposing them. (See attached testimony.) She provided a handout listing key points supporting the opposition by IDALA (See attachment – IDALA). There were questions from the committee.

**Doug Strosnider**, Fireman, Nampa, addressed the committee in support of the rules. He stated that sprinkler systems do work and they do save lives.

**Ms. Glasgow**, responded to a question by saying that Section 466.04 "misses the mark." It removes resident choice. She stated that these rules do not deal with the most serious and important issues of the residents. She asked that the committee to reject these rules as written so that they can all sit down together and develop a clean set of rules that develop a system of care that is unique to Idaho, meet the needs of assisted living residents and allow providers to operate in an appropriate regulatory environment. There were questions from the committee.

One member stated that the rules are more important for some facilities but are not applicable to smaller facilities, for people who need less assistance. Some are almost bed bound and some are still driving cars.

**Cynthia Park**, Registered Nurse, spoke in opposition to Section 10.12 of the rules. She stated that she wants a physician to be part of decision making related to that part of the rule.

**Cathy Hart**, Idaho State Ombudsman for the Elderly, Idaho Commission on Aging, addressed the committee in support of the rule. (See attached testimony)

**Robert Vande Merwe**, Executive Director, Idaho Health Care Association, addressed the committee in support of the rule. Mr. Van DeMerwe commented that he is concerned about patients living in facilities without a sprinkler system who can not self evacuate.

**Jim Baugh**, Executive Director for Co Ad, Inc., addressed the committee in support of the rule. He stated that they are one on the stakeholders who attended meetings during the negotiated rule making. He stated that they support the rules in general. However, he wants to see subsection 250.13, page 43 deleted.

**Sarah Thomas**, representing The Gables Facility and Mark Stephenson,

Consultant for the Gables, addressed the committee in opposition to the rules. (See attached testimony)

**Jerry Mitchell**, Administrator of Turtle & Crane and Syringa Homes Assisted Living in Idaho Falls, addressed the committee in opposition to the rule (see attached testimony).

**Scott Burpee**, CEO, Valley Vista Care Corporation, addressed the committee in support of the rule.

**Sharon Nelson**, private citizen, addressed the committee. She explained that she has a mother who resides in an assisted living facility. Ms. Nelson stated that these rules apply mostly to nursing homes and larger assisted living facilities. Ms. Nelson agrees that small facilities need rules, but not these rules. She stated that whatever it takes should be done to increase small homes like the one her mother lives in, and to keep existing ones from going out of business.

**Lois Perin**, AARP, declined at this time, from giving testimony.

**Debbie Van Meter**, Registered Nurse and past owner of a five-bed assisted living facility, addressed the committee in support of the rules. She stated that her experience with surveys from the department were pleasant and non-threatening.

**Bryan Elliott**, President of IDALA, addressed the committee in opposition to the rule. Mr. Elliott stated that he does agree that the intent of the department and providers is to seek the greatest care of residents. However, he stated that the rules are poorly written and difficult to interpret. He is concerned about how they are going to be interpreted.

Committee discussion and questions ensued regarding concerns over the issue of informational letters and the department's role in the interpretation of those letters.

**Mark Phelan**, Registered Nurse, and owner of Park Center Assisted Living Facility, addressed the committee in opposition to the rules. He would like to see negotiations continue. He expressed concern for how these rules will impact those who are under the care of Hospice.

**Kelly Buckland**, Director, Idaho State Independent Living Council, addressed the committee supporting the rules. He wants Subsection 150.13, Pg 43 stricken; otherwise, he stands in support of them.

**Kimberly, Feelin**, declined to testify at this time.

**Terese Sackos**, owner of Ivy Place and Amber Lane Assisted Living Facilities, addressed the committee in opposition to the rule. Ms. Sackos stated that her Alzheimer residents will not be able to continue living in her facilities if sprinkler systems are not installed. She stated that this has never been an issue before, and now she must consider spending around \$60,000 to \$80,000 to meet the sprinkler system and other requirements presented in these rules.

**John Cavanaugh**, speaking on behalf of her mother who lives in an assisted living facility, addressed the committee in opposition to the rule. He explained that his mother is in a hospice program and is receiving excellent care and considers the staff an extended family. He stated that any disruption to her environment could be catastrophic to her health and her financial independence. She pays for her expenses 100% and does not want or need or expect Medicaid assistance. (See testimony attached)

**Marilyn Sword**, Executive Director, Idaho Council on Developmental Disabilities, provided a letter addressed to Chairman Block and Committee Members, dated January 30, 2006, relaying support for the rule. (See attached letter)

**James Bruce**, past practicing Attorney and resident of Boise, addressed the committee in opposition to the rule. He explained that he believes the rules are not good and are very complicated. He said that the costs that are being implicated should be highly considered.

**Fred Scudder**, private citizen, addressed the committee in opposition to the rule.

**Tracy Hall**, Owner of an assisted living facility in Idaho Falls, addressed the committee in opposition to the rule. She stated that her costs will increase immensely.

**T. Shane Bell**, Executive Director of a skilled nursing home, addressed the committee in support of the rules. Mr. Bell realizes there will be costs involved, but stated that the bottom line is that there not be disasters, and the rules should be put into place to protect people.

**Grant Burgoyne**, Attorney for IDALA, addressed the committee in opposition to the rules. Mr. Burgoyne stated that these rules do not implement what the department says the intent is. These rules promote an institution-like environment. The statute says they should promote a home-like environment.

**Karen Scriber**, who represents family members residing in a facilities owned by Terese Sackos, addressed the committee in opposition to the rules. She explained that the facilities where her aunts reside have done an outstanding job of caring for them. She stated that she wants her loved ones to remain where they are and not be forced to move to a larger facility.

In response to concerns shared from the committee, **Mr. May** said that the rules do need more clarity, and they are willing to resume discussion with IDALA and providers and come back to the legislature next year with better rules.

Committee members expressed their desire for quality of care to be provided without over burdening providers and tenants of assisted living facilities.

**SUBSTITUTE**

**Rep. Ring** moved that the committee accept **Docket 16-0322-0502**, with

**MOTION:** the exception of the sections listed and provided today from the Department of Health and Welfare, and including the letter reflecting the commitments from the Department dated February 2, 2006.

**AMENDED SUBSTITUTE MOTION:** **Rep. Sali** moved that the committee defer action on **Docket 16-0322-0502** to a time certain, three weeks from today, February 22 or 24, 2006. **Rep. Sali** expressed concern that there are issues and problems that need to be worked out. They need additional time to try to clarify these rules.

Committee discussion followed.  
The call for the question was granted.

**VOTE:** By a roll call vote, the Amended Substitute Motion was voted on. Representatives Sali, McGeachin, Nielsen, Loertscher, Shepherd and Rusche voted Aye. Representatives Block, Garrett, Ring, Bilbao, Martinez, and Mr. Boch voted Nay.  
**The Amended Substitute Motion was a tie vote.** No action was taken.

By a roll call vote, the Substitute Motion was voted on. Representatives Block, Garrett, Ring, Bilbao, Martinez and Mr. Boch voted Aye. Representatives Sali, McGeachin, Nielsen, Loertscher, Shepherd and Rusche voted Nay.  
**The Substitute Motion was a tie vote.** No action was taken.

By a roll call vote, the Main Motion was voted on. Representatives Sali, McGeachin, Nielsen, Loertscher, Shepherd voted Aye. Representatives Block, Garrett, Ring, Bilbao, Martinez, Rusche and Mr. Boch voted Nay.  
**The Main Motion failed.**

**MOTION:** **Rep. Rusche** moved the committee to hold the bill in committee and to defer action for two weeks.

**SUBSTITUTE MOTION:** **Rep. Martinez** moved to accept **Docket 16-0322-0502**, with the exception of the sections listed and provided today by the Department of Health and Welfare, and to include the letter reflecting the commitment agreement from the Department dated February 2, 2006. **Rep. Martinez** commented that we have been working on doing this for two years. He said that we are never going to find an agreement that is going to be satisfactory for everyone.

**VOTE:** By a roll call vote the Substitute Motion was voted on. Representatives Block, Garrett, Ring, Bilbao, Martinez, Rusche and Mr. Boch voted Aye. Representatives Sali, McGeachin, Nielsen, Loertscher and Shepherd voted Nay.  
**The Substitute Motion passed.**

The Chairman recessed the meeting at 6:00 PM.  
The meeting was called back to order at 6:20 PM.

**16-0322-0501 MOTION:** **Rep. Rusche** explained that this docket is a repeal of the previous administrative rules of **Docket-0322-0502** and moved to accept **Docket 16-0322-0501**.

**The motion carried by voice vote.**

**19-0101-0502**

**Michael Sheeley**, Board of Dentistry presented this rule to the committee. He explained that this rule will clarify, revise, and delineate permissible sedation practices for qualified dentists practicing in Idaho. Conscious sedation is a minimally depressed level of consciousness and can be taken either through I.V. or orally. There are two kinds of permits, Comprehensive, requiring 60 hours of training, currently being used; and Limited, requiring 18 hours of education and 20 hours of experience.

**Dr. Tom Curtis**, Dentist and member of the Idaho State Board of Dentistry, addressed the committee in support of the rule. He stated that 95% of the dentists in this state are in favor of this proposal. He answered a member questioning medication used by saying that the dentist will know and will tailor the appropriate choice of medicine to the specified treatments.

**Dr. Ballinger**, Oral Surgeon from Nampa, addressed the committee in opposition to the rule. He stated that his primary concern is the issue of safety. He stated that sedation affects the brain and organs and is concerned with the geriatric patient.

**Jerry Davis**, Executive director of the Idaho State Dental Association, addressed the committee in support of the rule. He stated that they represent 89% of the practicing dentists in Idaho who unanimously voted to support this rule. (See attached testimony)

**Dr. Michael Silverman**, Dentist in Idaho, addressed the committee in support of the rule. He stated that 20 to 30% of the population is too afraid to have dental care. Some end up in hospitals and sometimes death occurs. He said that this 20 to 30% would be more likely to have treatment if they could be orally sedated. In closing, he said that this rule provides access to care and clearly defines a safe level of sedation.

**Dr. Pierce**, Oral Surgeon from Nampa, addressed the committee in opposition to the rule. He stated that a dentist needs to be efficient in giving I.V.'s in the event a patient has progressed too deeply into sedation and needs to be brought back to consciousness. He stated that there have two documented cases of deaths from over dosing from oral sedation.

When asked if there were enough people in his organization to meet demand, Dr. Pierce replied that there is a demand in this state. He said that he doesn't believe requirements should be lowered just because of need; dentists just need to work harder and get the education.

**Dr. Bengtson**, Trustee for Idaho Dental Association, addressed the committee in support of the rule. He said that it is important to encourage well-intended dentists to get the education so they can provide effective treatment. This proposal will provide for adequate access to the phobic. He further stated that there is the need to provide affordable alternatives, i.e., \$50 to \$60 is the cost for oral sedation compared to \$1,000 for the alternative. (See attached testimony)

**Dr. Sanders**, Oral Surgeon in Fruitland, addressed the committee in opposition to the rule. He stated that drugs are extremely safe, but if there is a problem with one of the medications, a dentist needs to have enough training to get out of trouble. Dentists must continue to get the highest level of training as possible.

When asked if technology has made drugs safer now, Dr. Sanders replied that they are much safer due to the advances made in pharmacology.

**Lynn Blasdell**, Dentist in Boise, addressed the committee in opposition to the rule. He explained that there is a lack of control when using a pill for sedation instead of a needle in the arm. He favors the higher standard of training. i.e., 60 hours that is currently required.

**Dr. Ferguson**, Periodontal Dentist in Boise, addressed the committee in support of the rule.

**Dr. Gerald Weitz**, D.D.S., addressed the committee, in support of the rule. (See attached testimony.)

**Dr. Wade Pilling**, D.D.S., addressed the committee in support of the rule. He stated that there has been no documentation of deaths from sedation. He said that he did this in dental school. He said that getting 60 hours of training/education will take decades because it is not easily accessible here in Idaho.

**Dr. Christianson**, Dentist in Nampa, addressed the committee in support of the rule. He stated that their goal is to create a relaxed atmosphere so that the patient can be relaxed. He further stated that those who can afford sedation by I.V. are either rich or on Medicaid.

**MOTION:** **Rep. Nielsen** moved that the committee accept **Docket 19-0101-0502**.

**Rep. Rusche** commented that he is pleased to see that several of the dentists, speaking today, offer services to Medicaid recipients.

**Rep. Martinez** commented that it is important to have as many people be seen by a dentist as possible.

**VOTE:** **The motion was carried by a voice vote.**  
**Rep. McGeachin** is recorded as voting No.

**ADJOURN:** The meeting was adjourned at 8:30 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 6, 2006

**TIME:** 1:30 PM

**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:** Please see attached sign-in sheet.

The meeting was called to order at 1:45 PM. The **Chairman** dispensed with the reading of the minutes.

The **Chairman** read a letter from **Randy May** from the Department of Health and Welfare, DHW, dated February 6, 2006, copies of which were given to the members. The letter was in reference to the Rules Governing Residential and Assisted Living Facilities in Docket 16-0322-0502 heard in committee February 2, 2006. (See letter attached)

The **Chairman** stated that recommendations that would apply differently to both the smaller and larger assisted living facilities are being considered by the department.

**Rep. Garrett** stated that she has requested having dialogue with the department regarding Section 002, page 8, of the rule regarding implementation letters and has already spoken with **David Rogers** from the Medicaid Division, DHW. She explained that this section needs further review. She suggested looking at a mechanism to make implementation letters become a formal part of the rule. She stated that she thinks that the current practice by the department is an unfair way of communication and it holds people accountable for letters that are three or more years old.

**Rep. Nielsen** made the suggestion of looking at smoke alarms with fire extinguishers as a possible option for the smaller facilities. He used the example of past occurrences where paint had melted on the wall before the sprinkler system was set off. He thinks smoke alarms would be a better alternative in some cases.

**Rep. Sali** stated that Idaho has one of the lowest death rates from fire. He further stated that installing single battery operated fire systems would be a good solution. He said that it is the smoke that kills, which would be detected by a smoke detector.

**Bill Walker**, Deputy Director, DHW, yielded to a question. He stated that the department recognizes that there are some issues that still remain for

many members of IDALA, Idaho Assisted Living Association, that need to be addressed between now and next session. One of which is the sprinkler system. He further explained the possibility of coming up with legislation that would separate the smaller facilities from the larger ones in determining sprinkler system requirements.

**Rep. Sali** stated that this rule is not ready yet. He strongly urged that the section regarding informational letters be revised.

**RS 15329**

**Revision of License and Certification Requirements**

**Roger Hales**, Attorney for the Bureau of Occupational Licenses, presented this legislation. This RS revises license and certification requirements for acupuncture. **Mr. Hales** explained that this removes archaic language and sets specific objective standards for acupuncture.

**MOTION:**

**Rep. Ring** moved to send **RS 15329** to Print. The motion carried by voice vote.

**Rep. Henbest** referred to the language which includes an advanced professional nurse practitioner, page 2, line 10. She asked **Mr. Hales** to check with the Board of Medicine to determine whether or not physician's assistant should be included in that language as well. **Mr. Hales** agreed to follow-up with the Board of Medicine.

**RS 15377**

**Board of Optometry Payment of Funds**

**Mr. Hales** explained that this legislation would delete the state board of optometry fund and allow funds to be paid directly in the account for the Bureau of Occupational Licences as requested by the Idaho State Treasurers office as are the other boards administered under the Bureau.

**MOTION:**

**Rep. Nielsen** moved to send **RS 15377** to Print. The motion carried by voice vote.

**RS 15378**

**Clarify Educational Training and Make Licensure Revisions**

**Mr. Hales** explained that this legislation clarifies approved educational training programs and corrects punctuation. It also deletes language that qualifies licensed nursing home administrators without examination or experience for licensure as residential care facility administrators.

**MOTION:**

**Rep. Nielsen** moved to send **RS 15378** to Print. The motion carried by voice vote.

**RS 15411**

**Increase Psychologist's Fee for License Renewal**

**Mr. Hales** explained that this legislation increases the cap on the fees for renewal of licenses. This increase would allow the Board to promulgate rules in the future if their budget moves into a deficit situation.

**MOTION:**

**Rep. Martinez** moved to send **RS 15411** to Print. The motion carried by voice vote.

**RS 15356**

**Ombudsman Program; Include Area Agencies Funding**

**Ms. Sarah Scott**, Commission on Aging, addressed the committee. She explained that this legislation modifies Idaho code to include the Ombudsman program as one for which Idaho Senior Services Act

Funding may be utilized. Idaho's rate in growth has put a substantial burden on local Substate Ombudsmen as they attempt to fulfill their visitation obligation and respond to the increasing number of resident complaints. This proposal will afford the Area Agencies on Aging more flexibility in funding their Ombudsman and other Senior Services Act programs.

**Ms. Scott** explained that after research, including research by the Deputy Attorney General, the omission of the provision for Ombudsman, line 23 and 24, had to have been an oversight.

**MOTION:** **Rep. Rusche** moved to send **RS 15356** to Print. The motion was carried by voice vote.

**ADJOURN:** The meeting was adjourned at 2:45 PM.

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Representative Sharon Block  
Chairman

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Jennifer O'Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 8, 2006

**TIME:** 1:30 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Representatives Block and Bilbao

**GUESTS:** Please see attached sign-in sheet.

The meeting was called to order by **Vice Chairman Garrett** at 1:35 PM. The **Vice Chairman** dispensed with the reading of the minutes.

**RS 15902**

**Physical Therapy - Transfer of Governing Agencies**

**Jeremy Pisca**, representing the Idaho Physical Therapy Association, addressed the committee. The practice of physical therapy is currently governed by the Idaho Physical therapy Licensure Board within the Idaho State Board of Medicine. This legislation would transfer the Idaho Physical Therapy Licensure Board and its administration to the Department of Self-governing Agencies under the Idaho Bureau of Occupational Licenses.

**MOTION:**

**Rep. Nielsen** moved to send **RS 15902** to Print. The motion carried by voice vote.

**RS 15939**

**Health Care Facilities - Infection Rate Reporting**

**Rep. McGeachin** presented this legislation. This legislation titled, Health Care Facilities Infections Disclosure Act, requires that certain infection rates be reported to the Department of Health and Welfare on quarterly basis. **Rep. McGeachin** explained that this act will require that each individual health care facility submit a quarterly infection rate report to the department and requires the reports be made public, and requires that the health care facilities submit an annual report to the department and to the public health district. This act provides for privacy of individual information contained in the health care facility and the department reports. The estimated annual cost to the general fund to comply with this act is \$16,860 with an additional .1 FTP in the division of Health.

**MOTION:**

**Rep. Rusche** moved to send **RS 15939** to Print. The motion carried by voice vote.

**RS 15421**

**Carisoprodol - Class IV Drug List**

**Rep. Ring** presented this legislation. The purpose of this legislation is to place carisoprodol on the class IV drug list.

**MOTION:** **Rep. Henbest** moved to send **RS 15421** to Print. The motion carried by voice vote.

**RS 15606C1** **Autopsies - Creutzfeldt-Jacob Disease**  
**Rep. Henbest** presented this legislation. This proposal requires that autopsies be performed in cases in which Creutzfeldt-Jacob Disease (CJD), is suspected, and requires that the findings of such autopsies be reported to the Department of Health and Welfare. **Rep. Henbest** explained that this disease is a brain wasted disease. There were nine reported cases in one year in Idaho. She further explained that adequate brain tissue must be studied in order to determine whether the case is CJD or variance. All of the cases have not been autopsied. Each autopsy will cost \$1,000, which will be paid for by the Center of Disease Control and can be done through Case Western University should the family/coroner desire.

**MOTION:** **Rep. Ring** moved to send **RS 15606C1** to Print. The motion carried by voice vote.

**RS 15983** **Mental Health Parity Pilot - State Employees**  
**Rep. Henbest** presented this legislation. She began by saying that legislation was passed by this committee last year to provide more comprehensive mental health coverage. This legislation creates a pilot program to allow the state to establish the real costs and benefits of including mental health coverage in group health insurance coverage. This legislation sets forth findings of the legislature concerning the costs of leaving mental health disorders untreated. This prohibits excluding state employees with mental disorders from health insurance and requires the Department of Administration to submit a report to the legislature by January 31, 2009 detailing actual costs of these benefits.

**Rep. Garrett** stated that her husband is a mental health provider and does receive insurance payments for services that he provides.

**MOTION:** **Rep. Martinez** moved to send **RS 15983** to Print. The motion carried by voice vote.

**RS 15960** **Common Name List for Controlled Substances**  
**Rep. Rusche** presented this legislation. He explained that this legislation adds the common name of several controlled substances to Idaho code and brings the verbiage into agreement with federal regulation and will lessen confusion of those using the Idaho language.

**MOTION:** **Rep. Henbest** moved to send **RS 15960** to Print. The motion carried by voice vote.

**RS 15965** **Database Online Access - Controlled Substance Prescriptions**  
**Rep. Rusche** presented this legislation. He explained that this legislation allows for realtime access by physicians, pharmacists, and law enforcement to existing information held by the Board of Pharmacy regarding controlled substances prescriptions. This bill will improve the timely, appropriate management of patients with multiple visits for controlled drugs and includes appropriate protection of personal health information. He explained that the estimated cost of \$400,000, which is

offset by federal DEA grants, is based on figures from the state of Utah. In the past nine months that the system in Utah has been operating, there has been a 10% access rate by pharmacists and physicians, which is considerable. Thirty percent of drug abuse involves prescription drugs.

**Rep. Rusche** explained to a member, who questioned the fiscal impact, that the \$400,000 is a one-time cost to build the database, but that there would be maintenance costs which would be minimal.

**MOTION:** **Rep. Henbest** moved to send **RS 15965** to Print. The motion carried by voice vote.

**RS 15975**

**Colorectal Cancer Awareness Month - Cancer Society**

**Rep. Rusche** presented this legislation. He explained that for the most part, colorectal cancer is preventable by removal of polyps. The purpose of this concurrent resolution is to increase awareness of this type of cancer and to urge individuals to understand the importance of colon cancer screening for men and women ages 50 and older. This legislation will declare March 2006 as Colorectal Cancer Awareness Month.

**Rep. Nielsen** stated that he has a relative who has colorectal cancer.

**MOTION:** **Rep. Ring** moved to send **RS 15975** to Print. The motion carried by voice vote.

**RS 15944**

**Day Care Programs - Minimum Health and Safety Standards**

**Rep. Sayer** presented this legislation. This legislation revises and extends the state's licensing requirements for child care providers. This would extend licensing requirements to all providers who provide care for compensation to two or more children. Basic requirements would include health and safety inspections, fire inspections, criminal history background checks and infant CPR and first aid training. There would be a minimal fiscal impact of \$89,700.

**MOTION:** **Rep. Rusche** moved to send **RS 15944** to Print. The motion carried by voice vote.

**RS 15456C1**

**Revisions for Prescription Orders by Internet**

**Mick Markuson**, Board of Pharmacy Director, presented this legislation. This proposed legislation change addresses the growing problem of drugs available over the internet by clarifying in the definition of the appropriate prescriber/patient relationship required to support prescriptions. The new definition is based on language adopted by the federation of State Medical Boards of the United States. **Mr. Markuson** explained that this legislation indicates the legitimate writing of a prescription or drug order. Currently, in Idaho as well as other states, individuals who are receiving prescriptions over the internet have multiple providers from various states.

**Rep. Nielsen** asked if this was a duplication of the database access legislation that had just been presented by **Rep. Rusche**.

**Rep. Rusche** said that his legislation relates to the prescription after it has been written and this one, currently being presented, relates to

information that has been already stored in the database. He stated that he believes they do not interrelate. He further stated that this is an advancement of the current database that is currently in place.

**Rep. Henbest** commented that both of these pieces of legislation are complimentary and would strengthen the monitoring process.

**MOTION:** **Rep. Ring** moved to send **RS 15456C1** to Print. The motion carried by voice vote.

**Vice Chairman Garrett** announced the following:

- A Pizza and Part D lunch will be held in the House Republican caucus room after the House session, Tuesday, February 14. **Rep. Garrett** stated that it will be an opportunity for the representatives to come with their questions and words of thanks to those groups who have worked hard on the project. People from Social Security, SHEBA, the Department of Health and Welfare, to name a few, are expected to attend.
- A subcommittee meeting for the Medicaid Savings and Efficiencies Task Force will be held Thursday, February 9 at 3:00 PM in room 416. A second meeting will be held Monday, February 13 at 3:00 PM, Room No. TBA.

**Rep. Nielsen** stated that the Office on Aging has requested \$876,000 in funding and has been approved for only \$300,000 by the governor. **Rep. Nielsen** encouraged the members to do what they can to increase that amount. He stated that he would request this decision unit be addressed in the subcommittee meeting and have the Office on Aging and the spokespersons for the community present. **Rep. Garrett** advised him to request **Chairman Block** to address the decision units regarding the governor's recommendation in the Medicaid Task Force Subcommittee meeting.

**ADJOURN:** The meeting was adjourned at 2:30 PM.

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Representative Kathie Garrett  
Vice Chairman

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Jennifer O'Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE SUBCOMMITTEE

**DATE:** February 9, 2006

**TIME:** 3:00

**PLACE:** Room 416

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

**ABSENT/  
EXCUSED:** Representative Loertscher, Absent

**GUESTS:** Karl Kurtz, Director, Health and Welfare; Ken Deibert, Administrator, Division of Family and Community Services (FACS); Bruce Dunham, Administrator, Division of Information and Technology Services.

Chairman Block convened the meeting of the Health and Welfare Subcommittee at 3:16 P.M.

During this meeting, the Subcommittee reviewed budget decision units (DUs) presented by the Department of Health and Welfare. Chairman Block thanked Representative Garrett for her work in organizing the meeting.

Karl Kurtz presented an overview. He drew the members' attention to a budget book that they could refer to during the presentations. He said the Governor's request and the Department's recommendations differed because the Governor had to prioritize. He pointed out that items not funded this year would need to be addressed next year. He said there were five pots of money:

- 1) Employee compensation. Much of the problem was addressed with the recent 3% increase.
- 2) Automation projects including: Replacement of the Medicaid Management Information System (MMIS) over the next three years, replacement of the Eligibility Program Integrated Computer System (EPICS) and document management (the Department handles 25,000 document per day and 30 million per year).
- 3) Adult mental health need for additional clinicians and social workers to provide outpatient care and to avoid hospitalization. The request includes a 5 bed increase at State Hospital North (SHN).
- 4) Addressing the fiscal impact of the Medicare Part D prescription program which includes the "clawback" and state costs for drugs for Medicaid clients who are not eligible for Medicare prescription coverage.
- 5) Health needs including vaccinations, the phenylketonuria (PKU) program, Cystic Fibrosis and AIDS.

Mr. Kurtz said the costliest item is the 11.8% general fund increase over the 2006 budget. Most of the increase is attributed to Medicare Part D.

Ken Deibert, Administrator, Division of Family and Community Services (FACS), presented his division's DUs. FACS employs over half of the Department's employees - 1,700. FACS is also responsible for State Hospital South (SHS), SHN and the Idaho State School and Hospital (ISSH). The institutions require a great deal of staffing. The FACS budget includes four supplemental requests:

1. An increase in Trustee and Benefits funds for the Infant/Toddler program serving children from birth to age 3. The Infant/Toddler program is responsible for early intervention to address developmental disabilities and developmental delays using a comprehensive network of health providers who work with the Department to assess eligibility and develop treatments and interventions. Fifteen FTP costing \$1.4 million were requested to respond to the increasing Idaho population, the increase in children diagnosed with autism and autism spectrum disorders, and long term needs. Because of these pressures, families were on waiting lists and treatments were reduced in scope.

The need for monitoring Intensive Behavioral Intervention (IBI) services is also increasing. In 2002, 74 children needed IBI; in 2005, over 2,000 needed IBI. Also, of 400 foster children evaluated for child protection, over 50% entered into the Infant/Toddler program. A representative asked if the supplemental addressed the three year IBI cap. Mr. Deibert said this needed further discussion. A representative asked how IBI was integrate with the school systems. Mr. Deibert said some services were provided by schools. A representative asked how much money the program used and the answer was just under \$11 million. A representative asked why there was no federal match. Mr. Deibert said the program had received the maximum amount of federal funds available.

Representative Garrett recommended that the Subcommittee ask the full Committee to address the request for the Infant/Toddler positions because of the program's importance in helping children outgrow their delays and achieve equal footing with their peers when they start kindergarten.

Representative Henbest said the program might look like special health insurance. She said she planned to introduce a bill to provide insurance for early intervention programs and asked for the Chairman's support.

**MOTION:** Representative Garrett moved that the evaluation be free but that services be needs-based. The motion passed by voice vote.

**MOTION:** Chairman Block moved that the Subcommittee recommend to the full Committee that they recommend to JFAC that the 15 FTP for the Infant/Toddler program be funded. The motion passed by voice vote.

Mr. Deibert continued, stating that the adult mental health program had an increased need to place individuals in state psychiatric facilities. This increased the need for clinicians as clinician caseloads went from 90 in 2002 to 145 in 2005. The program tried to reduce demands on state and

community hospitals and there was a 6% reduction in recidivism. Pharmacies partnered with the Department to provide free and reduced-price prescriptions to people with mental illness but this was jeopardized by the demands on pharmacies of Medicare Part D. The supplemental request for hospitals to cover the cost of community-based health care was over \$9 million.

A representative suggested more hospital beds and negotiations for more consistent daily rates. Mr. Deibert said the Department tried this but some hospitals bill on "reasonable and customary" following statutory language and did not want to reduce their rates. Of the 11 hospitals with negotiated rates in the first two years of the program, seven terminated their contracts. If an individual was hospitalized in his or her home county, the Department usually would pay the county rate. A proposal for hospitals to provide long term care was developed and will be dealt with in April. He said the Department would continue to look at ways to reduce length of stay. Discussion occurred on the federal prohibition on using federal Medicaid funds for adult inpatient psychiatric services.

**MOTION:** Representative Garrett moved that the Subcommittee recommend to the full Committee that JFAC fund one FTP to form a state work group on developing care and services. A representative asked how much that would cost and Mr. Deibert said around \$88,000. The motion passed by voice vote.

The Subcommittee recessed from 4:22 to 4:32.

**MOTION:** Representative Garrett moved that the 8 Assertive Community Treatment (ACT) team positions in the Department's request be funded for Region 3. ACT team intervention could reduce hospitalizations and other costs.

**SUBSTITUTE MOTION:** Representative Henbest made a substitute motion that the Mental Health Subcommittee's submotion be accepted because it recommended funding beyond one ACT team.

**AMENDED SUBSTITUTE MOTION:** Representative Garrett moved to amend the substitute motion to a recommendation from the Subcommittee to the full Committee that JFAC support the increase in the number of ACT team staff. The motion passed by voice vote.

A representative requested more information about the SHN expansion. Mr. Deibert said the request was for 5 beds and 20 FTP. The cost for an SHN bed is \$380 per day while a community hospital bed costs over \$700 per day. The FTP request is to build up staffing to provide safe and effective care. Current staffing was 1.01 direct care FTP per occupied bed while the recommended staff-to-bed ratio was 1.92 FTP. If staff were added but no beds, 11 FTP would achieve the 1.92 staffing ratio. In response to a representative's dilemma over cost and quality, Mr. Deibert said the current staffing ratio put unreasonable demands on staff and was "a time bomb waiting to go off." A representative said hospitals are drastically needed and related stories of mentally ill individuals who were held in abusive conditions awaiting a bed. A representative said she

wanted to compare costs at Saint Alphonsus Hospital with state costs.

Regarding reconstruction of facilities, Mr. Deibert said a request went to the Department of Administration. He also stated that the Department is not looking for funds beyond the Governor's budget. If the requests are not granted this year, the Department will be back next year.

The Chairman thanked Mr. Deibert for his presentation and he thanked the Chairman for listening.

Mr. Kurtz introduced Bruce Dunham, Administrator, Division of Information and Technology Services. Mr. Dunham thanked the Subcommittee and reviewed the information technology requests.

1. Mr. Dunham discussed document management and how it increased staff efficiency. Document management was included in the MMIS update request. The Department requested for 4 FTP and \$3.9 million for hardware and software. As previously stated, the Department handles 25,000 pieces of paper each day and 30 million each year.

A representative said she asked Self-Reliance program staff what they needed most and the answer was document management. She asked Mr. Dunham how modernizing computer systems would increase productivity. Mr. Dunham said it was difficult to quantify but he would put some figures together. A representative asked why the Governor said "No" to the Department's request. Mr. Dunham said it had to do with a finite amount of money and differing priorities.

2. Mr. Dunham discussed the MMIS update and the dilemma caused by the expiration of the Department's contract with EDS. The centers for Medicare and Medicaid Services (CMS) approved moving to a newer system and would provide 90/10 matching funds for automation. The department would make the system accessible to managers instead of only higher-cost information technology staff. A representative that when she called other states making the transition, they recommended a two-year process but the Department had only eighteen months. Mr. Dunham said the Department's intention was to have a two-year implementation process and is negotiating with EDS for a month-by-month contract through 2007 to ease the situation.

3. Mr. Dunham addressed the need to replace the Eligibility Program Integrated Computer System (EPICS) used in the process of determining benefit eligibility. EPICS was designed 20 years ago and wasn't fully automated. Many manual processes were required to support the system. The Office of Performance Management found that EPICS reduced efficiency and delayed eligibility decisions. The cost of an upgrade would be \$5.7 million and 20 limited service FTPs would be required. \$1.5 million in carry-over money would be available. A representative asked if the FTP could be moved to contractors and Mr. Dunham said yes. A representative asked if this would be one-time money. Mr. Dunham said it would. A representative suggested a recommendation to continue the carry-over money into next year.

**MOTION:**

Representative Henbest moved that the Subcommittee recommend to the

full Committee that they include \$3 million and no FTP in their recommendation to JFAC. The motion passed by voice vote.

Chairman Block thanked Mr. Kurtz and Department staff for the presentation.

**ADJOURN:** The Chairman adjourned the meeting at 5:54 P.M.

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Representative Sharon Block  
Chairman

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Mary Betournay  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 10, 2006

**TIME:** 11:00 AM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Representative Sali, Loertscher, Nielsen

**GUESTS:** Please see attached sign-in sheet.

The meeting was called to order at 11:00 AM. The minutes of February 8 were reviewed.

**MOTION:** **Rep. Ring** moved to approve the minutes of Wednesday, February 8, 2006 as written.

**Vice Chairman Garrett** assumed the duties of the Chair while **Chairman Block** proceeded to present two separate pieces of legislation before the committee.

**RS 15988**

#### **Idaho Medicaid Simplification Act**

**Chairman Block** addressed the committee. This bill authorizes the Director of the Department of Health and Welfare to restructure the Idaho medicaid program in order to achieve improved health outcomes for Medicaid participants and slow the rate of growth in Medicaid costs. The Chairman explained that this legislation is the result of months of collaboration between the legislative and executive branches of the state government. She stated that this piece of legislation creates three separate categories with corresponding benefits to meet the health needs of each category. The three categories are: Low-Income Children and Working-Age Adults, Persons with Disabilities or Special Needs, and Elders. This bill also authorizes the Director to develop a state plan for medical assistance for each of the three categories.

**Rep. Ring** pointed out that the bill references eligibility at age sixty-five years or older for the Elder group, line 3, page 5. He stated that Social Security is going to raise the age of retirement and suggested that the reference to eligibility of elders aged 65 on line 3, page 5 might be considered as an item to be discussed with the governor.

**MOTION:** **Rep. Ring** moved to send **RS 15988** to Print. The motion carried by voice vote.

**RS 16005**

#### **Personal Health Accounts and Co-Payments**

**Chairman Block** presented this legislation. She explained that this bill establishes Personal Health Accounts and Co-payments to promote healthy behaviors and personal responsibility.

**Patti Campbell**, Division of Medicaid, yielded to a question by a member regarding funding. **Ms. Campbell** explained that \$4.2 million is in the appropriation from JFAC. The Personal Health Accounts will warrant spending money; the Co-payments will save.

**MOTION:** **Rep. Henbest** moved to Print **RS 16005**. The motion carried by voice vote.

**Rep. Block** resumed the duties of the Chair.

**RS15772C2**

**Medicaid for Workers with Disabilities**

**Rep. Garrett** presented this legislation. This legislation would create a Medicaid for Workers with Disabilities, formally known as Medicaid Buy-In. This will help transition people to work by permitting them to receive Medicaid while working. This will also help workers with disabilities lessen their reliance on Medicaid while increasing their work hours and income.

**MOTION:** **Rep. Bilbao** moved to send **RS 1577C2** to Print. The motion carried by voice vote.

**RS 16013**

**Health Insurance, Policy Reporting**

**Rep. McGeachin** addressed the committee. This legislation is known as the Idaho Health Insurance T.R.U.T.H. Act (Transparency in Reporting for Understanding, Trust, and Honesty). The purpose of this legislation is to require that carriers of small group health insurance products report certain information on an annual basis. This will enable consumers of health care to have better information when making purchasing decisions.

**Rep. McGeachin** deferred to **Matt Haney**, ICAN, to answer a question that was asked regarding what type of input had been received from other carriers. **Mr. Haney** replied that after he inquired, he received minimal information from the Department of Insurance and no information from either of the Blues.

**Rep. Garrett** asked if the Department of Insurance has been asked about the possibility that this legislation could incur some additional responsibility of tracking that would have some fiscal impact. **Rep. McGeachin** agreed to look into this matter.

**MOTION:** **Rep. Henbest** moved to send **RS 16013** to Print. The motion carried by voice vote.

**RS 15463**

**Medicaid - Restrictions for Sheltering Assets**

**Rep. Ring** presented this legislation. The purpose of this legislation is to direct the Department of Health and Welfare to apply for waivers to place certain restrictions on the sheltering of assets in order to qualify for medicaid assistance. The representative explained that this proposal will increase the look-back period for asset transfers from three to five years; begin the penalty period at the time of application or at the date of transfer, whichever is later; and prevent the sheltering of excess resources in annuities, trusts or promissory notes.

- MOTION:** **Rep. Henbest** moved to send **RS 15463** to Print. The motion carried by voice vote.
- RS 16008** **Life-sustaining Treatment - Statewide, Universal System**  
**Rep. Ring** presented this legislation. The purpose of this resolution is to request that the Department of Health and Welfare and the Attorney General develop a statewide, universal system or form for physician orders for life-sustaining treatment.
- MOTION:** **Rep. Martinez** moved to send **RS 16008** to Print. The motion carried by voice vote.
- RS 15993** **Healthy Lifestyles Information Website**  
**Rep. Henbest** presented this legislation. This House Concurrent Resolution presents findings of the legislature outlining obstacles Idahoans face in obtaining health information, as well as encourages the development and implementation of a state website to assist Idahoans in becoming more informed about healthy lifestyles and available health care options in Idaho. **Rep. Henbest** explained that this website will have healthy life style related information, preventive health related information, and disease management related information to name a few. It will also include links to other health care services and providers in Idaho.
- MOTION:** **Rep. Martinez** moved to send **RS 15993** to Print. The motion carried by voice vote.
- RS 16010** **Disability Insurance Coverage**  
**Rep. Henbest** presented this legislation. She explained that this legislation will require certain disability insurance contracts to provide coverage for special medical formulas/diseases and early intervention services up to a specified benefit limit. The representative spoke of one such type of disease, called maple syrup urine disease. The cost for the formula for a child with this disease is approximately \$37,000 per year, which would reach nearly \$740,000 by the time he/she reaches the age of 18.  
The Infant and Toddler Program currently serves 384 children with primary insurance and 24 with secondary insurance coverage. The estimated potential insurance receipts to this program would be \$1.4 million.  
**Rep. Henbest** commented that the fiscal impact does need to be amended.
- MOTION:** **Rep. Bilbao** moved to send **RS 16010** to Print, with the expectation that the fiscal impact will be amended before coming back in bill form. The motion carried by voice vote.
- RS 16012** **Free Medication Eligibility - Standardized Application**  
**Rep. Henbest** presented this legislation. This House Joint Memorial urges Congress to mandate a standardized application for use by pharmaceutical companies in determining eligibility for free medications from the pharmaceutical companies. The Representative explained that this resolution will simplify the application process and save time.

- MOTION:** **Rep. Bilbao** moved to send **RS 16012** to Print. The motion was carried by voice vote.
- RS 15875** **Medicaid Fraud**  
**Rep. Mathews** presented this legislation. This legislation would provide for the investigation and prosecution of Medicaid fraud by the Office of the Attorney General. It also outlines the adoption procedures, collection of overpayments, employment of necessary personnel, and rulemaking authority. Idaho is one of only two states that does not currently have a certified medicaid fraud control unit. The federal government recognizes the need for an independent unit by offering to pay most of the costs.
- Rep. Garrett** asked Rep. Mathews if he had worked with the Medicaid Fraud unit with the department. **Rep. Mathews** replied that he has met with the Attorney General, JFAC, and the Department.
- Rep. Mathews** stated that the seed money would help prevent a void during the transition time. He estimated the cost to be approximately \$540,000. He said that the fiscal impact would need to be revised and extended for clarification purposes.
- MOTION:** **Rep. Shepherd** moved to send **RS 15875** to Print, with the expectation that the fiscal impact will be revised before this legislation returns in bill form. The motion carried by voice vote.
- RS 16039** **Medical Attendance, Mentally III**  
**Steve Millard**, Idaho Hospital Association, addressed the committee. He explained that this proposal is dealing with hospital holds for persons with mental illness. This will authorize the hospital to hold a gravely disabled person for 24 hours, giving the Department of Health and Welfare an opportunity to conduct an investigation. This proposal would protect gravely disabled persons, health care providers and the public.
- MOTION:** **Rep. Rusche** moved to send to Print **RS 16039**. The motion carried by voice vote.
- RS 16045** **Bowling Alleys, Smoking**  
**Brad Hoaglun**, representing the American Cancer Society, addressed the committee. This legislation removes bowling alleys from the list of exempted locations in Idaho's Clean Indoor Air law. It also adds bowling alleys to the list of public locations where smoking is prohibited within 20 feet of entrances and exits. **Mr. Hoaglun** explained that basically this proposal strikes the words, *Bowling alleys*, from line 38, page 2, and adds the same two words, *bowling alleys*, to line 40, page 1.
- MOTION:** **Rep. Henbest** moved to send **RS 16045** to Print. The motion carried by voice vote.
- ADJOURN:** The next meeting of the full committee will be Tuesday, at 1:30 PM, February 14, 2006. There being no further business, the meeting was adjourned at 12:05 PM.

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Representative Sharon Block  
Chairman

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Jennifer O'Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE SUBCOMMITTEE

Medicaid Savings and Efficiencies Task Force Subcommittee

**DATE:** February 13, 2006

**TIME:** 3:00 P.M.

**PLACE:** Room 404

**MEMBERS:** Chairman Block, Representatives Garrett, Nielsen, Loertscher, Henbest, Rusche All were present

**GUESTS:** Karl Kurtz, Director, Department of Health and Welfare; Dick Schultz, Administrator, Division of Health; Russ Barron, Administrator, Division of Welfare, David Rogers, Administrator, Division of Medicaid

Chairman Block called the meeting to order at 3:10 P.M. and dispensed with approval of the minutes. The Chairman thanked the members present and welcomed the guests from the Department of Health and Welfare.

**Karl Kurtz** introduced Dick Schultz presented for the Division of Health, Russ Barron presented for the Division of Welfare, and David Rogers presented for the Division of Medicaid. Mr. Kurtz noted that these presentations of the Department's supplemental requests for State Fiscal Year 2007 were a continuation of the February 9, 2006 meeting.

**Dick Schultz** distributed the attached "JFAC Budget Presentation for SFY 2007, Division of Health '07 Budget Request." Mr. Schultz discussed two supplemental requests for Menactra, a meningococcal disease vaccine, and Tdap, a pertussis (whooping cough) vaccine. The attachment displayed the incidence, target group (adolescents), impact and cost per dose for meningococcal disease. Mr. Schultz stated outbreaks have increased in college students in close living such as dorm situations. Total annualized General Fund costs would be \$118,000. The second vaccine request would add pertussis to the tetanus/diphtheria booster vaccination. Pertussis in Idaho runs above the national average in 11 to 18 yr olds and after three years, immunity from childhood pertussis vaccines wane. This booster would continue protection and would cost \$32,000 when annualized.

A representative asked if these vaccines were mandatory and Mr. Schultz said they were not mandatory but were offered to targeted populations.

The next supplemental request was for authority to spend receipts from the Vital Records unit and EMS. Receipts from the Vital Records unit would be spent for Vital Records FTPs. No general or federal funds are used for Vital Records. EMS received one-time donations from St. Alphonsus Hospital and the Office of Traffic Safety to develop the Idaho Trauma Registry .

Mr. Schultz next discussed the supplemental request for \$108,900 in General Funds for the adult Cystic Fibrosis (CF) program. He stated the need for additional funds stemmed from increases in eligible individuals and cost per patient. Participating physicians reported increased patient compliance as a result of patients' attendance at CF clinics. Adults paid for services on a sliding fee schedule and those with income below 185%

of the Federal Poverty Guideline (FPG) did not need to pay anything. A representative asked about working with 340b financing with the St. Luke's pharmacy. Mr. Schultz said that 73% of CF program participants received their medications through the St. Luke's pharmacy and that statute did not allow the Department to restrict the use to a particular pharmacy. The representative asked if the statute could be rewritten to allow the State to get the best pricing available. Mr. Schultz said that this would be possible with statutory authority.

A representative asked if the Department had tried educational outreach to let people know about the price breaks realized from using St. Luke's pharmacy. Mr. Schultz said he had met with physicians and asked them to carry the message to their patients.

A representative asked if 340b pricing had been compared with Medicaid information for a possible rebate. David Rogers responded that 340b pricing is lower than any pricing that Medicaid could find.

A representative asked why other pharmacies were not using the 340b pricing and whether hospitals were prohibited from using 340b pricing. Mr. Schultz said a hospital is eligible to use 340b pricing if it is providing a government-funded service to a low income population.

The representative then asked if the individual could request refills by mail once he is established as a St. Luke's patient. Mr. Schultz said mail ordered refills were available but the patient needed to be re-evaluated annually in person.

Mr. Schultz discussed the request for supplemental funding for the Cancer Data Registry. Smoking has decreased but the cost of the contract for the Cancer Data Registry has increased. He requested \$30,000 in general funds.

Mr. Schultz said that the Poison Control program was funded with dedicated funds and asked that \$74,000 of these funds be authorized for payment for the contract with the Rocky Mountain Poison Control Center in Denver, Colorado. The inflation was associated increased call volume and that it would be far less expensive to contract with the Rocky Mountain Poison Control Center than to establish a state program.

Further supplementals were requested for AIDS drug assistance, adult PKU formula and Millennium Fund tobacco counter-marketing. The AIDS program supplemental request resulted from increases in cases because of new infections and from people with AIDS living longer. The number of eligible individuals dropped in State Fiscal Year '06 because Medicare Part D insurance paid for the drugs of individuals eligible for Medicare. Only individuals without insurance were eligible for the AIDS drug program.

A representative noted that some benefit was realized from Medicare Part D because drugs other than AIDS were covered. Mr. Schultz said that the cost per person had increased and not all eligible individuals could receive coverage. The supplemental request was for \$752,200. Fifty-five individuals not served because of lack of funding received their drugs through pharmacy assistance programs. The representative asked how the program decided who to serve and if pharmacy assistance programs would continue? To the first question, Mr. Schultz said individuals were served on a "first come, first served" basis. Mr. Schultz did not know the answer to the second question because it was difficult to tell.

A representative asked if the FPG was used to determine eligibility for

the AIDS Drug Assistance Program. Mr. Schultz said federal rules did not use of a poverty income limit for this program. Several follow-up questions were asked and Mr. Schultz said regardless of how much or how little a state contributed, the limit on federal funds for the program was \$670,000. Current general funds were at \$177,000, federal funds were at \$670,000 and anticipated rebates were at \$150,434. Mr. Schultz said that \$752,200 in general funds were required. That amount represented the difference between current funds and funds required to run the program. The public health interest of the AIDS Drug Assistance program was in reducing the viral load and keeping infectivity down

The Adult PKU formula supplemental request was for \$86,000 in general funds. Adults with PKU needed to continue taking the PKU dietary formula beyond age 18 to reduce further mental and physical deficits resulting from the condition. Insurance companies would not routinely cover dietary supplements. Children under 18 received coverage at no cost to the State through the Maternal and Child Health block grant.

Mr. Schultz next presented the tobacco counter-marketing Millennium Fund supplemental request for \$395,000. Funds were needed to continue the program, with most of the money spent on media campaigns.

The next item was the EMS Patient Care reporting system. The request was for \$206,000 in EMS dedicated funds to automate EMS reporting system. This was followed by a \$50,100 request for general funds one EMS FTP to manage physician orders and provide identifying bracelets for individuals with terminal illness who had restricted resuscitation by EMS responders.

The last item in the Division of Health's supplemental budget request was for \$53,400 in dedicated funds for emergency response to children, in response to a pending federal requirement to move the cost of administrative personnel to the State. Costs for training and child-sized supplies were paid through a \$200,000 federal grant.

A representative asked if all the supplementals were recommended by the Governor. Mr. Schultz responded that all but one were recommended and that one was going to be pulled anyway. A representative asked if there was federal funding available in the cost of vaccines. Mr. Schultz said the state share was 20%. Further discussion of individual requests continued.

**MOTION:** Representative Henbest moved that a study be undertaken to investigate whether the cost per patient for adult cystic fibrosis prescriptions could be lowered. The motion was carried by voice vote.

A representative asked if the Cancer Data Registry could be combined with the Millennium Fund?

**MOTION** Representative Henbest moved that the Subcommittee recommend to the full Committee that it support the supplemental request for the Cancer Data Registry and discuss shifting funds to the Millennium Fund. The motion was carried by voice vote.

**Russ Barron** presented the supplemental requests for the Division of Welfare, including:

1. Medicare Part D impact-Additional FTP and temporary staff to provide counseling to individuals affected by Medicare Part D. This work is ongoing because individuals can change their plans when the existing

plan changes or a new prescription is not covered by the existing plan. This request includes FTP to counsel non-clients who contact the Department after May 15, 2006, the ending date for open enrollment. A representative questioned why the FTP were going to Welfare when Medicaid is responsible for case management. David Rogers explained that individuals on Medicare Part D are also eligible for a low-income subsidy and that eligibility for this was determined at the point of first contact in the Welfare division.

2. Request for funding to apply to the Food Stamp sanction. Mr. Barron described the Department's corrective actions to improve payment accuracy. The error rate in FY '05 went from 11.3% to 8.3%. \$138,700 in general funds is needed to pay the penalty and other funds can't be used.

3. EPICS Replacement-Good technology is important. Mr. Barron referred to Bruce Denham's presentation on the supplemental requests for information technology on February 9, 2006.

4. Self Reliance Caseload growth - This request for 25 FTP requiring \$77,000 in general funds supports continued efforts to improve processes and acquire technology.

5. Medicaid Quality Assurance-This request is for 5 FTP. The division is trying to improve timeliness and accuracy and recently started to measure and monitor performance. The Centers for Medicare and Medicaid Services has increased its interest in quality assurance for Medicaid. A representative asked if removing the uninsurance requirement in CHIP B would require a statutory change or a rule change. The response was that a rule change would be required. Mr. Barron said if the requirement is removed, additional families would be eligible and the workload would increase.

7. Child Support Program-This request is for increased audit of records. The caseload has grown by 8.8% and a recent finding by the Office of Performance Evaluation cannot be corrected if this request is unfunded. No FTP are included. A representative asked if this audit would reduce other expenses. Mr. Barron responded that the better job the Department does collecting child support, the more families' need for welfare can be reduced.

**MOTION:** Representative Henbest moved that the Subcommittee recommend that the full Committee endorse the Medicaid Quality Assurance supplemental request. The motion was carried by voice vote.

**MOTION** Representative Rusche moved that the Subcommittee recommend to the full Committee that its recommendation to JFAC include the supplemental request for the child support program. The motion failed by voice vote.

**MOTION:** Representative Neilsen moved that the Subcommittee recommend to the full Committee that the recommendation to JFAC be to fund the entire request. The motion failed by voice vote.

A representative said she preferred to forestall some of these requests and support the document management modernization supplemental request.

**MOTION:** Representative Garrett moved that Chairman Block, in her report to the full Committee, recognize the Department for doing a yeoman's job in its

implementation of the complex Medicare Prescription Drug Program. The motion was carried by voice vote.

Mr. Barron concluded his report and thanked the Subcommittee.

Mr. Kurtz introduced **David Rogers** who presented the supplemental requests for Medicaid. Mr. Rogers referred to the Representatives' budget books which rolled four Medicaid presentations into a single page. The four areas were: 1) Medicaid administration and management, which includes personnel costs and operating costs; 2) Low income children and adults; 3) Individuals with disabilities; 4) Elderly individuals. Mr. Rogers stated there was \$3 million in carry-over money from FY '05. There was a one-time salary increase and a supplemental for Medicaid administration and Medicaid Management Information System (MMIS) reprocurement. Additional dedicated funds were driven by receipts authority for estate recovery and drug rebates.

Trustee and Benefits monies were split into four appropriations, one for each of the four categories listed above. A non-discretionary funds adjustment of \$32 million was requested for changes in the federal matching rate, caseload growth and utilization and pricing increases. Mr. Rogers provided additional clarification of the Medicaid request.

When asked why the program maintenance figures in parentheses did not add up to the Governor's request, Mr. Rogers said the figures weren't in the Department's request but were in the Governor's request. After further discussion, Mr. Kurtz explained that the Department's budget deadline in September was prior to the Medicaid Modernization reflected in the Governor's budget prepared in December.

A representative noted that non-discretionary adjustment for utilization and pricing and for Part D are the big expenses.

Mr. Rogers agreed and stated that the charge was not to have the reform program cost more than current programs. Mr. Rogers continued with his line-by-line presentation and responded to clarifying questions from representatives.

With respect to the estate recovery program, Mr. Rogers said two pieces of legislation are going forward to strengthen the program. One bill would shorten the deadline for filing claims against the state and the other would name the Department as successor to the state. In addition, general fund dollars would be matched with receipts and receipts would be used for the federal match.

Mr. Rogers continued his line-by-line description of the supplemental requests and concluded his presentation. A representative asked if the Healthy Mothers, Healthy Babies program extended postpartum Medicaid coverage. Mr. Rogers said he wasn't sure what was included. The representative said it appeared that the Department was not paying attention to a Committee recommendation.

**MOTION:**

Representative Garrett moved that the Subcommittee recommend to the full Committee that the Healthy Mothers, Healthy Babies program provided for in SB1140 not be funded until answers to the questions about the Department's implementation of Healthy Mothers, Healthy Babies are brought back to the Subcommittee. The motion was carried by voice vote.

Chairman Block asked which parts of those items were in legislation that the Department had proposed. Mr. Rogers said a bill that went to print on

February 10, 2006. This bill included \$1.3 million for personal health accounts and adult physical examinations, requiring \$88,000 in general funds. He said a concurrent resolution was being drafted for other prevention services, neonatal care management and postpartum coverage family planning. Chairman Block asked if legislation was planned for the neonatal care management and family planning issues. Mr. Rogers said that depended on discussions between legislators and the Governor's office and that the Department was not drafting the legislation. A representative asked if the Department planned to implement with rules. Mr. Rogers said it would if directed to do so. Discussion continued on implementation of SB1140 and Mr. Rogers said the Department was directed to implement SB1140 and apologized to the Subcommittee for making a significant misreading of what the committee wanted.

A representative clarified the status of SB1140.

**MOTION:** Representative Henbest moved that the Subcommittee recommend that funding for document imaging be sent forward to the full Committee for its recommend to JFAC. The motion was carried by voice vote.

Representative Rusche congratulated the Department for holding the growth rate on claims for Medicaid payment to 5% to 6%.

**MOTION:** Representative Henbest moved that the Subcommittee recommend to the full Committee that the Department contract with an outside entity to conduct a market analysis of provider reimbursement to develop a rate structure on the specific items in HB190. The motion was carried by voice vote.

**MOTION** Representative Garrett moved the Subcommittee recommend to the full Committee that it report to JFAC on the lack of crisis mental health beds and the over-reliance on community hospitals. The motion was carried by voice vote.

**MOTION:** Representative Neilsen moved that the percentage of change resulting from adding the cost of the Subcommittee's recommendations to the Governor's request be calculated and the result displayed to the full Committee. The motion failed by voice vote.

**ADJOURN:** The Subcommittee meeting adjourned at 6:45 P.M.

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Representative Sharon Block  
Chairman

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Mary Betournay  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 14, 2006

**TIME:** 1:35 PM

**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:** Please see attached sign-in sheet.

With a quorum present, Vice Chairman Garrett called the meeting to order and requested a silent roll call. She welcomed the members and guests. She dispensed with the reading of the minutes.

**Rep. McGeachin** assumed the duties of the Chair.

#### HCR 31

##### **Suicide Prevention Plan**

**Rep. Garrett** presented this bill to the committee. She began by explaining that Idaho's suicide rate is among the highest in the nation. The range of age from 15 to 34 is the age of highest occurrence. Rep. Garrett recognized the work of First Lady, Patricia Kempthorne and Representative Margaret Henbest and their involvement in developing a plan to help various agencies, organizations, and individuals to develop strategies and a plan for the prevention of suicide in Idaho. Rep. Garrett stated, "We do not want to lose even one life to suicide." This resolution acknowledges the seriousness of the suicide crisis facing Idaho and supports the Idaho's Suicide Prevention Plan. (See Suicide Prevention Plan booklet attached to the minutes of January 24, 2006)

Upon finishing the presentation, Rep. McGeachin invited those who wished to testify to address the committee.

**Sam Hafer**, senior at Borah High School and President of the Jason Foundation Teen Board of Idaho, addressed the committee in support of this resolution. Mr. Hafer worked with Rep. Garrett in drafting this legislation. He stated that this endorsement not only opens doors for the future of suicide prevention in Idaho, but lays the groundwork of bigger and better things. (See attached testimony)

**Kim Kane**, Executive Director of SPAN Idaho, addressed the committee in support of this resolution. She explained that SPAN Idaho is the Idaho chapter of the National Suicide Prevention Network. She further explained that their mission is to provide leadership for suicide prevention in Idaho. Their major objective is the developmental implementation of a Suicide Prevention Plan for Idaho. They will work with citizens and communities across the state to develop and implement

strategies to reduce suicide. Regional and statewide committees are being developed, and their website is up.

**Dr. Kirby Orme**, representing SPAN Idaho, addressed the committee in support of this resolution. He directed the committee's attention to an 8-page handout illustrating statistical data that has been gathered throughout the state relating to suicidal deaths, as well as other information. (See attachment)

**Marilyn Baughman**, representing the Jason Foundation, addressed the committee in support of this resolution. She explained that the Jason foundation began in 1997 when Jason Flatt committed suicide. The family after much investigation realized that Jason had displayed the warning signs but they had not recognized them. She further explained that some of the main warning signs are: talking about suicide, loss of interest in activities that were once important, giving away possessions such as a drivers license, jewelry. (Please see attached testimony)

**Katie Robinson**, a senior at Borah High School and a member of the Jason Foundation, addressed the committee in support of this resolution. She stated that in order for Idaho to lower its suicide rate, it is essential to create a permanent plan that can efficiently run throughout the state. There are a myriad of organizations working to address this crisis; unfortunately they are disorganized and inefficient. She further stated that this bill will be the start to pull all these groups together. (See attached testimony)

There being no further testimony and no questions from the committee a motion was in order.

**MOTION:**

**Rep. Sali** moved to send **HCR 31** to the floor with a **Do Pass** Recommendation. The motion carried by voice vote.

**Rep. Garrett** will sponsor the bill.

**Rep. Block** resumed the responsibilities of the Chair.

**Committee Approval of Budget Report to JFAC**

**Rep Garrett** provided the committee with two handouts. The first was a list of the Medicaid Savings and Efficiencies Task force Subcommittee recommendations to the Joint Finance and Appropriations Committee (JFAC). This document is separated into seven different categories: Services for the Developmentally Disabled, Mental Health Services, Division of Welfare, Public Health Services, Medical Assistance Services, Indirect Support Services, and Implementation of Medicare Part D. The second handout was a document showing the FY 2007 Budget request from the Department of Health and Welfare, prepared by Cathy Holland-Smith, Legislative Services Budget and Policy Analyst. (See attachments)

**Rep. Garrett** addressed the first funding request, Early Intervention Services, from the list of recommendations. She explained that this is a request to purchase contracted services of social workers, audiologists, occupational therapists, speech language pathologists, and to buy

hearing aides and other assistive and adaptive technology. The Infant Toddler Program identifies and provides services for children from birth to three years of age with developmental disabilities. The department is requesting funding for 7 social workers, 7 speech language pathologists, and 1 program specialist to handle the increased caseload of eligible infants and toddlers. Rep. Garrett explained that early intervention for children with developmental disabilities gives them the opportunity to be more successful later on when they become of school age.

**MOTION:**

**Rep. Garrett** moved that the full committee accept the recommendation made by the subcommittee to fund this program; and to include the recommendation that initial evaluations be provided at no cost to the parents or guardians of the children, but that parental resources if available, including insurance, be relied upon for service delivery.

A member asked why was this request was not listed in the governor's recommendations. Another member answered that the governor had other priorities as to why particular units were dealt with in the manner that they were.

Comments made by members in support of the recommendation were:

- Treatment is critical for infants from 0 to 3 years.
- Tremendous growth in this age group due to multiple and premature births.
- Would like to see the occurrence of shared-cost so that parents, and others can share the expense.
- The sooner a young child can receive help and special treatment, the more successful they will be in school. The longer they are left untreated, the wider the gap becomes.

A member commented that these recommendations are simply recommendations to JFAC, and ultimately JFAC will make the determination of how they will be budgeted.

**Ken Deibert** yielded to a question when asked how much of this program is funded by the federal government. He explained that the funding for the Infant Toddler Program is a block grant. Funding at the federal level is set based upon population and allocation is based on population. If they do not receive the funding this year, he said that they will definitely be back next year. **Mr. Deibert** was asked what the current situation is now. He replied that children are on waiting lists because there is not enough funding for the services that they need.

**SUBSTITUTE MOTION:**

**Rep. Sali** moved that the Chair's report to the JFAC committee include all of the recommendations made by the subcommittee.

**Rep. Henbest** brought to the attention of the committee that the subcommittee recommendation to request funding for the CHIP B-Remove Uninsured Requirement was not included in the list of subcommittee recommendations before this committee today. She began to entertain a motion to include this request, listed on page 2-140 of the FY 2007 Idaho Legislative Budget Book (see attachment). **Rep. Sali** interjected that he would include this request in his substitute

motion.

**SUBSTITUTE  
MOTION:  
Restated:**

**Rep. Sali** moved that the Chair's report to the JFAC committee include all of the recommendations made by the subcommittee, including the recommendation for the Chip B-Remove Uninsured requirement.

**VOTE:**

By a show of hands the Substitute Motion passed.  
**Rep. McGeachin** requested to be recorded as voting no.

**Rep. McGeachin** brought to the committee's attention the request for a provider reimbursement rate adjustment that had been made at the full committee meeting, February 2, 2006. She proceeded to make a motion.

**MOTION:**

**Rep. McGeachin** moved that the this committee approve the recommendation for a provider reimbursement rate increase and recommend the same to JFAC.

In support of the motion, **Rep. McGeachin** provided a handout entitled, Adjustments to Reimbursement Rates Requested for FY 2007. The Representative directed the committee's attention to the handout which illustrates a methodology developed by four different agencies. The agencies that were listed as participants were: Idaho association of Developmental Disabilities Agencies, Idaho Residential Supported Living Association, Case Managers Association of Idaho, and Idaho Association of Residential Habilitation Agencies. The information in the handout shows the services provided within each agency and their respective codes that were applied, in order to arrive at a methodology.

**Rep. McGeachin** stated that private Medicaid providers are struggling to stay in service. There are over 3,500 employees that provide Medicaid service who have not been given a rate increase in a decade. She further stated that this decision would have to come from the policy committee.

**Rep. Garrett** brought to the committee's attention the subcommittee recommendation on page 5 which is to recommend that funding be provided to contract for an independent entity to conduct a market analysis of provider reimbursement rates to be used to develop a rate structure as envisioned in H 190 (Subcommittee's recommendations attachment, page 5). She stated that she believes that this is good step in furthering this process.

**Rep. Shepherd** commented that he would like to have the Chairman emphasize to JFAC the committee's support for the providers and their dilemma of not having had an increase in a decade.

**Rep. Bilbao** commented he does not disagree that the providers need a raise. However, he suggested contracting an independent auditor to take a look at this.

**Rep. Loertscher** commented that somewhere along the line, a methodology must be adopted. He further stated that he believes the methodology provided by the providers and just reviewed by this committee is very appropriate.

There being no further discussion a motion was in order.

**SUBSTITUTE  
MOTION:**

**Rep. Rusche** moved that the Chairman communicate to JFAC that additional appropriation for these services be considered in the 2007 budget, without specifying an exact amount. There was discussion on the motion

**Rep. McGeachin** commented that there will be a cost savings in the long run by supporting these people now.

**Kris Ellis**, of Benton, Ellis & Associates, yielded to a question regarding the last time providers received an increase. She replied that there has only been a 5 ½ % increase since 1995. She confirmed that the department had checked the numbers that were provided by the provider agencies, and they are correct.

Committee discussion continued. Some of the comments were:

- Encouragement of support for a market analysis by a third party.
- Concern that there has not been the opportunity to evaluate the information by the providers; there might be some inequality or inequity built into the system.
- There is not enough time for review, given the fact that the JFAC presentation is tomorrow, February 15.

**Rep. Sali** called for the Previous Question. All were in favor.

**VOTE:**

A roll call vote was called for.

A roll call vote was taken on the Substitute Motion.

Representatives Ring, Bilbao, Martinez, and Rusche voted Aye

Representatives Block, Garrett, Sali, McGeachin, Nielsen, Loertscher, Shepherd, and Henbest voted Nay.

**The Substitute Motion failed.**

A roll call vote was taken on the Motion.

Representatives Sali, McGeachin, Nielsen, Loertscher, and Shepherd voted Aye.

Representatives Block, Garrett, Ring, Bilbao, Henbest, Martinez, and Rusche voted Nay.

**The Motion failed.**

**Rep. Garrett** restated the subcommittee's recommendation, which was to recommend to the full committee that funding be provided to contract for an independent entity (actuary) to conduct a market analysis of provider reimbursement rates to be used to develop a rate structure as envisioned in H 190.

**Chairman Block** stated that she will relay the committee's emphasis on the importance of a rate increase for the providers during her presentation to JFAC.

**Rep. Nielsen** was granted the request from the Chair to make a motion.

**MOTION:**

**Rep. Nielsen** moved that the report to JFAC include the following

request from this committee; that JFAC will discuss ways to trim the budget in areas that have not been explored, in order to offset the recommendations made for funding by the subcommittee. The motion carried by voice vote.

**ADJOURN:** There being no further business, the meeting was adjourned at 4:00 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 16, 2006

**TIME:** 1:35 PM

**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 by Vice Chairman Garrett. **Rep. Shepherd** moved to accept the minutes of January 30, 2006; the motion carried. **Rep. Martinez** moved to accept the minutes of February 6, 2006; the motion carried. **Rep. Henbest** moved to accept the minutes of February 10, 2006; the motion carried.

**H 564** **Roger Hales**, Attorney, representing the Bureau of Occupational Licenses, presented **H 564**, which deletes the State Board of Optometry fund and allows funds to be paid directly into the account for the Bureau of Occupational Licenses as requested by the Idaho State Treasurer's office as are the other boards administered under the Bureau. These amendments would provide that all fees received by the Board would be deposited into one account. This is not an increase in fees or the cap.

**MOTION:** **Rep. Martinez** moved to send **H 564** to the floor with a Do Pass Recommendation. **The motion carried by voice vote.**  
**Rep. Nielsen** will sponsor the bill on the floor.

**H 565** **Roger Hales**, presented **H 565**, which deletes language that allows licensed nursing home administrators without examination or experience to be licensed as residential care facility administrators. It also adds language that further clarifies steps taken in cases of disciplinary action.

**Rick Holloway**, Administrator, Western Health Care, addressed the committee in opposition to the bill. He asked the committee strike the removal of the exemption.

**Keith Holloway**, CEO of Western health Care Corporation, addressed the committee in opposition to the bill. He stated that this bill creates a duplicate process of licensing. He supported his argument by referencing the Idaho Statute, relating to Nursing Home Administrators, and the Idaho Administrative Code, relating to Residential Care Facility Administrators, copies of which were given to the members (see attachment). He asked the committee to reject the bill.

There were questions from the committee. **Mr. Hales** stated that the

Board's charge is to protect the public. He further stated that at a minimum, these professions are different, and one board should not have a "free ride" and automatic license.

**Robert Vande Merwe**, representing the Idaho Health Care Association, addressed the committee in opposition to the bill.

In response to committee questions, **Mr. Vande Merwe** attempted to distinguish some of the differences between Nursing Homes and Assisted Living Homes. He said that for the Nursing Homes, the vast majority of administrators have college degrees; there are many more restraints; many more nurses; and 'hard' skills are used. In the case of Assisted Living, the vast majority have a high school diploma; a negotiated service agreement is required; around the clock care and observation is not required; there is usually only one nurse; and soft 'skills' are used.

There being no further questions, **H 565** was before the committee.

**MOTION:** **Rep. Henbest** moved to send **H 565** to the floor with a Do Pass Recommendation. She stated that we are talking about a cultural difference, not a knowledge difference; we are deciding that there is a different culture.

**Rep. Sali** announced that he does have the endorsement of the American Health Care Association.

Comments from the committee: Assisted Living rules were just accepted by this committee with more requirements; Residential Care and Assisted Living is becoming more like the Nursing Home; the two separate boards are melding together.

**VOTE:** **By a show of hands, the motion failed.**

**H 566** **Mr. Hales**, presented **H 566**, which is to increase the cap on the fees for renewal of licenses for psychologists. This increase would allow the Board to promulgate rules in the future if their budget moves into a deficit situation.

**MOTION:** **Rep. Rusche** moved to send **H 566** to the floor with a Do Pass Recommendation. **The motion carried by voice vote.**  
**Rep. Martinez** will sponsor the bill on the floor.

**Rep. Garrett** explained that the last two bills dealing with smoking would be addressed in the following manner. After each bill was presented, with testimony and questions following, the committee would begin debate on both bills. At the end of debate, the committee would vote on H 499 first and H 670 second, in the event H 499 failed.

**H 499**

**Rep. Ring** presented **H 499** which prohibits smoking in bowling alleys, with an exception for designated smoking rooms that meet requirements to minimize any mixing of air from a smoking room into the bowling alley. Rep. Ring stated that his primary interest is to have families breathing clean air while they are bowling. He has had many discussions with bowling proprietors and has discovered that many have made great strides in improving the quality of air by installing clean air filtering systems, and incorporating a smoking room.

**Mona Lindeen**, Owner of 20<sup>th</sup> Century Lanes in Boise, and representing the Idaho Bowling Membership Association, addressed the committee in support of the bill. She stated that some of the members have gone completely non-smoking. She explained their concern for the safety of customers due to damp, wet, and dirty floors caused by smokers, wearing special bowling shoes, tracking in snow, etc. from outside onto the floors.

**Steve Young**, Owner of Tough Guy Lanes in Pocatello, addressed the committee in support of the bill. He provided copies of pictures of his facility showing the smoking room and ventilation systems inside the smoking room, as well as the ventilation systems inside the lounge. He said that he is concerned about the youth and has already established non-smoking rules, and has restricted smoking to a smoking room and the lounge (see attachment).

**Ken Vargoson**, a citizen and bowler, addressed the committee in support of the bill. He stated that he doesn't like to see young adults smoking outside in alleyways.

**H 670**

**Brad Hoaglun**, representing the American Cancer Society, presented **H 670** which removes bowling alleys from the list of exempted locations in Idaho's Clean Indoor Air law. It also adds bowling alleys to the list of public locations where smoking is prohibited within 20 feet of entrances and exits. He stated that H 499 affords some protection, but it doesn't afford protection of those who need it and want it the most. He said that the majority of smokers are trying to quit smoking and they want to help them quit that habit. H 499 makes it convenient to smoke.

**Sue Ann Reese**, representing the American Heart Association, addressed the committee in opposition to H 499. She said that ventilated systems do not work. They may get rid of the odor, but never get rid of the arsenic. She said that heart disease and stroke is the number one killer in Idaho. They would support the bill if ventilation systems worked. She provided a packet entitled, Americans for Nonsmokers' Rights (See attachment).

**Brad Dixon**, Attorney, representing the American Heart Association, addressed the committee in support of H 670. He stated that the ultimate goal of the American Heart association is to reduce heart disease; "We can stop it on the front end by promoting clean air." He said that the legislation of last year removed smoking area provisions for restaurants and malls.

**Rod Leslie**, representing the American Lung Association of Idaho and Washington, addressed the committee in support of H 670. He said that arsenic, formaldehyde, and cyanide are substances that can not be

removed from ventilation systems. There are over 3000 toxic chemicals in cigarette smoke.

There being no further testimony or questions from the committee, a motion was in order.

**MOTION:** **Rep. Sali** moved to send **H 499** to the floor with a Do Pass recommendation.

**Rep. Ring** commented that he agrees that ionic air filters do not remove the toxic substances, however, the return air in the ventilation systems in the smoking rooms if filtered out into the air and not back into the bowling alley. **Rep. Henbest** commented that her concern is with opening up the door to this idea with other facilities. She said that all bars and public facilities in Ireland, the UK, and Scotland have gone smoke free. She thinks the inconvenience will strengthen the resolve to quit smoking. **Rep. Martinez** said that the tobacco industries profit hugely in this country at the expense of all of us. He said that somewhere and at some point, we have to send the right message to kids. Another member commented on the irony in the fact that a lot of things are financed on the back of tobacco tax. Another member commented that it is not the responsibility of the state to take care of the health of all people. Individuals have a choice and responsibility for their own health.

**VOTE:** **The motion carried by voice vote. Rep. Ring** will sponsor the bill on the floor.

**MOTION:** **Rep. Sali** moved to reconsider the action on **H 565** dealing with removing the exclusion of licensure for nursing home administrators.

**Rep. Sali** asked **Rayola Jacobsen**, Bureau of Occupational Licenses Chief to yield. She explained that she was not made aware in discussions prior to the hearing of the bill today that the bill had any opposition. She said that had she known of this opposition, she would have prepared differently and had the Chairs of the respective boards present to testify for the bill. **Rep. Sali** said that he thought it would be good to hear from the Chairman of the two boards.

**VOTE TO Reconsider:** **The motion carried by voice vote.**

**Rep. Sali** requested unanimous consent that **H 565** be held until the call of the Chair. There being no objection, the Chairman said that the bill would be held until the call of the Chair.

**ADJOURN:** There being no further business of the committee, the meeting was adjourned at 4:15 PM.

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Representative Kathie Garrett  
Vice Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 20, 2006

**TIME:** 1:30 PM

**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:** Please see attached sign-in sheet.

The meeting was called to order at 1:30 PM. The minutes of February 14 were reviewed. **Rep. Rusche** moved to accept the minutes of February 14, 2006 as written. The motion carried.

**Chairman Block** introduced the page, **Lindsay Vincent**, who is a home school student residing in Eagle.

**Chairman Block** presented the House Health and Welfare Budget Report that was presented to JFAC on February 14 to the committee. (See attached)

**Rep. Garrett** took a moment to thank the Chairman for her great report and complimented her on how well she had captured, in the report, the work done by the committee. The Chairman, in turn, thanked the committee for all of their dedicated and hard work, as well.

**HCR 40** **Rep. Ring** presented **HCR 40** which he explained is a resolution to attempt to have a statewide form for physician orders for life-sustaining treatment. **Rep. Ring** explained that currently, ER's, EMT's, hospitals, and others may all use a different form. This resolution requests the Department of Health and Welfare (DHW) and the Office of the Attorney General to develop a single, statewide, universal system and form.

**Robert Vande Merwe** yielded to a question. He said that they do not know exactly what this effort is going to look like. They are bringing this concurrent resolution so that this issue can be reviewed from all sides and come back next year with the answers. **Rep. Rusche** suggested that there be a common way of accessing and documenting each situation. **Mr. Vande Merwe** said that this is part of what they are trying to do.

**MOTION:** **Rep. Martinez** moved to send **HCR 40** directly to the second reading calendar with a Do Pass Recommendation. The motion carried.

**HCR 41** **Rep. Henbest** presented **HCR 41** which encourages the development and implementation of a state website to assist Idahoans in becoming more informed about their health and health options. **Rep. Henbest**

explained that this is designed to inform the legislature and to engage everyone in the idea of a health portal website. She explained that a portal is more than just a website because it would be envisioned as a major door way to advance directives, information about management of one's own health decisions, quality indicators by providers and hospitals looking at disease management, and health care costs.

Responding to committee questions regarding who will manage the site? What are the guidelines of getting information to the site? What is the guarantee that the information is correct? Is there intent to invite other participants like, Healthwise, for example? **Rep. Henbest** said that ultimately there has to be standards established, and probably a half-time employee down the line to manage the site to make sure the information will be accurate. She also said that they would like to have links to other health related sites that can provide answers, as well.

**MOTION**

**Rep. Rusche** moved to send **HCR 41** to the Floor with a Do Pass Recommendation. He commented that a doorway that helps to get services is a great idea, and he thinks that this is a good way to present how Idaho does health care. He said that he thinks this will prove to be very useful to us.

In responding to committee questions, **Rep. Henbest** said that she has been working with **Dick Schultz**, Health Division, DHW, about the kinds of information that would be allowed on the site. She also said that the concern about "woodworking" is one that needs to be discussed. A member cautioned about the importance of monitoring Alternative Health Care information that might be considered for the site.

**VOTE:**

**The motion carried by voice vote.**

**H 616**

**Rep. Henbest**, addressed the committee regarding **H 616** which is a proposal to require that autopsies be performed in cases where Creutzfeldt-Jakob Disease is suspected. She asked the committee to hold this bill because she is drafting a new RS, regarding this issue, that will be heard in the State Affairs Committee tomorrow, February 21.

**MOTION**

**Rep. Bilbao** moved that the committee **hold H 616** in committee. The motion carried by voice vote.

**H 611**

**Mick Markuson**, Director, Board of Pharmacy, presented **H 611**, which clarifies the appropriate prescriber/patient relationship required to support prescriptions. He explained that there is a growing problem of drugs being made available over the internet.

**MOTION:**

**Rep. Ring** moved to send **H 611** to the floor with a Do Pass Recommendation.

**Rep. Nielsen** questioned the language on line 13 referring to a prescription that is based, "*solely on an online questionnaire or consultation,*" and that it does not constitute a legitimate medical purpose. He is concerned about situations arising when online consultation is necessary between doctors, residing in two different geographical locations, especially for those living in rural areas.

**Russ Newcomb**, Idaho Medical Association, yielded. **Mr. Newcomb** said that he has had the same concern as **Rep. Nielsen** with the issue of using tele medicine for transferring information; however, he stated that **Mr. Markuson** has assured him that through the process of rule making, tele medicine will not be affected. **Rep. Nielsen** questioned waiting to rewrite the language, and suggested that it be done now.

**SUBSTITUTE MOTION:**

**Rep. Rusche** moved to send **H 611** to the Amending Order with the deletion on line 13 of the words, "*or consultation.*"

**Rep. Henbest** pointed out that there may be other ways of online questioning and this may not completely describe the problem.

**Rep. Rusche** requested to have his motion withdrawn and make a new substitute motion.

**SUBSTITUTE MOTION:**

**Rep. Rusche** moved to strike out the language on line 13, "*or consultation,*" and replace it with, "*or in the absence of a prescriber/patient relationship.*"

**Rep. Sali** commented that the language on line 10 would need to change to coincide with the substitute motion. **Rep. Sali** asked for Unanimous Consent that **H 611** be held to a Time Certain to the discretion of the Chair, in order to give **Rep. Rusche** an opportunity to work on the language along with **Mr. Markuson**. With no objection, the request was granted.

**H 613**

**Mick Markuson** presented **H 613** which adds the common name of several controlled substances to Idaho Code. **Mr. Markuson** explained that it was necessary to amend the bill due to language that was inadvertently added to lines 33 and 34, page 2. The words *commonly known as hydrocodone* do not apply to the drug, dihydrocodeine, and need to be deleted.

**MOTION:**

**Rep. Loertscher** moved to send **H 613** to General Orders with committee amendment attached to strike the language on page 2, lines 33 and 34 referenced above. The motion carried by voice vote. **Rep. Loertscher** will sponsor the bill.

**ADJOURN:**

The next meeting will be Wednesday, February 22, 2006, Upon Adjournment of the House. There being no further business of the committee, the meeting was adjourned at 2:30 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 22, 2006

**TIME:** 2:15 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Representative Sali

**GUESTS:** Please see attached sign-in sheet.

The meeting was called to order at 2:15 PM. **Chairman Block** welcomed **Mrs. Sali**, who is taking the place of **Rep. Sali** during his absence.

The minutes of February 16, 2006 were read. **Rep. Martinez** moved to approve the minutes; **motion was carried**. The minutes of February 20, 2006 were read. **Rep. Ring** moved to approve the minutes; **motion was carried**.

**PRESENTATION  
Mercury in the  
Environment**

**Chairman Block** introduced **Dick Schultz**, Administrator, Division of Health, Department of Health and Welfare (DHW), who then introduced **Elke Shaw-Tulloch**, Chief, Bureau of Community and environmental Health, DHW. **Ms. Shaw-Tulloch** gave the committee an overview on the effects of mercury on the environment and how it transforms into methylmercury in soils and water, which in turn is transmitted to fish, then humans. **Ms. Shaw-Tulloch** described the role of the Idaho Fish Consumption Advisory Program (IFCAP). She said that IFCAP, along with the DHW, DEQ, Idaho Fish and Game, Idaho Department of Agriculture, US Geological Survey, and EPA have partnered on a project to determine what the public health risks are in Idaho from consuming locally caught fish (Attachment #1). She referred to several handouts:

- Mercury Emissions Contribute to Human Exposure to Mercury (Attachment #2-chart)
- ToxFAQs for Mercury (fact sheet) (Attachment #3-chart)
- Map of advisory locations in Idaho (Attachment #4-chart)
- Fish mercury warning sign (example) (Attachment #5-chart)
- Idaho Fish Consumption Advisory Program Protocol (Attachment #6-18 pages)
- DHW Safe Fish Eating Guidelines (Attachment #7)

**Michael McIntyre**, Program Manager, Surface Water, DEQ, addressed the committee regarding how DEQ is addressing the mercury concern in Idaho. He gave a slide presentation outlining what is known about mercury in the environment, mercury sources, what is being done about mercury, and a proposed plan for the future (Attachment #8).

At the conclusion of the presentation, the presenters invited questions from the committee.

**Mr. McIntyre** responded to a member asking why some types of fish pick

up more mercury than others by saying that the higher concentrations of methylmercury are in fish that eat other fish, like bass. Whereas, other types of fish eat aquatic organisms.

**Mr. McIntyre** was asked if mercury, as it works its way down through the soil, over rocks, then into streams, etc., is naturally removed by the time it filters into the waterways. He explained that in some cases the mercury level can increase depending on the source and temperature of the water and the soil environment.

**Mr. McIntyre** was asked if it is possible for mercury, that has infiltrated the rivers and canals through snow run-off, to get into the food chain as a result of livestock drinking the water. **Dick Schultz** yielded. He said that it is not known when mercury would infiltrate the mammalian species. He said that it has been discovered that ducks in Salt Lake have been found to have mercury. **Mr. McIntyre** said that DEQ is looking into some of these issues that involve cattle, beef and dairy.

**Mr. Schultz** responded to a question regarding mercury used in immunizations. He said that mercury has been removed from vaccines and that methylmercury is completely different.

**Mr. Schultz** said that Friday, March 10, 2006, an expert on the subject of mercury will be in Boise to address this issue and answer questions.

#### **H 615**

**Rep. Garrett** presented **H 615**, which is a pilot program created to allow the state to establish the real costs and benefits of including mental health coverage in group health insurance coverage. She stated that a similar bill, H 286, was passed by this committee last year. She explained that there is a mental health crisis in Idaho both in terms of costs to the state, crisis treatment in correctional institutions, county indigent funds, and Medicaid. A lack of mental health treatment has been an issue for a long time. She said that insurance coverage for mental illness is receiving national recognition and President Bush urged Congress to enact legislation that would provide parity to those with mental illness in a speech in April of 2002. She provided a handout (Attachment #9) which illustrates every state, with the exception of Idaho and Wyoming, who have enacted parity laws. Early identification can lead to better outcomes and recovery. Avoiding it can lead to severe disabilities and increase in costs.

**Rep. Garrett** stated that her husband is a provider of substance abuse treatment.

**Rep. LeFavour** addressed the committee. She said that this legislature has a chance to save costs, and keep families together. She said that this is a chance to do preventative work for the goal of reducing costs to a variety of state programs. Using state employees is a test pool and a chance to study how parity can work. She shared her concern for the increase in population of Idaho's correctional institutions. Studies in other states have suggested savings in overall health care. Studies have shown that parity has a preventative effect in reducing the level of substance abuse treatment needed by the insured population. Idaho's prisons are filling up with cases of individuals with mental illness that have been left untreated.

**Rep. Henbest** addressed the committee. She walked the committee through the bill highlighting some of the changes from last year's legislation. She noted language in Section 1, subsections (8) and (9), referring to the rising costs facing Idaho by leaving mental illness untreated. She referred to the language at the top of page 2 which states that state employees and their spouses with serious mental illness should not be discriminated against in group health care service coverage. She continued on page 2, subsection (a) pointing out the list of definitions of serious mental illness on lines 10 through 19. She pointed out subsection (b) on line 20 where the criteria for Serious Emotional Disturbance has been adopted from the Code. She explained that they want to be consistent with what is already being done in Idaho. She noted further defining language in line 26 through 28 and noted Section 3 at the bottom of page 2 which defines the reporting process of coverage.

**Rep. Henbest** continued her presentation by explaining the current benefit package that is provided to state employees, copies which were provided to the members (Attachment #10).

**Rep. Nielsen** asked, based on the \$1.8 million, how would this insurance plan affect co-pays. **Rep. Henbest** deferred to **Rick Thompson**, an Administrator with the Department of Administration. He explained the breakdown for both PPO, Preferred Provider Option, and Traditional plans for state employees. On a PPO plan - \$250 deductible 85% co-insurance 15% by the participant up to the maximum of out-of-pocket of \$3,250. On the traditional plan- \$350 deductible, 80% co-insurance, 20% participant, up to \$4,300 out-of-pocket.

**Rep. McGeachin** asked how this legislation addresses managed care systems and carve-out contract. **Rep. Henbest** replied that the goal is to steer people to the appropriate level of care for their disease; providing the appropriate monitoring of care over time.

**Rep. McGeachin** asked when the effective date is and questioned the reporting date listed as January 31, 2009 in the statement of purpose. **Rep. Henbest** said that the correct date is 2010 which she will have corrected. She stated that the effective date for this legislation is July 1<sup>st</sup> of this year.

**Rep. Nielsen** asked if the issue of prevention has been addressed. **Rep. Henbest** replied that by encouraging early access, early intervention and stability, the long term crisis situations can be "staved off."

**Charlie Novak**, Psychiatrist, Boise, and representing the Idaho Psychiatric Association, addressed the committee in support of the bill. He stated that the association has been backing non-discrimination insurance options. They are seeing more people on Medicaid. The illnesses defined in these individuals are the most serious illnesses. He said these individuals end up in other levels of care which shows up as medical cost, not mental illness. He said that a baseline for medical procedures is needed.

**Fawn Pettet**, legislative advocate for the Roman Catholic Diocese of Boise and Catholic Charities of Idaho, had provided a letter for the committee in support of H 615 (See attachment).

**Michael Reynolds**, representing the National Alliance on Mental Illness (NAMI), addressed the committee in support of the bill. He has worked in many arenas including as a missionary in various parts of the world. He gave an account of his own personal experience in receiving benefits. He said medical insurance is provided automatically if in the case of having a heart attack. However, in the case of receiving assistance for diagnosed serious mental illness, one has to go through the “gate keeper.”

**Bob Seehusen**, CEO, Idaho Medical Association, addressed the committee in support of the bill. He said that access to mental health services is a void in this state. This is time limited and only applies to state employees and will give information on the cost and access and benefits. This only covers the medically necessary, biologically based mental illness. He said that other health issues, such as thyroid conditions, pancreas conditions, epilepsy are taken care of medically with out a problem. He referred to a document, from the U.S. Department of Health and Human Services pertaining to an evaluation of federal employees, Federal employees Health Benefits Program. This report deals with costs and what they found dealing with mental health and substance abuse parity (see attachment).

**Teresa Molitor**, representing Idaho Association of Commerce and Industry, addressed the committee in opposition of the bill. She explained that her association understands the difficulty of people left untreated; however, they are concerned that this will be a mandate that will be imposed at some point in the future. They don't disagree with the findings in the legislation.

In response to a question as to why business wouldn't want to share in good outcomes, **Ms. Molitor** said that they will look at the findings in 2010, but on this date, 2006, they are not ready to accept this.

In response to another question, she said that IACI took the approach that a mandated state employee mental health parity bill did not rise to the level as the Medicaid budget did for her members. She stated that she will have her members take a look at this parallel.

**Mark Seeley**, citizen, addressed the committee in support of the bill. He stated that coverage for mental health should be the same for medical conditions. He also said that those with mental illness want the dignity of being able to work and pay their bills.

**Jim Baugh**, Executive Director of Co Ad, spoke in support of the bill saying that as a small business employer, he finds it impossible to provide mental health insurance for his employees.

**Lyn Darrington**, representing Regence Blue Shield of Idaho, spoke in support of the bill by saying the association is neutral. They are going to take this amount of time to check into the affect on small business.

**Kelly Buckland**, Executive Director of the State Independent Living Council, said that his organization stands in support of the bill.

**Betty Mcguire**, NAMI, conceded her time to testify.

**Andrew Hanhardt**, representing Idaho State employees, spoke in support of the bill. He said that over the years, they have seen a number of employees slip through the cracks.

**John Tanner**, NAMI, spoke in support of the bill. He said that there is no way of preventing mental illness, but there are a number of things that can be done to prevent relapses.

**Delmar Stone**, National Association of Social Workers, addressed the committee in support of the bill (see attached testimony).

**Marilyn Sword**, Executive Director of Idaho Council on Developmental Disabilities, conceded her time to testify, but provided a letter in support of the bill (see attached letter dated February 22, 2006).

There being no one left to testify, a motion was in order.

**MOTION:** **Rep. Garrett** moved to send **H 615** to the floor with a Do Pass Recommendation.

**SUBSTITUTE MOTION:** **Rep. Nielsen** moved to send **H 615** to the floor with an amendment that the state employee pays the increase in the coverage so that the state does not pass this off to the tax payers.

**Rep. Henbest** commented that the fiscal impact is an appropriation based on the federal data and she would like to move forward to determine costs rather than shifting it to the state employees at this time.

**Rep. Rusche** commented that it would be complicated to build this type of employee payment into the system at this point in time.

**Rep. McGeachin** stated that she does not support the bill for two reasons: No. 1 is the cost of \$1.8 million; No. 2 is that there is nothing in the legislation that clarifies any restrictions for managed care, and without managed care, there will be no restraints in the spending. She stated that she believes parity is a good concept

A roll call vote was called.

**VOTE:** By a roll call vote on the substitute motion, Mrs. Sali, and Representatives McGeachin, Nielsen, Shepherd voted Aye. Representatives Block, Garrett, Bilbao, Henbest, Martinez, and Rusche voted Nay.  
**The substitute motion failed.**

By a roll call vote on the main motion, Representatives Block, Garrett, Bilbao, Henbest, Martinez, and Rusche voted Aye. Mrs. Sali, Representatives McGeachin, Nielsen, and Shepherd voted Nay.  
**The main motion passed.**

The next meeting will be held at 1:00 PM or upon adjournment of the House, Friday, February 24, 2006.

**ADJOURN:** There being no further business before the committee, the meeting was adjourned at 5:00 PM.

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Representative Sharon Block  
Chairman

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Jennifer O'Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 24, 2006

**TIME:** 1:05 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Representatives Garrett, Sali, and Loertscher

**GUESTS:** Please see attached sign-in sheet.

The minutes of February 22 were reviewed. **Rep. Rusche** moved to approve the minutes of February 22, 2006; **motion carried**.

**H 614** **Rep. Rusche** presented **H 614** which allows realtime access by physicians, pharmacists, and law enforcement to existing information held by the Board of Pharmacy regarding controlled substances prescriptions. **Rep. Rusche** explained that thirty percent of drug abuse involves prescription drugs. He said that in the state of Kentucky where this system is being utilized, the time it takes to investigate a drug abuse case has dropped from 150 days to 90 days per investigation. This bill will improve the timely, appropriate management of patients with multiple visits for controlled drugs. It also includes appropriate protection of personal health information.

**MOTION:** **Rep. Ring** moved to send **H 614** to the floor with a Do Pass Recommendation.

In response to a question, **Rep. Rusche** explained that there may be a twenty-four hour lag time between the time data has been entered and the time it can be retrieved; but this is definitely an improvement to what is currently being done.

**VOTE:** **The motion was carried by voice vote.**  
**Rep. Rusche** will sponsor the bill.

**H 619** **Jeremy Pisca**, Attorney, presented **H 619**, which would transfer the Idaho Physical Therapy Licensure Board and its administration to the Department of Self-governing Agencies under the Idaho Bureau of Occupational Licenses. **Mr. Pisca** explained that the changes in the bill are basically technical changes to the bill so that it will line up under the authority of the Bureau of Occupational Licenses.

In response to a question, **Rayola Jacobsen**, Chief of the Bureau of Occupational Licenses, replied that the Bureau has reviewed and analyzed this legislation and believes this entity can be managed and absorbed into the Bureau very nicely, depending on the dictates of the

Governor and the Legislature.

**MOTION:** **Rep. Henbest** moved that **H 619** be sent to the floor with a Do Pass Recommendation. The motion carried by voice vote. **Rep. Henbest** will sponsor the bill.

**H 567** **Sarah Scott**, Director of the Office on Aging (ICOA), introduced **Richard Juengling**, representing ICOA, who introduced the bill. He began by explaining that there are six area agencies throughout the state that the Office on Aging has contracted with, which does not include the provision of ombudsman services. **Mr. Juengling** explained that as the needs of the agencies are heard, the commission is limited because the Ombudsman program currently receives only federal funding. He further explained that the demand for consultations, presentations, and visits to residents has doubled since 1985, but the manpower to efficiently maintain the services has not. This proposal will modify the statute to include the Ombudsman program to afford the area agencies on aging more flexibility in funding their Ombudsman and other Senior Services Act programs.

**Rep. McGeachin** asked **Mr. Juengling** how he thinks that the additional burden of the Ombudsman program can be accommodated on the state budget. He replied that this will be an ongoing problem because, clearly, the services continue to grow.

**Rep. Bilbao** questioned who is going to speak for the elderly if we don't. He said that we need to find a way to speak for them.

**MOTION:** **Rep. Nielsen** moved to send **H 567** to the floor with a Do Pass Recommendation. The motion carried by voice vote. **Rep. Nielsen** will sponsor the bill.

**Rep. Shepherd** commented that they need to move more toward advocacy for this program and less on rules and regulations.

**H 565** A motion had been made at the committee meeting of February 16, 2006 to hold **H 565** until the call of the Chair, in order to allow the Bureau of Occupational Licenses and the Residential Care Facility Administrators to have fair and equitable representation.

**Chairman Block** introduced **Rayola Jacobsen**, Bureau Chief, Bureau of Occupational Licenses, who then introduced **Ione Springer**, Chairperson for the Board of Examiners of Residential Care Administrators, to give testimony in support of **H 565**. (See attached testimony.)

In response to a question, **Ms. Springer** said that an administrator with a residential care license would be more qualified to run a residential care facility than an administrator holding a skilled nursing home license.

In response to a question, **Ms. Jacobsen** said that the Board is unable to issue a combination license because this issue is dealing with two separate and distinctive boards; two sets of rules and laws.

**Sharon Ashcraft**, Board member of Idaho Board of Residential Care

Administrators, addressed the committee thanking them for the opportunity to bring **H 565** before them again. **Ms. Ashcraft** stated that the philosophy, type of care, residents, and type of residence are all different. She said that the number of residential care facilities in the state are increasing; currently, there are 282 residential care and 81 skilled nursing facilities in Idaho.

In response to a question, **Mr. Ashcraft** said that it would be possible for one individual to be qualified to hold two separate licenses.

**Robert Vande Merwe**, Idaho Health Care Association, addressed the committee, stating that they originally opposed the legislation prior to this meeting. However, he stated that if they can be assured that they will be part of the negotiations regarding licensure, they are willing to support the bill.

**Ms. Jacobsen** addressed the committee by stating that they have met with Idaho Assisted Living Association, IDALA, and the Skilled Nursing Home Association and have come to an agreement. She explained that they would remove the striking of language on lines 36 to 40 along with changing the word *shall* to *may* on line 38 and then again on 39.

**Michelle Glasgow**, IDALA, addressed the committee, stating that IDALA is in support of this compromise. (See attached testimony)

**MOTION:**

**Rep. Bilbao** moved to send **H 565** to the floor with a Do Pass Recommendation.

**SUBSTITUTE MOTION:**

**Rep. McGeachin** moved to send **H 565** to the Amending Order with committee amendments attached that would unstrike the language in lines 36 through 40 and change the word *shall* to *may* on line 38 and change the word *shall* to *may* on line 39. **The motion carried by voice vote.**

**HJM 15**

**Rep. Henbest** presented **HJM 15** which is legislation that urges Congress to mandate a standardized application for use by pharmaceutical companies in determining eligibility for free medications from pharmaceutical companies. **Rep. Henbest** explained that there are approximately 190 different types of forms, taking sometimes up to 1.5 hours to complete one application. Each company has a different application form. This is a resolution that is sending the message to Congress that there are problems and barriers for getting prescription drugs to many needy Idahoans.

A member commented that it would not be appropriate to mandate this type of service since it is a charitable service.

**Bill Roden**, representing PhRMA, addressed the committee in opposition to this memorial. He explained that PhRMA is in opposition for two reasons. One, is the concern that this service could end up as a government mandate; and two, this falls under the marketing programs under the anti trust law. Companies cannot collaborate without running the risk of violating the anti trust law. He questions the appropriateness of asking Congress to determine the standards of this type of form. He

suggests getting the pharmaceutical companies together to discuss and convey information in an effort to try to simplify the form, instead of developing one single form.

**Mr. Roden** provided a handout that provides information for access to a web portal and telephone number that provides assistance for obtaining prescriptions. Some of the sponsors listed on the sheet are the Idaho Department of Health and Welfare, the Idaho Department of Insurance, Idaho Health Care Association, and many others. (See attachment) He said that thousands of people have received services from this information.

**Elizabeth Criner**, representing Pfizer Pharmaceutical Company, addressed the committee, stating that the single source portal has been extremely successful in providing helpful information. She echoed the concern shared by Mr. Roden about this effort falling under marketing, and mandating charitable giving.

**MOTION:**

**Rep. Ring** moved to send **HJM 15** to the Amending Order with committee amendments attached which strike the words, *mandate a standardized*, on line 44 and add the words, *encourage the adoption of simplified*, and delete the word, *application*, on line 1, page 2, and add the word, *applications*.

**Rep. Henbest** stated that she would support the motion because it sends the message to Congress that we are trying to simplify the process.

**Rep. McGeachin** commented that she thinks it is not appropriate that the government be involved in this area of possibly mandating gratuity.

**Mr. Roden** commented he thinks this problem should be addressed to the companies who are providing this service instead of Congress. **Ms. Criner** said that she would like to have the opportunity to speak to her client and get some feedback.

**SUBSTITUTE MOTION:**

**Rep. Nielsen** moved that **HJM 15** with amendments be held to the call of the Chair so that both sides can have opportunity for discussion before bringing the bill back before this committee.

**Rep. Ring** commented that he thinks simplifying would be a relatively benign issue. **Rep. Martinez** commented that **HJM 15** is simply sending a message to encourage Congress to take an interest in the issue.

**Rep. Nielsen** stated that his goal is to cause an atmosphere of cooperation between the parties involved and come together in more of an agreement before issuing this legislation to Congress.

A roll call vote was called for.

By a roll call vote on the substitute motion, Representatives McGeachin, Nielsen, and Shepherd voted Aye. Representatives Block, Ring, Bilbao,

Henbest, and Martinez voted Nay.

**The motion failed.**

By a roll call vote on the main motion, Representatives Ring, Bilbao, Henbest, and Martinez voted Aye. Representatives Block, McGeachin, Nielsen, and Shepherd voted Nay.

**The vote was tied. No action was taken.**

**ADJOURN:**

The next meeting will be Tuesday, February 28, 2006. There being no further business come before the committee, the meeting was adjourned at 3:05 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 28, 2006

**TIME:** 1:10 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Representative Sali

**GUESTS:** Please see attached sign-in sheet.

The meeting was called to order and the minutes of February 24 were reviewed. **Rep. Ring** moved to approve the minutes of February 24, 2006. **The motion carried.**

**Vice Chairman Garrett** assumed the duties of the Chair.

**Chairman Block** introduced **David Lehman** from the Office of the Governor and invited him to give an overview of the Governor's Medicaid initiative.

**Mr. Lehman** began by stating that the current trend in Medicaid is unsustainable which is an issue that has been known for several years. This past November the Governor launched his proposal to modernize Medicaid and bring it into the 21<sup>st</sup> Century. He said that the Governor's plan is unique and sets Medicaid on the right path for how these services should be provided for in the foreseeable future. This legislation here today will propel Idaho into a leadership role on a national level with Medicaid reform. Interested groups from around the country, including government officials from other states, the private sector, and former Speaker of the House, Newt Gingrich, are watching Idaho as this plan unfolds. He commended the Chairman and the committee for undertaking this effort to identify the challenges that exist in the current Medicaid system and for working toward solutions for what Medicaid should be over the next forty years of the program.

**Chairman Block** thanked **Mr. Lehman** and all of those from the Governor's office as well as those from the Department of Health and Welfare who have contributed to this project. She stated that trying to find savings and efficiencies in the Medicaid program has been a priority of this committee, the Governor, and the Department. This legislation incorporates ideas from each of these parties.

See attached handouts, 1) Modernizing Medicaid, Rep. Block; 2) Idaho Medicaid Reform Legislation 2006, What is Idaho Medicaid reform?  
Prepared by the Department of Health and Welfare

**Chairman Block** presented **H 662** explaining that this is the framework for the package which is called the Idaho Medicaid Simplification Act. This legislation authorizes the Director of the Department of Health and Welfare to restructure the Idaho Medicaid program in order to achieve improved health outcomes for Medicaid participants and slow the rate of growth in Medicaid costs. The bill simplifies current eligibility categories by establishing three new population groups, based on participants' health needs. The bill authorizes the Director to develop a State Plan for Medical Assistance for each of the three groups, in addition to a global benefit list for all Idaho Medicaid participants. The Chairman highlighted sections of the bill. She listed the three categories as described in the bill; 1) Low-Income Children and Working-Age Adults, 2) Persons with Disabilities or Special Health Needs, and 3) Elders. She highlighted the section in the bill on Eligibility for Medical Assistance explaining that all of this language is currently in Federal or State code, but is being categorized in order to be more easily understood. She highlighted the benefits of each category outlined in the bill, commenting that this legislation moves away from the philosophy that "one size fits all." This will save costs, simplify programs, give Idaho more flexibility, and improve quality.

**Katherine McNary**, Idaho Community Action Network (ICAN) Board member and mother of two, addressed the committee in opposition to the bill. {See attached testimony and handout entitled Cost Sharing Costs Lives (yellow)}

**Bill Foxcroft**, Executive Director of Idaho Primary Care Association, addressed the committee in support of the bill. (See attached testimony.)

**Karen McWilliams**, ICAN Board member, addressed the committee in opposition to the bill. {See attached testimony and handout entitled 1115 Waivers Shift Financial Risk (green)}

**Marilyn Sword**, Executive Director of Idaho Council on Developmental Disabilities, addressed the committee in support of the bill. She explained that they initially had some concerns; however, they have received assurance from the Office of the Governor that H 662 will not exclude any currently covered services. (See attached testimony and letters from the Governor's Office.)

**Ron Matthews**, representing ICAN, addressed the committee in opposition to the bill. Mr. Matthews stated that there are better ways to address rising costs in Medicaid. He gave examples of ways he believes would help make Medicaid a more cost-effective program. (See attached testimony.)

**Kelly Buckland**, Executive Director of Idaho State Independent Living Council, addressed the committee commenting that this has been several years in the making and they are fully in support of this bill.

**Matt Haney**, representing ICAN, addressed the committee in opposition to the bill. He stated that the 1115 waiver will put a cap on federal funding. Matching funds will be lost.

In response to a question regarding this cap on federal dollars, he said that he is concerned about what the feds will do and how they might limit their spending.

**Jim Baugh**, Executive Director, CoAd, Inc., addressed the committee in support of the bill. He said that this is properly called the “framework.” He said that the voyage has only begun and this is establishing a framework for trying to make the Medicaid program better and sounder. He stated that this legislation embodies the types of values they have been advocating.

**Teresa Molitor**, Vice President of Idaho Association of Commerce and Industry, addressed the committee in support of the bill. She explained that her comments would be applicable to both H 662 and H 663. She stated that they have reviewed the fiscal facts and recognize that both of these bills will not save money in the short term, but believe that this is a step in the right direction of redesigning a program that is necessary. (See handout prepared by IACI.)

**Bob Seehusen**, CEO of the Idaho Medical Association, addressed the committee in support of this bill. He commented that they strongly support this bill and see it as the first attempt in forty years to try to make some appropriate changes; it emphasizes prevention and wellness. He stated that he thinks this has the potential for savings in the long run. He said that it is creative and innovative and thanked the Department and the committee for their work on this project.

**Toni Lawson**, Vice President for Government Relations for the Idaho Hospital Association, addressed the committee in support of the bill. She said that they see this as making effective use of resources and services. She said that all of the hospitals support this legislation and think this is a move forward.

In response to a question regarding a concern for shifting costs to other payers or onto hospitals, **Ms. Lawson** said that the hospitals are looking at this legislation as a more effective and appropriate use of funds.

**Ray Stark**, Vice President of Boise Metro Chamber of Commerce, addressed the committee in support of this bill. He said that the Chamber has reviewed the Medicaid program over the years. He raised the concern that appropriations made for Medicaid will reach higher proportions than that made for public schools in less than fifteen years. He stated that in the business community, if something is not working, they have to try something else, which is his recommendation in the case of Idaho Medicaid.

**April Crandall**, Provider in Idaho Falls, in opposition to the bill was not present to testify. (See attached testimony.)

There being no one left who wished to testify, **Chairman Block** concluded her presentation. She commented that addressing the rising costs in Medicaid has been a goal for a long time. She said that the Governor’s Office, the Department, and the Legislature have had a very good working relationship in working on this legislation and has determined that this

legislation will provide better quality of service, a more simplified and better method of service delivery, and will contain costs for the Medicaid recipients. It will take time to turn around the escalating cost that has been occurring, but we believe that this will be an effort that will contain cost with time.

**David Rogers**, Medicaid Administrator from the Department, yielded to a question from **Rep. Rusche** regarding the 1115 waiver process and the concern that has been voiced. **Mr. Rogers** explained that the Section 1115 waiver provides for the broadest flexibility to states. All of the waivers have some type of cost effectiveness; the federal government does not allow any more spending with the flexibility than would have been allowed without the flexibility or the waiver. This is what is referred to in Section 1115 as budget neutrality, which in turn is based on the trend lines for Idaho which can be done on a per enrollee basis. Budget neutrality is projecting forward into the future. He said that it is probably technically correct to say that when those trend lines are established, it sets (on paper) a limited federal financial participation, but he is not aware of any state that has run into this particular cap. He commented that he does not believe that this will be a problem. He added that the greater risk is not the potential limitation in federal participation, but the availability or lack of state funds.

**Mr. Rusche** asked if the funding would not be capped if determined on a per enrollee basis. **Mr. Rogers** replied that this is correct and commented that enrollees are considered within each of the three population groups. If they see a higher rate of growth in the elderly population, for example, this process will accommodate for that growth.

In response to a question by **Rep. Martinez**, **Mr. Rogers** said that the rate of growth has been 12.4%. The actual rate of growth with the waiver in place would be 12%, which is a difference of .4%.

**MOTION:**

**Rep. Henbest** moved to send **H 662** to the floor with a Do Pass Recommendation. She said that they have to do something different. This legislation emphasizes health improvement for populations, appropriate point of service, and quality of service. She said that there will be an opportunity as this moves along for review.

**Rep. Loertscher** distributed a copy of Section 56-209d, commenting that this is the part that is in effect today. (See attached handout.) He stated that if this bill is passed there will be definite ramifications on state and county budgets. He explained that he helped write this section of code which is intended to limit the burden of responsibility from falling onto the counties. He explained that the services listed on the handout were services that the counties were responsible for if they fell over and above the resources of Medicaid. He explained that if this section is repealed, the counties will be back "on the hook" for the overages. Wherever the Department changes those rules, it will revert back to the counties. He referred to Section 56-255, page 5, lines 25 through 29 stating that this is operative language that puts the responsibility back onto the counties because of the county indigent law. He stated that if we do not take the responsibility seriously enough to make Medicaid pay, then we should not expect the counties to come up with the hard tax dollars.

**Rep. Henbest** questioned that if a participant is found to be Medicaid eligible, then the counties would not be responsible. **Rep. Loertscher** replied that is correct; however, the language in the bill makes that all change. **Mr. Rogers** yielded by saying that they have been cognizant of the overall health system in the state when considering the workings of this legislation. He added that the repeal of 56-209d is really not integral in regard to what they are trying to do in this framework.

**Rep. Loertscher** yielded to a question from **Rep. Rusche**, who asked if Section 2, page 8, lines 32 and 33 were deleted, would that offer the protection that the counties need. **Rep. Loertscher** said that he thought it would, but added that at anytime there is Medicaid reform or modification to Medicaid, i.e., limiting services, there is going to be a very direct impact to the counties.

**Rep. Henbest** commented that she is certain that the intent of the Department and the Governor's Office is not to cause any cost shifting. She added that the counties have not testified nor communicated to her regarding this concern.

**VOTE:** A roll call vote was called for.  
On a roll call vote, Representatives Block, Garrett, Ring, Henbest, Martinez, and Rusche voted Aye. Mrs. Sali, Representatives McGeachin, Nielsen, Loertscher, Bilbao, and Shepherd voted Nay.  
**There was no action taken on the bill at this time due to a tie vote.**

**MOTION:** **Rep. Rusche** moved to send **H 662** to general orders with the amendment to delete lines 32 and 33 on page 8, which will allow Section 56-209d to remain in the bill and not be deleted.

Committee discussion continued.

**SUBSTITUTE MOTION:** **Rep. Block** moved to hold **H 662** to a time certain at the discretion of the Chair. She commented that it would behoove the committee to allow interested parties time to discuss some of the issues of concern before voting on the bill.

**VOTE:** **The motion carried by voice vote.**

**H 663** **Personal Health Accounts and Co-payments**

**MOTION:** **Chairman Block** stated that in view of the outcome of **H 662**, she would move that **H 663** be held to a time certain at the discretion of the Chair.

**The motion carried by voice vote.**

**H 664** **Rep. Garrett** presented **H 664** which creates a Medicaid for Workers with Disabilities program for Idahoans with disabilities (formally known as Medicaid-Buy-In). She explained that currently, people on Medicaid have no incentive to work more than part-time, because if they earn even one dollar too much, they lose their Medicaid coverage. With this program the eligible person who goes to work pays a premium based on a sliding scale, which enables them to retain their coverage. This program would help people to gradually leave or lessen their reliance on Medicaid while

increasing their work hours and income. This program enables people with disabilities to be contributing, tax-paying citizens. This is not a work incentive program. It is a work opportunity program.

**Rep. Garrett** stated that this concept was first introduced in 1996 by former Governor Phil Batt, and has been eleven years in the making.

**Speaker Bruce Newcomb**, addressed the committee in support of this bill. He shared a personal experience of a friend who had become paralyzed from an accident, and at one point, lost services that he had been receiving from vocational rehabilitation. **Rep. Newcomb** said that he stepped in to intervene on his friend's behalf and was able to get the needed assistance for this gentleman. As a result, this individual received back his dignity, independence, self-esteem, and hope. **Rep. Newcomb** commented that the cost for this program is a small price to pay. He encouraged the committee to pass the bill.

**Teresa Lucas**, Intern for Kelly Buckland, addressed the committee, in support of the bill. She commented that this legislation would encourage more people to get into the work force.

**Kelly Buckland**, SILC, yielded. He explained that he has had about ten years invested in this issue and is hopeful that the committee will pass this bill.

**Kathy Haley**, Idaho Women's Network, in support, but did not testify. (See attached letter.)

**MOTION:** **Rep. Nielsen** moved to send **H 664** to the floor with a Do Pass Recommendation. **The motion was carried by voice vote.**

The next meeting will be Thursday, March 2, 2006. The Chairman announced that the JLOC meeting would be starting at 4:00 PM in the West Conference Room of the JR Williams building.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:25 PM.

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Representative Sharon Block  
Chairman

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Jennifer O'Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 2, 2006

**TIME:** 1:35 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Chairman Block

**GUESTS:** Please see attached sign-in sheet.

**Vice Chairman Garrett** called the meeting to order. A silent roll call was taken.

**H 667** **Rep. Henbest** presented **H 667** which will require certain disability insurance contracts to provide coverage for special medical formulas and early intervention services up to a specified benefit limit. Rep. Henbest explained that this legislation addresses insurance coverage for needy children. She said that in the absence of these services, these children may not reach their full potential. This will result in a great expense to themselves, their families, and society. She stated that this will have a positive impact on the state. Through this shared financing, the additional dollars saved can be used for other needy children.

**Rep. Henbest** provided a handout listing early intervention services that would be deemed "*medically necessary.*" (See attachment)

In response to a question regarding savings to the state, **Rep. Henbest** explained that \$1.4 million reflects children who are already insured; \$740,000, which is the cost of the formula, is an estimated amount that would be relieved from the Children's Special Health Program.

**Kevin McTeague**, Idaho Chapter of March of Dimes, addressed the committee in support of the bill. He stated that PKU treatment is quite simple, but if not treated, it can lead to mental retardation at a great cost.

**Lyn Darrington**, representing Regence BlueShield of Idaho, spoke to the committee in opposition of the bill. **Ms. Darrington** said that their concern is with the language regarding intervention of services on page 1, lines 38 through 41. She said that this is unprecedented to ask insurance companies to provide this coverage. She expressed their concern for what authority the Department of Health and Welfare would have as it relates to health insurers. Regence looked at the numbers of children who would be covered in their plans, and came up with a .2% increase in premiums as a result of this additional coverage.

**Jim Baugh**, Co-Ad, Inc., spoke in support of the bill. He said that we need

to be sure that these children receive these needed nutritional supplements, or long term disabilities will be inevitable. He said that the federal contribution has not increased in years. He said that unusual treatment tends to be excluded and ends up to be in the Children's Special Health Program. He also said that there is a low-incidence of these extremely devastating diseases.

**Julie Taylor**, Blue Cross of Idaho, spoke in opposition to the bill. She said that Blue Cross is opposed to this bill and any health insurance mandate that comes before this legislature. She said that Idaho has the lowest number of health insurance mandates in the nation. She said that as mandates increase, so will health insurance costs. She stated that the insurance company designs products based on what the market's needs are. Employers and employees should be able to choose what they have to pay for. She further stated that they do not like mandates that are forced upon them and they have to be absorbed into their policies. She said that their responsibility as a carrier is to those who purchase products from them.

**Ms. Taylor** stated that she is the designated proxy for the NFIB and Idaho Retailers Association who are opposed to the bill.

In response to a question, **Ms. Taylor** said that they are more concerned with the formula requirement than with the early intervention piece.

In response to a question from **Rep. Nielsen**, **Rep. Henbest** replied that the state is currently paying for these diseases through the Children's Special Health Program. The department will keep these kids on the program.

**Steve Tobiason**, Idaho Association of Health Plans, addressed the committee in opposition to the bill. **Mr. Tobiason** said that every time there is a mandate for coverage, the insurers will pass this cost on through to those individuals and groups who buy insurance. He stated that they are already heavily regulated by the Idaho Department of Insurance. Presently, insurers have an opportunity to compete in the market place.

**Will Rainford**, representing the Catholic Diocese, spoke in support of the bill. **Mr. Rainford** said that this is about vulnerable children. He said that he has tried to find insurance in the past, and said that the market does not provide protection for these children.

The comment was made that there is a roll in government. The background of our system is the private employer. The problem needs to be addressed from a shared standpoint.

In response to questions by **Rep. Nielsen**, **Rep. Henbest** said that children are ineligible if they are above the 150% of poverty. Regarding the Chip B program, she replied that this program has a different benefit and different eligibility requirements. Regarding separating out the children who really need the service, **Rep. Henbest** replied that they do not mean test, the children are simply covered through the Children's Special Health Program.

In response to a question from **Rep. Nielsen, Ms. Taylor** replied that they are not in the business of determining who is financially eligible to purchase health insurance.

The comment was made that because of HIPPA Compliance, if one product is offered to one group, it must be offered to all.

**MOTION:** **Rep. Henbest** moved to send **H 667** to the floor with a Do Pass Recommendation.

**SUBSTITUTE MOTION:** **Rep. Rusche** moved to send **H 667** to general orders with the following amendment attached to delete the language beginning with the words *The dependent* on page 1, line 37, through to page 2, lines 1 and 2, ending with the word *qualifies.*; and also deleting the same language on page 3, lines 26 through 33; page 5, lines 4 through 11; page 6, lines 5 through 13; and page 7, lines 40 through 48.

**Rep. Rusche** commented that one of the purposes of having insurance is to provide for coverage for rare situations.

In response to a question from **Rep. McGeachin, Ms. Taylor** replied that removing the cap of \$3,500 is the less expensive part of the mandate. The more expensive is the nutritional formula for metabolic diseases.

**Rep. Henbest** stated that she would support the substitute motion.

There was committee discussion on whether or not to remove the cap language of \$3,500 or to add it back in. **Rep. Rusche** replied that he is not supportive of putting the cap back in the language because these high cost cases are extremely infrequent events and should be given the same consideration as treatments for diseases such as cancer.

**VOTE:** **By a show of hands, the substitute motion failed by a tie vote.**

**Rep. Nielsen** commented that people will end up on Medicaid, and more people will be forced out of their insurance coverage.

**Rep. Martinez** commented that it makes more sense to provide the treatment early on.

**VOTE:** A roll call vote was taken on the main motion. Representatives Ring, Bilbao, Henbest, Martinez, and Rusche voted Aye. Representatives Garrett, Sali, McGeachin, Nielsen, Loertscher, and Shepherd voted Nay.  
**The main motion failed.**

**Rep. Nielsen** stated that he is a private insurance carrier.

**H 612** **Day Care Providers**  
**Rep. Sayler** addressed the committee and asked that the bill be held to a time certain.

**MOTION:** **Rep. Henbest** moved to hold **H 612** to the call of the Chair.

**The motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:25 PM.

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Representative Kathie Garrett  
Vice Chairman

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Jennifer O'Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 6, 2006

**TIME:** 2:05 PM

**PLACE:** Room 406

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

**GUESTS:** Kelly Buckland, Bob Seehusen, Jim Baugh, Ray Millar, Tony Poinelli, Julie Taylor, Kate Vanden Brock, Christine Hahn, John Buck, Duane Simms, Steven Millard

**MINUTES** The meeting was called to order at 2:05 p.m. by **Chairman Block**.

**Representative Bilbao moved to approve the minutes of February 28, 2006. By voice vote the motion passed.**

**S 1389** **Representative Garrett** presented S 1389 regarding regional mental health services. This legislation represents a bottom-to-top effort and is one of several recommendations by the Mental Health Subcommittee. S 1293 changed the make-up of regional mental health advisory boards. Representative Garrett said she had informed the House in 2003 that S 1293 was the first little step in building a community mental health system. S 1389 is a big step toward that goal. This bill creates a self-driven program to develop alternatives to hospitals and jails. Representative Garrett worked with Ray Millar, Program Manager for Adult Mental Health for the Department of Health and Welfare, to discover the status of the program in the regions. She said she was happy to learn that plans were going well. She attended State Planning Council meetings and learned they were the best place to get information on what is going on in mental health in Idaho. The State Planning Council advocates, monitors and reviews activities, accounts for funds, and makes reports to the state. The new language puts in place the process through which money is sent to communities via development grants.

**Senator Stegner**, co-sponsor of S 1389, added his comments. He said S 1389 is in addition to a concept started three years ago when regional mental health boards were given more authority. The regional boards meet and develop priority lists showing where they want to focus resources. Some counties are rural and have small populations so the regional approach relieves the strain on county resources. The region can distribute resources where needed.

The Senator said the legislation contains two elements that are essential to establishing a community mental health system: (1) Access to psychiatric beds, and (2) Transitional housing. He stated that even if JFAC does not fund the program this year, the program will be in place for next year. He said the legislation had been reviewed by the legislative Health Care Task Force Subcommittee appointed to investigate mental health. The

subcommittee developed five recommendations, including access to psychiatric beds and transitional housing.

**Representative McGeachin** asked why Section 6 on page 3 of the bill was repealed. There was discussion concerning the answer and the conclusion was that it would need to be researched with a report back. She asked if funding would come solely from general funds and Senator Stegner said that was correct.

**Representative Nielsen** said he was concerned that the repeal of Section 39-3128 would eliminate the regional boards. After research, Senator Stegner replied that the code repealed in 39-3138 was in Section 1 of H 1389. Representative Nielsen stated that he was still concerned about the repeal as it made a voluntary action mandatory. Senator Stegner said he didn't read this as a mandate.

**Kelly Buckland**, Director of the State Independent Living Council (SILC), said this bill re-enforces the concept of consumer control by putting the State Mental Health Planning Council in Idaho Code and by advocating for consumer participation. He stated that SILC supports S 1389.

**Bob Seehusen**, President of the Idaho Medical Association, spoke in support of S 1389. Mr. Seehusen said that lack of Mental Health services is the biggest void in Idaho's health care delivery system. He stated S 1389 takes some small steps in the right direction. Identifying the need for transitional housing is a great step and the ACT teams are another step forward. He supports the inexpensive ACT team model that will keep people out of correctional institutions and hospital systems by making sure that people taking their medications, aren't acting out, and will get to work on time.

**Jim Baugh**, Director of Comprehensive Advocacy, Inc., spoke in support of S 1389. He said this legislation doesn't change the services unless they are funded, but it does change the way services are identified and establishes a method for the regional boards and state planning councils to identify services. He said the counties have a significant role and this legislation honors local control over local health problems.

**Ray Millar**, Program Manager of the Health and Welfare Adult Mental Health Program spoke in support of S 1389. Representative McGeachin asked if the Department needed more employees to carry out S 1389. Mr. Millar responded that the Department needed an increase in services but that need didn't necessarily mean an increase in State employees.

**Tony Poinelli**, Deputy Director of the Idaho Association of Counties spoke in support of S 1389 stating that the bill goes a long way and it does a number of things to improve mental health.

**MOTION:** **Representative Garrett moved to send S 1389 to general orders with Committee amendments attached.**

**SUBSTITUTE MOTION:** **Representative McGeachin made a Substitute Motion to hold S 1389 in Committee.** She said the bill was a great effort but her concerns are

not satisfied. She thinks that Page 1, Lines 31 through 33 allows the State Mental Health Authority to be implemented whether or not the necessary resources are available. Representative Garrett responded that the language gives the authority the ability to identify resources but that they can't appropriate resources. She stated that the language in Section 5 is not new except for the addition of several services.

**ACTION:** On a roll call vote, the substitute motion was defeated with Representative McGeachin voting Aye and Representatives Block, Garrett, Sali, Nielsen, Ring, Loertscher, Bilbao, Shepherd (8), Henbest, Ring and Rusche voting Nay.

**Representative Nielsen** was reluctant to vote on the original motion until he was assured that Senator Stegner had agreed to the changes.

**Representative Garrett** said that Senator Stegner was delayed in the Senate and couldn't leave until the action on his bill was complete.

**MOTION:** The Committee agreed to move S 1389 to the bottom of the agenda and to proceed with H 738. By voice vote the motion passed.

**SUBSTITUTE MOTION:** Representative Nielsen moved to hold any further discussion on S 1389 until Senator Stegner could review and agree with the amendments.

**H 738** **Representative Henbest** presented H 738 on Health Quality Planning. This legislation recognizes that health information technology could be used to provide services, a medical home and service utilization. Entities want to use electronic case files so providers and hospitals statewide can access electronic patient records. This use will require improvements in health information technology. H 738 creates a new section and a Health Quality Planning Commission.

The specific duties of the Health Quality Planning Commission as to health information technology are outlined in Subsection 2 on Page 1. Subsection G on Page 3 contains the reporting requirements with the preliminary report from the Commission due on November 30, 2006 and the final report due on June 30, 2007.

**Representative Bilbao** said this was a great idea but that his hospital had just spend \$3 million on a new computer system that may not be compatible with other systems. Representative Henbest said there are companies that sell interoperability programming so that hospitals and other providers could communicate statewide.

**Speaker Newcomb**, the co-sponsor of H 738, stated that there was already enough money spent on health care each year and that health care technology would prevent some costs from escalating further. It also allowed for quality control on contractors and would tell agencies how much contractors are costing them. The Speaker said we had to begin somewhere and H 738 could be the tool to do the job.

**Julie Taylor** with Blue Cross of Idaho said her company supports H 738 and that the her Board of Directors wants the company to take a

leading role in promoting health technology.

**Kate Vanden Brock** with the Department's Division of Medicaid said that the Department and Medicaid support the bill and think it's consistent with Medicaid reform. She said the Department could leverage Medicaid funds to help spread technology statewide. Ms. Vanden Brock said the Department's computer systems would not interface with other systems now but may have that capacity in the future.

**MOTION:**

**Representative Henbest moved to send H 738 to general orders with Committee amendments attached.**

**Representative Rusche** praised this legislation. He stated that it allows: (1) Allows development of a standard language so multiple systems can exchange information, (2) Provides money for grants to providers who decide to use electronic records. Primary care doctors can use the grant money as seed money to get money from the Centers for Medicare and Medicaid Services, and (3) Requires health care entities to acquire more quality information to pay for performance.

**Representative Sali** stated there were no "sideboards" on this bill. He was concerned that decisions would be made about which systems were used and what they would be compatible with. Representative Henbest responded that this legislation provides for a plan concerning quality standards for interoperability but does not make anything mandatory. There was further discussion of this issue. Representative Sali stated that, in his reading of the bill, the commission was being created to do something.

**Representative Henbest** responded that the legislation was about planning to address interoperability issues and was not binding. She indicated that the level of detail was necessary so policy decisions could be made and that the private sector was also looking for answers to these questions.

**Representative McGeachin** voiced her support of H 738 but pointed out the omission of a report due date on page 3, line 45. Representative Henbest said she would add the missing language to the other committee amendments.

**Chairman Block** said, with no objections, H 666 would be moved to the bottom of the agenda and the Committee would proceed with H 719.

**Representative Garrett** objected on the grounds that Senators Stegner and Corder had arrived to testify.

**Representative Henbest** said that she and Representative Block went to a meeting on interoperability several years ago and that she was immediately solicited by three vendors of interoperability products.

**ACTION:**

**In a roll call vote, H 738 was sent to general orders with Committee amendments attached with Chairman Block and Representatives Garrett, Sali, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd (8), Henbest, Martinez and Rusche voting Aye.**

**S 1389**

**Senator Stegner** and **Senator Corder** returned to testify on S 1389. Representative Nielsen asked if the Senator agreed with the Committee amendments. Senator Stegner said he agreed with the Committee amendments. Representative Nielsen agreed to withdraw his substitute motion on S 1389.

**H 719**

**Representative Henbest** presented H 719 regarding autopsy reports where Creutzfeldt-Jacob Disease (CJD), is the suspected cause of death. She said the infectious agent for this disease is a prion, an infectious protein with no DNA or RNA. It can pass from animal to person or person to person.

CJD is a degenerative disease that is a variant of bovine spongiform encephalopathy, or Mad Cow disease. This year CJD became reportable in Idaho. There was currently no cause for concern in the U.S. but the only way to understand the extent of this disease epidemiologically was a brain autopsy, the definite diagnosis for CJD.

This legislation does not mandate that an autopsy be done by a specific entity but that an autopsy is done in deaths where CJD is suspected. Five of 8 suspected CJD deaths in Idaho were autopsied. Autopsy costs are paid by the National Prion Disease Pathology Surveillance Center at Case Western University. Brain autopsies done on behalf of Case Western are performed in Seattle.

**Speaker Newcomb** reported that there are usually 1.2 cases per year and this year there were 8 cases. He said CJD should not be confused with Mad Cow.

**Dr. Christine Hahn**, the State Epidemiologist, spoke in support of H 719. One of the aims of this legislation was to alleviate public confusion regarding CJD and its variant, Mad Cow disease.

**John Buck**, representing the Association of County Coroners, spoke about his concerns and questions regarding this legislation. He said if the text, "or the coroner in the county where the person died," were removed, coroners would be happy with H 719. He was concerned about who would pay for the autopsy when federal funds dry up. He made the point that when a death occurs, the body goes to Seattle for brain autopsy but Idaho law says a body can't be shipped unless it is embalmed. Case Western wants the body refrigerated and they will try to find someone to complete the autopsy.

**Representative Henbest** said the statute doesn't define autopsy. Mr. Buck responded that it's difficult to find anyone to do a partial autopsy. He said the medical community usually has a reasonable suspicion that the person died from CJD. Representative Henbest asked Mr. Buck if he was suggesting that this was the State Epidemiologist's role? Mr. Buck said that 90% of cases a coroner deals with are unattended deaths and the coroner tries to determine the cause of death.

**Representative Sali** asked if this was something the State Epidemiologist could do without interfering with the coroners' jurisdiction. He said he saw two spheres of authority colliding and asked, if the

coroners were removed from the equation, could the State Epidemiologist order an autopsy. Mr. Buck responded that the State Epidemiologist or the hospital would contact the family and ask them to order an autopsy.

**Representative Loertscher** asked if there were risks associated with these autopsies. Mr. Buck said there were extreme risks and the only place these autopsies should be done is at the medical school in Seattle which has a prototype procedure.

**Duane Simms**, a mortician licensed in Idaho, Utah and California spoke as a representative of the Idaho Funeral Service Association. He stated that he and the association do not support this bill, but are not against autopsies. He spoke about one of the CJD cases from his area. He said a representative from the leading supplier of funeral home chemicals told him there is no chemical that can kill the prion. He expressed his worry that instruments used in autopsy and bodily secretions of CJD clients would kill others. He said families need to be educated by the medical profession that an autopsy can and should be done. Mr. Simms handed out an article titled "Rare diagnosis of Creutzfeldt-Jacob Disease confirmed at McKay-Dee Hospital." (See Attachment 1.)

**Representative Henbest** asked if the State has a role in infectious disease. She distributed information intended to increase knowledge about CJD and dispel fears, including a paper from the National Prion Disease Pathology Surveillance Center (NPDPSC) on autopsy of CJD victims ; a paper from NPDPSC on prion disease; a letter to Representative Henbest supporting autopsies of CJD victims from Brandy Tomacek, whose mother died from CJD; a letter to Representative Henbest from Sue Skinner and her family supporting the bill. (See Attachments 2 through 5). She noted that the World Health Organization has guidelines on autopsy of individuals with infectious diseases. The overall issue is surveillance of infectious disease for public health. This legislation does not allow the Legislature to mandate autopsies nor does it give that power to the State Epidemiologist. That power rests with coroners.

**Representative Sali** asked Dr. Hahn if it were possible to have a diagnosis of CJD or variant CJD without an autopsy. Dr. Hahn said rarely, and only by brain biopsy. She said at that point it's usually too late. Representative Sali asked if the coroner could know about the disease before the State Epidemiologist. Dr. Hahn said it was not impossible to think that a local coroner would know about the disease before she knew. Representative Sali asked how the coroner could know before she knew. Dr. Hahn said by the time CJD is reported, it's based on a preliminary diagnosis. It's usually reported by infection control nurses in hospitals or nursing homes. Her office sometimes learns from a death certificate. A coroner might hear first when the person dies in a hospice setting at home.

**Dr. Hahn** said representatives from the Centers for Disease Control have visited and they know the correct process but some CJD patients have been autopsied in Idaho. She continued that pathologists are concerned and don't want to do the autopsies and that there is not a great risk of infection. She said the autopsies should be done in Seattle or in another facility set up to do them.

**Representative Sali** suggested the following amendment to H 719:

Line 15: Delete 'or the coroner in the county in which the person died.'

Line 19: After 'the' at the beginning of the sentence, insert 'state epidemiologist, in ordering an autopsy pursuant to this section, shall require the'

Line 20: Delete the word 'shall' and insert the word 'to'.

**Representative Nielsen** said he would like to add that the autopsy should only be done out of state. Representative Sali responded that Dr. Hahn could write this in the rules.

**Representative Henbest** said the changes were fine but was concerned that by no longer holding the coroner responsible for reporting a disease because it was fatally infective, the Committee was setting a precedent for future fatal infectious diseases.

**Representative Rusche** said he supported the substitute motion because if CJD was the suspected cause of death, the autopsy should be done in a setting where it could best be handled.

**MOTION:** **Representative Henbest moved to send H 719 to the floor with a do pass recommendation.**

**SUBSTITUTE MOTION:** **Representative Sali moved to send H 719 to general orders with Committee amendments attached.**

**ACTION:** **By voice vote the substitute motion passed.**

**H 734** **Steven Millard** of the Idaho Hospital Association stated that H 734 was a new iteration of H 669 regarding mental health holds. He said it was easier to bring a new bill than to amend the old bill. He said he passed H 734 by every organization that might possibly have a stake in it. A patient should be held in a hospital until he or she can be examined for a mental health hold. Currently only a police officer can make this decision. New text on page 4, lines 17 through 20 allows a physician or hospital medical staff to order a mental health hold. H 734 also adds a new section to 66-326, Idaho Code, that states that if the patient can be transferred within 24 hours to a facility that treats mental health patients, the transfer shall occur.

**Representative Rusche** asked if the exemption from liability on page 5 includes the physician. Mr. Millard said that it does. He then referred to the Statement of Purpose and said he wanted to strike part of a sentence. The change would put a period after "24 hours" and strike the rest of the sentence.

**MOTION:** **Representative Nielsen moved to send H 734 to the floor with a do pass recommendation recognizing that the Statement of Purpose will be changed. By voice vote the motion passed.** Representative Garrett will carry H 734 to the floor.

**H 666** **Representative Ring** said that about a year ago, he received several flyers in the mail from financial planners telling him how he could buy a

condominium, drive a Mercedes, give his money to his children and still get Medicaid. Rep. Ring said he was informed on March 3 by Health and Welfare staff that new language in federal legislation aimed at discouraging this practice matched that in his bill. Rep. Ring determined that this change in federal language made his bill superfluous.

**MOTION:**            **Representative Rusche moved to hold H 666 in committee. By voice vote the motion passed.**

**ADJOURN:**        **The meeting was adjourned at 5:42 p.m.**

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Representative Sharon Block  
Chairman

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Mary Betournay  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 8, 2006

**TIME:** 2:45 PM

**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.

**Vice Chairman** called the meeting to order. A silent roll was taken.

**H 776** **Chairman Block** began by explaining that **H 776** was presented previously as **H 662**, which has had some revisions. This is the framework piece of the reform package for the Medicaid program. This committee, the Governor's Office, and the Department of Health and Welfare have been working on this program. This bill establishes three new population groups, based on the health needs of participants. She said that concern was raised in the committee upon hearing **H 662** about how this would impact counties.

**Chairman Block** listed the changes that have been made by striking specific language in **H 662**, resulting in the new bill, **H 776**. She explained that page 8, section 2 and section 3 of **H 662** have been stricken from the document (H 776). This was language that had caused concern about shifting cost to the counties. Page 5, line 24, which was the sentence regarding hold-backs has also been stricken.

**Chairman Block** stated that this bill creates a balance as a framework for savings, and adequately caring for Medicaid participants. This can be reviewed yearly. She stated that this is a step in the right direction for taking control of the Medicaid budget, while keeping the best interest of the clients in mind.

**Rep. Bilbao** thanked the Chairman and the Department for the amendments that they have drafted into the bill.

**David Rogers**, Administrator for the Division of Medicaid, addressed the committee. He began by thanking all of those who have put so much work into the project. He stated that he had been asked by the Governor's Office to speak to the committee, emphasizing the strong commitment by the Governor for the principals of the framework legislation that has been embedded into this legislation and the concept summary that was brought forth last November. He said that the principals that access quality and cost containment must be balanced. Reforms focused solely on cost containment often lead to higher costs

later on. He said that they have been instructed to do this so that people do not come off of the Medicaid roles. The personal health accounts and copays are actually not a cost savings. He said that they are trying to design a program for cost sharing that will lead to effective behavior and also take care of health needs.

**Kathryn McNary**, citizen, addressed the committee in opposition to the bill. She said the many children will stand to lose their coverage.

**Marilyn Sword**, Executive Director of the Council on Disabilities, spoke in support. She said her comments mirror what she said last week and she appreciates the changes that have been made to the bill.

**Anna Matthews**, representing ICAN, spoke in opposition to the bill. She referred to a report called Medicaid Matters for Idaho's County Economies, by Dr. Steven Peterson, University of Idaho. The report reveals the positive affects to the counties economically, created by direct Medicaid spending, including jobs and income, and tax revenues generated by Medicaid spending. New premiums and copays threaten to reduce enrollment and increase pressure on already strained county indigent funds.

**Ron Matthews**, Treasurer for ICAN, said that he still has concerns about "this super waiver."

**Mr. Matthews** was asked by **Rep. Rusche** if he has seen the benefits and premium costs schedules with regards to this bill and overall Medicaid. Mr. Matthews replied that in researching the internet for information on schedules and benefits, etc., the information provided has been extremely vague.

**Steve Millard**, President of the Idaho Hospital Association, spoke in support of the bill. He said that they think that to be able to announce the benefits with needs is heading Medicaid in the right direction. They have been at the table with the Medicaid people from the beginning and believe this program needs to go forward.

**Pat Burnam**, representing Idaho Eagle Forum, spoke in opposition to the bill. She said that their concerns are concentrated around the children. She said that creating three separate medical systems could be quite complicated. Further time for study is needed in the direction of the entire concept for the schools, particularly. She stated that they are not in favor of the schools being the coordinating provider. (See attached testimony.)

**Kelly Buckland**, Idaho Independent Living Council, who was not present at this time had asked Chairman Block to express to the committee his support for the legislation.

**Joe Gallegos**, Assistant Director of AARP of Idaho, expressed appreciation to the committee and the Department for undertaking this enormous task. AARP is in support of the bill, but with some concerns. However, he stated that they have been assured by the Department that they will be able to sit at the table and resolve their issues. He said that

he would limit his discussion to H 776 and not H 663 at this time. He stated that their concern is with cost sharing. Imposing premiums and cost sharing on low-income populations results in avoidance of necessary health care.

There was no one left to testify.

**MOTION:** **Rep. Garrett** moved to send **H 776** to the floor with a Do Pass Recommendation.

Committee debate followed.

**Rep. Bilbao** called for the question. On a tie vote, there was not a two-thirds majority. Debate continued.

**VOTE:** **On a Roll Call Vote, the Motion Passed.**

8 Ayes - Representatives Block, Garrett, Nielsen, Ring, Bilbao, Henbest, Martinez, and Rusche voted Aye.

4 Nays - Representatives Sali, McGeachin, Loertscher, and Shepherd voted Nay.

**H 663** **Chairman Block** presented **H 663**. She stated that many of the states in this nation have addressed this problem in a number of ways. Two of these ways are with personal health accounts, including cost sharing, and with copays. She said that this legislation was a collaborative effort between the Department, the Legislature and the Office of the Governor.

**Chairman Block** explained that the first portion of the bill addresses personal health accounts. The funding is provided by a base amount as determined by department rule. Additional amounts will be added to the funding when participants comply with recommended preventive care, or demonstrate healthy behaviors. The use of funds in the personal health accounts may include participant payments for preventive health products and services and can also be used for participant copayments and premiums. This legislation will result in increasing responsibility and awareness.

**Chairman Block** explained the use of copayments can be used for inappropriate emergency room utilization; inappropriate use of transportation. This is not designed to prevent persons from having needed medical care but for appropriate use of medical care. This can be used for non preferred prescription drugs. A copay would be required if the prescription is not on the preferred drug list. A pharmacist can provide a generic drug instead. The collection would be made at the point of service.

**Chairman Block** presented an amendment to **H 663** with which both the Department and the pharmacists have reached agreement. The amendment would delete the words, "as part of the dispensing fee from the" in line 18 and insert: "Pharmacy providers shall not be required to dispense any prescribed medication unless a Medicaid participant provides for any applicable copayment under this paragraph. Copayments shall not constitute a reduction of overall reimbursement to pharmacists for the dispensing of prescribed medicine." She asked that

**H 663** be sent to the Amending Order.

**David Rogers**, stated that the Department is in support of the bill. In response to a question from **Rep. Garrett**, **Mr. Rogers** said that the proposal is for a copay on the prescription of nonpreferred drugs of \$2 and no copayment for preferred drugs. He said that they will use the existing prior authorizing mechanism. They will prior authorize and waive the copay, based on an individual basis.

**Rep. Henbest** commented of her concern about emergency room use and emergency transportation. Wanting to be sure that there is non-emergent access to individuals after hours and weekends.

**Joe Gallegos**, AARP, addressed the committee saying that he has had some assurance that his concerns will be addressed by the Department.

**Bill Foxcroft**, Idaho Primary Care Association, addressed the committee in support of the bill. He said that this is a good tool to help motivate healthy behaviors in a meaningful and positive way. He commented that they do not want access to be restricted, but want to encourage personal responsibility. They look forward to participating in further development in this plan and the rule making.

**Steve Millard** spoke in support of the bill by stating that he thinks this is an “elegant” solution to the copay problem. Typically, the provider ends up paying the copay if participant doesn’t pay. With this plan, the copay can come out of the personal health accounts. He stated that they think that this also solves the problem of hospitals receiving non-emergent patients.

Responding to a question by Mr. Millard explained that if a determination is made at the point of assessing the patient that it is a non-emergency, the participant can be sent home.

**JoAnn Condie**, Idaho State Pharmacy Association, expressed appreciation to the Chairman, members, and the Department for agreeing to present the amendment.

After committee questions and discussion regarding the concern about the copay for a prescription, Rep. Henbest summarized that if the patient demands the brand name drug, after the physician has said that it is not necessary, the pharmacist can charge the \$2 copay. If the patient does not have the \$2, he/she still has the option of accepting the generic or preferred drug without having to pay the copay. Mr. Rogers agreed that this a correct assessment.

**Chairman Block** concluded by applauding the Medicaid Subcommittee, the Department and the Office of the Governor, and asked the committee to send the bill to the floor with a do pass recommendation.

**MOTION:**

**Rep. Block** moved to send **H 663** to General Orders with amendment attached.

There was discussion on the motion.

Concerns were expressed regarding the issue of appropriate and inappropriate use of transportation: Use of available transportation in some areas of the state for low-income individuals is not very great, and does not give those individuals a fair opportunity of choice. Individuals faced with having to determine whether or not the use of an ambulance is appropriate. Insurance reimbursement for services of claims to the consumer.

**David Rogers** yielded to a question by explaining that the Department reviews all of the claims to determine if the use of an ambulance was a true emergency or not. He said that if it was not an emergency, the reduction in the claim to the provider is made. They do not have any involvement with the consumer.

**Rep. Nielsen** commented that there are allowances for the pharmacies and the hospitals so that they do not get stuck with the copay, but there have been no allowances made for emergency vehicles.

**VOTE:**

**On a Roll Call vote, the Motion Passed.**

11 Ayes - Representatives Block, Garrett, McGeachin, Nielsen, Ring, Loertscher, Bilbao, Shepherd, Henbest, Martinez and Rusche

**MOTION:**

**Rep. Loertscher** moved that **H 617** be moved to the next position on the agenda, in order to be courteous to the professionals who were waiting to testify. There was discussion on the motion.

There was no one who wished to testify on **HCR 49**, **HCR 51**, or **HCR 53** all of which preceded **H 617** on the agenda.

**HCR 49**  
**HCR 51**  
**HCR 53**

**Rep. Rusche** asked for Unanimous Consent that **HCR 49**, **HCR 51**, and **HCR 53** be sent to the floor and be placed on the second reading calendar. There being no objection, the three resolutions were sent to the second reading with a Do Pass Recommendation.

**H 617**

**Rep. Ring** presented **H 617** which is legislation to place Carisoprodol (trade name, Soma) on the Class IV drug list. **Rep. Ring** explained that Carisoprodol, is a tranquilizer and has been marketed as a muscle relaxant; however, according to the Physicians Desk Reference (PDR), it has no affect on muscles. He said that although this strengthens the effect of pain medication, especially narcotic medication, there is a concern with the addiction factor, particularly narcotic or benzodiazepine addicts (drugs such as Valium or Zanax). When ingested, the liver converts Carisoprodol to meprobamate, a tranquilizer known as Miltown, which was sold in the 1960's. Meprobamate was a great tranquilizer that had problems with dependence.

**Rep. Ring** listed four definitions of classifications drugs:

- I. Illegal drugs, ex., heroin, marijuana, mescaline
- II. Having a high potential for abuse
- III. Potential for abuse but less than I. or II., ex., Seconal, codeine
- IV. Mostly tranquilizers, such as meprobamate, having the potential for habituation

Idaho code defines Class IV as drugs that have a low potential for abuse,

relative to Class III., has currently accepted medical use and treatment in the U.S., and abuse of the substance may lead to limited or psychological dependence, relative to Class III. The drug cannot be refilled more than five times a year or six months, whichever comes first. **Rep. Ring** said that if it is classified, a notice will go out to all practitioners that this drug has the potential for abuse. **Rep. Ring** provided two letters in support of the bill; Sr. L. Mark Kimsey and Dr. Katherine A. Shen. (See attached letters)

**Nancy Kerr**, Executive Director of the Idaho Board of Medicine, in support of the bill. Physicians on the Board have seen concerns with Soma in their private practices. She said that the concerns physicians have with Carisoprodol is the addictive quality of the drug and the side effects.

**K.S. Reagan**, Attorney for MedPointe Pharmaceuticals, addressed the committee in opposition to the bill. He stated that Carisoprodol is not considered addictive and is not a federal controlled substance and has never been. MedPointe has marketed Soma for over forty years. It is a prescribed drug and is part of muscle relaxant class of drugs, used for the treatment of back pain, and other forms of muscle strain. In MedPointe's experience it is not considered addictive according to the scientific data. He said that in a hearing in 1997, the FDA reviewed data provided by the DEA presenting the case of misuse and rationale for scheduling Carisoprodol as controlled substance. The FDA concluded that the data was not sufficient and did not establish scientific pattern of abuse which was not enough to purport going ahead and scheduling to a Class IV. To date, Mr. Reagan said the FDA has not recommended scheduling, neither has the DEA. During that hearing the FDA and DEA were well aware of the metabolism to meprobamate and still did not recommend scheduling because it did not show up as a significant factor of a pattern of abuse, and it had shown that only a small fraction of Soma is converted to meprobamate. He suggested that the committee look at standardized, reliable scientific data basis to see if there is substantial evidence of a significant pattern of abuse.

**Dr. Russ Newcomb**, representing the Idaho Medical Association, spoke in support of the bill. He relayed a story of a mother whose daughter died from an overdose on Soma. He relayed a story of a situation of double filling Soma prescriptions. "It has its problems with dependence, addiction and death."

**Mick Markuson**, Board of Pharmacy, spoke in support of the bill. He provided four handouts. 1) Kootenai County Coroner Press Release; 2) Testimony by Sheila Orton; 3) Abuse Data for Carisoprodol; 4) Carisoprodol Safety. Mr. Markuson referred to the testimony by Sheila Orton explaining that she was addicted to Soma. (See handouts attached)

**Dr. Larry Sacks, MD**, Vice President, Medical and Scientific Affairs, MedPointe Pharmaceuticals, addressed the committee in opposition to the bill. He provided a PowerPoint presentation handout to the committee. He explained that he wanted to give a perspective of the magnitude of the problem based on scientific evidence. He directed the

members to page 1 of the handout, noting that Soma has been approved as a safe and effective drug since 1959, reaffirmed in the 1960's and again by the Chou report (Chou et al 2004 scholarly systematic review). He commented that Soma is a muscle relaxant and is not a tranquilizer. He referred to Chou report findings , page 2 of the handout, that reported "Despite concerns about the potential risk of abuse from Carisoprodol because of its metabolism to meprobamate, the available literature provides no data regarding the comparative risk of abuse and addiction from skeletal muscle relaxants." He said that there is a lack of substantial evidence of abuse from Soma and referred to the handout to support his position.

**Dr. Sacks** concluded by stating that scheduling would have an undue burden of oversight. Systematic review of available data does not suggest widespread misuse of Soma. Isolated, anecdotal cases of misuse should not be a basis for scheduling. (See attachment)

There were questions from the committee.

**Rep. Henbest** questioned the fact that the DAWN (Drug Abuse Warning Network) data in his report does not reflect any law enforcement about diversion, seizures, use on the streets, use in conjunction with other drugs. He said that he is not aware of any police data that shows that this is a drug of abuse. She asked if Soma is marketed with other drugs. Dr. Sacks said that Soma with codeine is scheduled because of the codeine.

In response to a question from **Rep. Rusche**, **Dr. Sacks** said that this is not one of their "block buster" products. Ninety-five percent of the drug is marketed by generic companies. The profit is relatively small for the company overall. "We are a small company, a specialty pharmaceutical company."

In response to a question from **Rep. Rusche**, **Dr. Sacks** said that pharmacies can track this drug right now. He also said the question that must be asked is, is there a scientific basis to reported cases of abuse or death or other problems related to Soma?

**Judith Murray**, Idaho Nursing Association, spoke in support of the bill. She stated that Soma potentiates individual drug use. She also stated that she believes that this drug should not be prescribed to the older population.

**Skip Smyser**, Attorney, representing MedPointe Pharmaceuticals, spoke in opposition to the bill. He asked the committee to look at the FDA's position, which has been to refuse to schedule this drug. He said that the FDA has the money to conduct research and study data and the effects of Soma; whereas, the Idaho board of Pharmacy does not have the staff or funding to prepare the scientific data that is essential. He reiterated to the committee that their decision must be based on scientific data; scientific data does not support scheduling Soma. He stated that evidence shows that Soma does not convert into a therapeutic level.

**Dr. Gary Walsch, MD**, representing the Idaho Chapter of American

College of ER Physicians, spoke in support of the bill. He said that Soma is effective, but it is not safe. He said that it potentiates narcotics.

**Dr. Charlie Novak**, Psychiatrist, spoke in support of the bill. He stated that he treats a lot of people with prescription drug abuse. He said that abuse is a risk of Carisoprodol. He said that people need to be informed about the use of this drug.

**Rep. Ring** concluded his presentation. He said that Soma has been classified in some fourteen states or seventeen states. He said that of the top twenty drugs of abuse in the U.S., Carisoprodol is the only one that is not a classified drug. Regarding the earlier comment made that Soma is strictly a muscle relaxant, **Rep. Ring** explained that according to the PDR it is a tranquilizer. He believes this drug should be scheduled and asked the committee to send it to the floor with a do pass recommendation.

**Rep. Henbest** offered information she had pulled from the internet regarding the 1997 FDA minutes when the DEA presented its case to the FDA, as well as other information:

- ! A documentation of two million Soma tablets purchased from American manufacturers to Tijuana pharmacies that could be purchased by Americans.
- ! The drug in combination with codeine has a street name called "baby loads"
- ! Under cover DEA agents purchased Soma for cash
- ! Pharmacists and physicians have diverted the drug
- ! The National Drug Intelligence Center data has identified usage involved in sexual assault
- ! A drug abuse help line lists Soma as a targeted drug for intervention for people who want to kick their habit

**MOTION:** **Rep. Henbest** moved to send **H 617** to the floor with a Do Pass Recommendation.

**On a Roll Call Vote, the Motion Passed.**

7 Ayes - Representatives Block, Garrett, Ring, Bilbao, Henbest, Martinez and Rusche

5 Nays - Representatives Sali, McGeachin, Nielsen, Loertscher and Shepherd

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 6:25 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 10, 2006

**TIME:** 1:30 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Rep. Shepherd

**GUESTS:** Please see attached sign-in sheet.

The minutes of March 2, 2006 were reviewed. **Rep. Ring** moved to approve the minutes. **The motion carried.**

**HCR 48** **Rep. Skippen** presented **HCR 48**, which is a companion to **H 776**, the Idaho Medicaid Simplification Act. She explained that the focus of this bill is to match mental health benefits to client needs to ensure that resources are directed to those Idahoans who most need Medicaid services. Rep. Skippen stated that we financially cannot sustain the system as it is today. She said that this effort is to try to use the existing treatment system of care for children with serious emotional disturbances and adults with severe and persistent mental illness more appropriately. She noted the fiscal note which states savings to the General Fund to be \$3,000,000 for 2007.

**Rep. Skippen** explained that the department is being asked to do the following:

- 1) Establish a health risk assessment that provides meaningful diagnostic information for Medicaid eligible children and adults.
- 2) Based on an assessment-driven diagnosis:
  - Eliminate partial care services for low-income children and adults without serious mental health disorders.
  - Limit Medicaid mental health benefits for low-income children without serious emotional disturbance and working-age adults without severe mental illness to 26 hours per year of outpatient mental health therapy services and to 10 days per year of inpatient mental health care.
  - Continue to provide current provisions of intensive mental health treatment benefits, without regard to the limitations mentioned above for Medicaid-eligible children diagnosed as having serious emotional disturbances and Medicaid eligible adults diagnosed as having severe and persistent mental illness.

There were questions of concern regarding eliminating partial care services and eliminating a "safety net". Rep. Skippen replied that she

believes that there is a safety net and that this attempt is to try to come up with guidelines that more clearly define where the bulk of services need to go.

**Rep. McGeachin** raised concern noted in a letter from April Crandall regarding the department's halting of the mental health workgroup.

In response to a question, **Leslie Clement**, Administrator of Medicaid, explained that partial care day treatment is not meant to address serious, intensive mental health issues.

Responding to a question, **Mr. Millar**, Department of Health and Welfare, said that some of the more severe and persistent mental illnesses are schizophrenia, which includes symptoms of hallucinations and delusions, personality disorder, mood disorder, and bi polar disorders.

Responding to a question **Mr. Millar** said that 26 hours for individuals who do not have serious mental disorders provides treatment and also creates an opportunity for early intervention in the event that it is determined that the individuals need further therapy.

**April Crandall**, LSW, Idaho Falls provided a letter, dated March 9, 2006 in opposition to the bill. (See attached)

**Chuck Halligan**, Department of Health and Welfare, yielded to a question by explaining that the same testing assessment process will continue to be used which is the CAFAS scoring method, Child and Adolescent Functional Assessment Scale. This testing tool gives the determination of functional impairment of an individual at the onset and as an assessment tool during the duration of treatment of the participant.

**Trish Wheeler**, representing Idaho Federation of Families and Childrens' Mental Health, spoke in opposition to the bill. She said that removing this coverage will cause stress to families worried about having coverage for their children. Children change very quickly, and she is concerned about the time lag for reassessment. She believes that providing early intervention when the child is less seriously mentally disturbed will be better in the long run.

**Rep. Henbest** commented that a child would actually receive the full array of services.

**Laura Scuri**, Vice President of Mental Health Providers Association of Idaho, addressed the committee. She stated that the association has not taken a position yet, because there is not enough information for what this bill will do. She further stated that they want the department and the Legislature to commit to continue to work on the legislation. She offered the following solutions: 1) Include all stakeholders in the mental health process; it is critical to get every ones information. 2) utilize promulgating rule making. 3) Establish a process that is no longer burdensome to consumers.

Responding to questions from the committee, **Ms. Scuri** explained that depression cases are the majority of her patients. Those individuals have

regular visits with a psychiatrist. She said that it is difficult to introduce a patient into a new and different setting because it can be complicated for them. She is concerned if patients would need more than the 26 hours per year of outpatient care.

**Kelly Keel**, representing Mental Health Providers Association of Idaho, addressed the committee. He said that partial care is designed to address the needs of children with severe emotional disturbances. He does not want to lose the ability to provide services. He stated that his concern is that through the process of the department establishing an assessment, intense services for those who need them could be limited. He is also concerned that the definition of severe and persistent mental illness for adults could change. He stated that this is not in code.

**Rep. Garrett** asked if there is a definition in code. Mr. Millar replied that there was not a definition in Idaho code. He agreed that this is a project the department could undertake.

**Krista Ziebarth**, ICAN, spoke in opposition to the bill by stating she is concerned for a child losing hours that he/she needs.

**Kathy Zuckerman**, teacher, spoke in favor of the bill. She explained that many people with serious mental illness do not get the treatment they need. This bill would provide services for those who have serious mental illness.

Comments from the committee: This is a way of prioritizing care and not cutting services; this is a way of trying to make sure limited resources are prioritized and the services are appropriate.

**Sean Murphy**, citizen, addressed the committee, in opposition to the legislation. He advised the committee to make sure that the funds for these services are highly scrutinized and used appropriately. He stated that he is against this if funds are not going to be used to provide services that are needed.

**Rep. Skippen** concluded her presentation. She stated that this is something that is diagnoses driven. It is about designing a system that really puts the appropriate services into the appropriate plans.

**MOTION:**

**Rep. Garrett** moved to send **HCR 48** to the floor with a Do Pass Recommendation. She commented that we have to step up and look at these issues and make the best choice possible.

**SUBSTITUTE MOTION:**

**Rep. McGeachin** moved to send **HCR 48** to General Orders with the amendment to add on lines 31 and 39 after the word, Welfare, the words "working with stakeholders,". She commented that input from stakeholders is critical.

In response to questions regarding the stakeholder issue, Rep. Skippen replied that she does not believe it is necessary to include this amendment. She believes that this is how situations will be dealt with. She expects this process to be inclusive.

**David Rogers** yielded by stating that there are existing structures in place.

In response to a question, **Rep. McGeachin** explained that stakeholders are those who have been involved with the mental health work group in the past; those who desire to work together in this process.

Committee debate continued.

**Rep. Bilbao** called for the question. Without a two-thirds majority, Committee debate continued.

Comments from the committee: Stakeholder is not clearly defined; there are implications that fraud is an issue; this decision unit is about the appropriate use of services and we know that there is some level of inappropriate care which is what we are addressing; stakeholders need to be involved in order to show how they are justified; it is a matter of balance between tax payers concerns and about the numbers of potential abuses; this legislation lines up what has been misaligned by lining up a benefit with a diagnosis; Spend the money where it needs to be spent; target serious mental illness.

Having completed debate, a roll call vote on the substitute motion was called for.

**VOTE-Substitute Motion:** 5 Ayes - Representatives Sali, McGeachin, Nielsen, Loertsher, Rusche  
6 Nays - Representatives Block, Garrett, Ring, Bilbao, Henbest, Martinez  
**The substitute motion failed.**

**VOTE-Motion** 10 Ayes - Representatives Block, Garrett, Sali, Nielsen, Ring, Loertscher, Bilbao, Henbest, Martinez, Rusche  
1 Nay - Representative McGeachin  
**The motion passed.**

**HCR 50** **Rep. Nielsen** presented **HCR 50** which requests that the Legislature encourage the department to implement premiums for Medicaid participants in the proposed state plan for Low-Income Children and Working-Age Adults who have family incomes above 133% of poverty. This will result in savings to the General Fund of \$318,675 in FY 2007.

**Rep. Rusche** asked if the premiums will eliminate participation from the low-income children. Rep. Nielsen replied that if the premium has to be taken out of their resources, some would not be able to receive coverage, but he believes this will cause individuals to be more responsible.

**Rep. Nielsen** presented an amendment. He explained that the amendment adds language to the bill that will create a provision for a funding source. The amendment states, "*Be it further resolved that the Legislature encourages the Department of Health and Welfare to join a prescription drug purchasing pool for purchase of Medicaid-financed prescription drugs and that the resulting savings be used to fund Medicaid participants' personal health accounts for the purpose of payment of premiums.*"

**Leighton Ku**, PHD, MPH, representing Center on budget and Policy

Priorities, Washington DC, spoke in opposition to the bill. She began by remarking, "Please throw us a life preserver, and not a hunk of lead." She stated that there is a substantial body of research, based on experiences in states across the nation, that higher premiums lead to reductions in Medicaid or CHIP enrollment. She estimates the number of children who could lose coverage if Idaho begins to charge monthly premiums to be 11,000. (See attached testimony)

**Rep. Nielsen** responded by saying that they are not paying out of their own money, they are paying out of a health savings account that will be provided by the department. The objective is to encourage good, responsible behavior, making sure appropriate decisions are made on how to handle the use of their money.

**Kathy Zuckerman**, citizen and retired teacher, addressed the committee in support of the bill.

**Bill Foxcroft**, Idaho Primary Care Association, spoke in opposition to the bill. He stated that the association supports the Medicaid Simplification Act; however, they do not support this bill as it is written. He said that cost sharing needs to be implemented very carefully so that it does not become a barrier and a disincentive to a person getting needed care. (See attached testimony.)

**Rep. Rusche** asked if he could support the bill with the amendment. Mr. Foxcroft responded that he appreciates the safety net, and the amendment does help, but they still have reservations. He stated that they are not opposed to the premiums but cannot support the premiums without the family cap.

**Rep. Nielsen** commented that with a family cap, an inequitable situation is created; there are more children in some families than others; consequently. There is justification for a cap per individual.

**Matt Haney**, ICAN, spoke in opposition. He is in supportive of the purchasing pools scenario; however, is concerned about the time involved to establish the system of credits. He said that this basically attacks children for being poor. He noted the state of Vermont where 10% dropped off from Medicaid in the first month, when premiums became a requirement.

**Rep. Bilbao** questioned why \$1,900 income per month was not substantial enough for a family on this income to afford \$30 per month in premiums.

**David Rogers** yielded, stating that the issue is only with children above 130 % of poverty. He further stated that personal health accounts are very new particularly in terms of Medicaid. Florida, W. Virginia, and a few other states are looking at a waiver. He said that we are building something new which is why there is a limited amount of detail for these very new systems. A waiver is required to establish and fund the personal health accounts.

In response to a question, **Mr. Haney** replied that ICAN would have to be able to participate in the rule making in order to feel more assured that the money would be there.

**Mr. Foxcroft** was granted permission by the Chairman to make a comment. He stated that there is an inequality in the use of the personal health accounts.

**Ms. Ku** was also granted permission to make a comment. She stated that this is going to necessitate more cost and more work for something that is already being done.

**David Rogers** yielded by explaining that the policy goal of **H 776** is to make good decisions and the Governor made it clear that this project not be done in any way that people lose coverage. He commented that the prescription purchasing pool is appropriate to fund the personal health accounts. He stated that their mandate was that they needed to make some changes in Medicaid. "This may not be the easiest way, but I think it is the right way. "

**MOTION:** **Rep. Nielsen** moved to send **HCR 50** to General Orders with the amendment attached. **The motion carried by voice vote.**

**HCR 52** **Rep. McGeachin**, presented **HCR 52** which requests the Legislature to encourage the Department of Health and Welfare to develop a Long-Term Care Options Counseling program as part of the Aging Resource Center initiative.

She commented that she thinks that this legislation has the potential to explore other alternatives for long-term care.

**MOTION:** **Rep. Loertscher** moved to send **HCR 52** to the floor with a Do Pass Recommendation. **The motion carried by voice vote.**

**H 668** **Rep. Mathews** presented **H 668**, which is legislation that provides for the investigation and prosecution of Medicaid fraud by the Office of the Attorney General. It would outline the adoption procedures, collection of overpayments, employment of necessary personnel, and rulemaking authority. He explained that Medicaid fraud is currently monitored as part of a combined unit in the department and does not meet the independence requirements to become federally certified. Idaho is one of only two states that does not currently have a certified Medicaid fraud control unit.

**Rep. Ring** asked him what would happen to the current fraud unit in the department. Rep. Mathews replied that he did not see dismantling anything at the department. He stated that he is hopeful the new independent unit and the department would partner together.

**Kelly Keel**, Idaho Association of Developmental Disabilities, addressed the committee stating the association is in favor of this bill. He stated that Idaho is only one of two states who does not already have an independent unit. The department does not have the resources they need, and this legislation will provide that.

**Robert Ven DeMerwe**, Executive Director of Idaho Health Care Association addressed the committee in opposition. He said that he is concerned with good people, for example nurses, who might make a mistake and end up in jail. He said that the department has been very

aggressive in investigating fraud and abuse. He would like to see the committee wait and give this more study before taking this step.

**Sherman Furey**, Chief Deputy Attorney General, addressed the committee. He stated that he is not before the committee to advocate or to contest the bill. He said that this is a policy change. He is concerned about having the tools necessary to do the job appropriately. He stated that the estimated cost for the first year is \$740,750 and \$900,500 the next year.

In response to a question, **Mr. Furey** replied that he did not think that combining the department and an independent unit into one unit would work.

**MOTION:**

**Rep. Nielsen** moved to send **H 668** to the floor with a Do Pass Recommendation. He commented, "I think that this is the vehicle to get the ball rolling." He also commented that it does not take affect for a year, and 48 states already have a similar program.

**Rep. Garrett** questioned the fiscal impact, commenting that **Mr. Furey** quoted a different figure than the statement of purpose indicated. She requested that the figure of \$740,750 for FY 2007, replace the estimated dollar amount of \$540,000 currently listed in the statement of purpose.

**MOTION:**

**Rep. Garrett** moved to send **H 668** to General Orders with the amendment to change the dollar amount of the fiscal impact on the statement of purpose.

**The motion carried by voice vote.**

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 5:20 PM.

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Representative Sharon Block  
Chairman

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Jennifer O'Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 14, 2006

**TIME:** 1:40 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Chairman Block, Rep. McGeachin, Rep. Shepherd

**GUESTS:** Please see attached sign-in sheet.

**Vice Chairman Garrett** called the meeting to order.

The Chair invited **Rakesh Mohan**, Director of the Office of Performance Evaluation, to present two reports, one on Substance Abuse, and one on Management in the Department of Health and Welfare (DHW). Mr. Mohan explained that the Substance Abuse Report had taken eight months to complete and the DHW report four months. Both reports are available on the website, [www.idaho.gov/ope](http://www.idaho.gov/ope). Mr. Mohan introduced four members of his staff who were instrumental in the study and research; Chris Shoop, Ned Parrish, Rachel Johnstone and A.J. Burns.

**Chris, Shoop** presented an overview of the Substance Abuse Report. (See State Substance Abuse Treatment Efforts, Report Overview attached.) Mr. Shoop began by giving a history of oversight of Substance Abuse coordination in Idaho. He stated that currently there is no formal mechanism to coordinate and guide efforts to address substance abuse. He further stated that the report recommends establishing an independent commission to oversee programs and activities of various state entities working to address substance abuse problems. Mr. Shoop stated the DHW's historical information about individual treatment systems has not been consistent and, therefore, raises questions about reliability. He referred to data illustrated in the PowerPoint presentation to support his analysis.

**Mr. Shoop** referred to the report as he highlighted key factors: 1) Prevention and treatment cost \$27.5 million in FY05; 2) Service delivery in Idaho is fragmented; 3) Information from individual agencies is incomplete or not reliable; 4) Health and Welfare oversight of contractor and providers is not adequate. Included in the report presented are recommendations for improving management controls, treatment data, and quality of substance abuse treatment services. Also referenced is strengthening fiscal oversight in DHW.

**Ned Parrish** presented an overview of the Management in the Department of Health and Welfare Report. (See attached report) Mr. Parrish referred to the report as he highlighted key factors: He noted the survey method used to obtain rating results. He continued to note

highlights. Many employees lacked confidence in upper management decision-making, workplace morale was generally low, turnover exceeds state average, concerns about openness of communication with upper management, programs lack methods to assess workload, and the Board of Health and Welfare has a limited role and could be strengthened. Mr. Parrish directed the members to follow along as he guided them through the report, noting ratings in management decision-making, workload monitoring, morale, turnover, communication within the department, and fear of retaliation. He continued with noting the recommendations as outlined in the report.

**Mr. Parrish** commented that one of the recommendations for the high turnover is to suggest that the department monitor data to facilitate analysis of turnover by specific divisions, programs, and work locations instead of by job classifications, which is the process that is currently being used.

**S 1412**

**Kris Ellis**, Idaho Assisted Living Association, presented **S 1412** which provides procedures for long-term care and assisted living facilities to fax and verbally send prescription drug orders to a pharmacy when it has been so ordered by a doctor. It also allows for electronic transmission of prescriptions. Ms. Ellis explained that the bill defines a "Health Care Facility"; clarifies the definition of a prescription drug order; and gives details to prescription drug orders and what constitutes a valid prescription drug order.

**Mrs. Ellis** explained that this bill also does the following: 1) allows original prescriptions to be faxed from the facility; 2) allows the practitioner or his agent or a licensed or practical nurse to phone in an order to the pharmacist; 3) allows nurses to transcribe a phone order and then fax it.

**Ms. Ellis** presented an amendment, explaining that it is a simple change which replaces the word "pharmacy" with the word "pharmacist" on page 5, line 52 of the bill.

**MOTION:**

**Rep. Sali** moved to send **S 1412** to the floor with a Do Pass Recommendation. **The motion carried by voice vote.**  
**Rep. Loertscher** will sponsor the bill.

**Rep. Ring** assumed the duties of the Chair.

The committee was put at ease at 2:50 PM, as there was not a quorum. The committee was called back to order at 2:55 PM with a quorum.

**SCR 125**

**Rep. Garrett** presented **SCR 125**, which would reject **Docket 19-0101-0503**, Board of Dentistry rules. If adopted by both houses, the rule would not go into effect. **Rep. Garrett** explained that the Board of Dentistry requested from both houses that this rule be rejected.

**MOTION:**

**Rep. Nielsen** moved to send **SCR 125** to the floor with a Do Pass Recommendation. **The motion carried by voice vote.**

**SCR 127**

**Rep. Garrett** presented **SCR 127**, which would reject **Docket 19-0101-**

**0502**, Board of Dentistry rule on sedation. **Rep. Garrett** explained that the committee voted 9 to 1 to accept the rule, and in keeping with the committee decision that day, she said that the committee needed to reject this resolution.

**MOTION:** **Rep. Rusche** moved to hold **HCR 127** in committee, which would cause the rule to go into effect. **The motion carried by voice vote.**

**HCR 126** **Rep. Garrett** presented **SCR 126**, which would reject **Docket 16-0309-0503**, Department of Health and Welfare rule on reimbursement rates. She explained that both houses rejected the rule. If adopted by both houses, the rule would not go into effect.

**MOTION:** **Rep. Rusche** moved to send **SCR 126** to the floor with a Do Pass Recommendation. **The motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:10 PM.

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Representative Kathie Garrett  
Vice Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 16, 2006

**TIME:** 2:40 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Representative Shepherd (8)

**GUESTS:** Please see attached sign-in sheet.

**Vice Chairman Garrett** called the meeting to order. A silent roll was taken.

The minutes of February 2, March 6, and March 14, 2006 were reviewed. **Rep. Rusche** moved to approve the minutes of February 2, 2006 with the correction to add Rep. Rusche's name to the roll call vote on page 5. **The motion carried.** Rep. Rusche moved to approve the minutes of March 6, 2006 with the correction made to Sen. Corder's name. **The motion carried.** Rep. Ring moved to approve the minutes of March 14 with the correction made to replace the word rule with the word resolution on line 5, page 3. **The motion carried.**

**S 1390a** **Senator McGee** addressed the committee in the absence of Senator Compton, who was presenting a bill in the Senate. **Senator McGee** explained that this legislation establishes a Medicaid respite care benefit for family caregivers of persons at risk for nursing home levels of care. He stated that this simply allows people to stay at home for as long as possible.

**Leslie Clement**, Administrator, Medicaid Division, yielded to Rep. Rusche who asked a question about preauthorization techniques and benefit limits. Ms. Clement explained that they will need to develop the structure. Their intention is to work with area agencies on aging which currently uses a caregiver assessment tool. She said that along with this tool, the department has a uniform assessment instrument tool that will assess the needs of the individual as well. This legislation provides for the focus to be on the caregiver which is a significant difference. Ms. Clement said that these caregivers are burning out because the individual has to reach a certain level of care before assistance will be provided.

**David Rogers**, Administrator, Medicaid Division, yielded to a question from Rep. Sali who questioned the fiscal impact statement commenting that it is fairly vague and asked if they know how many people this encompasses. Mr. Rogers said that they have asked the Centers of Aging Studies at Boise State University to conduct some research. The program anticipates that a certain number of individuals be diverted from receiving

nursing home care. It costs about \$4,000 per month for every individual that is in a nursing home. The benefit package for this respite package for caregivers is around \$200 per individual. Out of 20 individuals receiving respite care, we have to have one nursing home diversion to offset that cost. Rep. Sali expressed concern about the woodwork affect of this program. He said that there needs to be a better idea of how many people are in the nursing home category and how many are in the woodwork category. Mr. Rogers replied that he does not have actual numbers. The assessment is critical for defining that individual. They currently do not track that information. Rep. Sali referred to the amendment that changes the elders to persons.

**Rep. Henbest** questioned what the benefits and assessment tools will look like and if some of these concerns will be addressed in rule.

**Mr. Rogers** replied that the rules will also specify the specific assessment tool which will provide the gate to appropriately target these services to the right populations.

**Kelly Bucklund**, Idaho Independent Living Council, addressed the committee in support of the bill. He explained that if he did not receive the care of family members, he would have to rely on state providers and the resulting financial burden would dwindle away his resources, which is what typically happens to most people. He said that this bill would encourage family members to continue to be caregivers.

**Rep. Nielsen** expressed concern that the bill is too broad in its application and needs more limits.

**MOTION:**

**Rep. Ring** moved to send **S 1390a** to the floor with a Do Pass Recommendation.

**Rep. Rusche** commented that he thinks this benefit helps some but he is concerned about the assurance that the benefit is constructed and the application is done appropriately to insure that it is used just to replace a higher cost service with a lower cost service. He further commented that it is very important that the intent be very clear so that it does not become wide open and become unmanageable.

**Leslie Clement** yielded. She said that the intent is to support the informal non-paid current system. A significant number of long-term care needs are currently being taken care of by family members. She said that the intent is to support caregivers with a very small financial payment to in order to keep them in place. The greatest danger of the Medicaid budget is in the long-term care category. The intent is not to expand this, but as a cost benefit approach, to manage what is really impending and the biggest threat to Medicaid.

In response to another question, **Ms. Clement** said that the caregiver will be assessed as well as the patient; establishing a way to determine those at risk.

**Chairman Block** said that Medicaid pays for two-thirds of nursing home care in the nation. Those families who are willing and able to care for the

elderly members of the family need our support.

**VOTE:** **The motion carried by voice vote. Rep. McGeachin voted No. Rep. Ring will sponsor the bill on the floor.**

**Vice Chairman Garrett** requested **S 1314a** be moved down on the agenda, since Sen. Stegner was not available at the moment to present the bill. With no objection, that was done.

**Chairman Block** assumed the duties of the Chair.

**S 1342** **Dia Gainor** presented **S 1342** which creates a commission to regulate the scope of practice and medical supervision standards for EMT's, paramedics, and other EMS personnel in Idaho. Ms. Gainor said that this legislation does three things:

- adds language specifically requiring physician supervision of all Idaho EMS personnel who function at the basic EMT level or higher;
- eliminates a grandfather clause related to ambulance minimum standards, and
- adds language creating an EMS Physician Commission that would assume the current duties of the Board of Medicine specific to EMS.

(See attached testimony for further detail.)

In response to a question from Rep. Nielsen, Ms. Gainor explained that this does not create a new workload. It establishes a new organization to continue the work that the Board of Medicine has historically performed specific to emergency medical services. This has been an ongoing workload for thirty years.

**MOTION:** **Rep. Rusche** moved to send **S 1342** to the floor with a Do Pass Recommendation. **The motion carried by voice vote. Rep. Martinez** will sponsor the bill on the floor.

**S 1314a** **Senator Little** presented **S 1314a** which directs the Health Care Task Force to be the legislative oversight committee that monitors the state High Risk Reinsurance Pool.

**MOTION:** **Rep. Henbest** moved to send **S 1314a** to the floor with a Do Pass Recommendation. **The motion carried by voice vote. Rep. Henbest** will sponsor the bill on the floor.

**Rep. Garrett** commented that this changes the number of people on the Health Care Task Force that will include more representation from both the Senate and House Health and Welfare committees.

**S 1417** **Senator Cameron** presented **S 1417**, the purpose of which is to remove barriers to enrollment in the Idaho Access Card program. Senator Cameron explained the first part of the bill. He said that Medicaid covers children from 0 to 133% of poverty. Currently, only CHIP-eligible children may enroll in the Access Card as an alternative to direct state coverage

through CHIP. He explained that children whose family incomes fall below 133% of poverty only qualify for direct coverage under Medicaid and do not have the option to obtain the Access Card to purchase private insurance.

**Senator Cameron** explained the second part of the bill which allows small business participation in the pilot program. The benefit of this bill will be that we help people have insurance and move off of Medicaid. This bill will allow savings in the Medicaid budget because it will allow people that were forced to choose Medicaid to choose the Access Card. The ability for individuals to have insurance because of this program will keep them off the indigent roles, CAT fund and the state Medicaid system.

**Senator Cameron** provided a handout entitled Health Insurance for Adults and Children – February 2006. (See attached handout) He noted on page 2 the total number of eligible children for CHIP B in January 2006 was 2072, total number for the Access Card was 95. Senator Cameron noted the second and last column on the lower half of the sheet; the total number of ineligible children from July, 2004 to December, 2005 was about 8,000 children who had applied but were ineligible for coverage. Ineligibility had to do with assets, current coverage, Medicaid eligible, but did not elect coverage. Some couldn't qualify for the Access Card because they were Medicaid eligible.

**Senator Cameron** referred to page 1 of the handout illustrates access to health insurance, including denials and the reasons for denial. Senator Cameron said that the Access Card program is funded through existing premium tax dollars; essentially 25% of all premium tax above 55 million dollars, which has been set aside in the fund. The premium tax is matched on an 80/20 match.

In response to a question, Senator Cameron said that for children, the regular Access Card can be either group or individual products. For adults, the adult pilot project is restricted to a small group below fifty employees. Removal of employer participation only affects the adult piece.

**Rep. Henbest** asked where the balance will be shifted and who will be responsible for the rest of the premium if employers are relieved of the 50% threshold. Senator Cameron replied that in most cases the employers who have already opted to pay 50%, he believes, will remain loyal to their agreement. The employees are the ones that would probably pick up the difference if the employer steps away from their responsibility. Some employers may say they will pay for the employee but cannot pay for spouse and children. The employee would have to pay a small amount for family and the Access Card will pick up the rest. In most cases the employee will have to pay a small dollar amount for their spouse and then if they qualify, they can use the Access Card for their children.

**Senator Cameron** commented that this is to help people buy coverage. This is a way to encourage Medicaid expenditures. He mentioned that this concept was first initiated by the Boise Chamber of Commerce, Kate VandenBroek and the Department, NFIB, St. Al's, St. Luke's, the Hospital

Association and many others.

**Rep. Henbest** questioned if the intent is to allow children who qualify for Medicaid to also be able to choose the Access Card. Rep. Henbest requested to add language to the statement of purpose that would clarify this fact.

**MOTION:**

**Rep. Nielsen** moved to send **S 1417** to the floor with a Do Pass Recommendation. **The motion was carried.** **Rep. Henbest** will carry the bill on the floor.

**Rep. Henbest** requested of Senator Cameron that the following language to the statement of purpose (SOP) be added to bring more clarity: "This bill would allow children who are Medicaid eligible to qualify for the Access Card program." She explained that the current language in the SOP does not address the children who are eligible for Medicaid and this sentence would make it easier for those reading it to know the intent of the bill.

**ADJOURN:**

The meeting was adjourned at 4:30 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 20, 2006

**TIME:** 2:05 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Rep. Martinez

**GUESTS:** Please see attached sign-in sheet.

**Chairman Block** called the meeting to order at 2:05 PM. The minutes of March 8, 2006 were reviewed. **Rep. Rusche** moved to approve the minutes. **The motion carried by voice vote.**

The Chairman introduced **Brent Reinke**, Director of the Department of Juvenile Corrections and invited him to the podium to present an overview of the Juvenile Corrections Department.

**Presentation:  
Juvenile  
Corrections** **Mr. Reinke** began his presentation by giving a brief overview of the Department and the new programs that are being developed. He provided four documents which were given to the members. (See attachments.)

- "The Journey Continues" PowerPoint presentation handout,
- Executive Summary
- Community Incentive Project/Future Initiative - Sub Acute Facility
- Copy of Senate Bill S 1455

**Mr. Reinke** began by referring the committee to the PowerPoint presentation handout. He noted on page 1 a 25% decrease in recidivism between 2002 and 2005. He added there was a 50% returning rate three years ago, currently there are only about 1/3 returning. On page 2, he noted 94% of juvenile services are provided at the local level, adding that success has been in working with juveniles and their families where they live. He noted from the graphs on page 3, a 23.7% increase in population of 10-17 year olds. The next graph shows a significant trend in reductions in arrests and petitions.

**Mr. Reinke** referred the members to the Executive Summary handout, pointing to the emerging trends in juvenile justice at the bottom of the first page. The trends are younger populations, sex offenders, substance abuse, mental health, and female offenders. On the reverse side of the handout, he noted the gaps that need to be addressed that are in the areas of mental health and substance abuse, transition and reintegration services, and female offender services. Referring to the trends, Mr. Reinke said that they are seeing a greater number of a much younger

person in the system. He added that it is not good to mix these younger juveniles with the older ones. He emphasized serious concerns that they have with the emerging trend of juveniles who have been diagnosed with mental health issues. Mr. Reinke stated that the Department's initiative to strengthen families' involvement in the system has made a difference. He further stated that the faith-based organizations (Regional Resource Coordinators) are also making a difference.

Referring to the handout, Community Incentive Project (CIP), **Mr. Reinke** said that JFAC approved re-appropriating some of their funds to be used for special projects which allowed this project to be possible. The intent was to keep kids from coming into Juvenile Corrections custody. He explained that \$280,000 was used for services for 30 kids, of which 25 were not committed to the agency resulting in a cost avoidance of about 2 million dollars.

**Mr. Reinke** referred to the copy of S 1455 in their packets which is the appropriation bill for the Department of Juvenile Corrections. Page 2, section 6 is the language pertaining to the \$700,000 appropriation, which insists that they work collaboratively with the Department of Health and Welfare and communities in utilizing those dollars. Through this CIP program, they are able to work together with communities and others to provide services for kids who are not in their custody but are in the juvenile justice system in the state.

On the reverse side of the handout, Future Initiative for Sub-Acute Mental Health Beds, **Mr. Reinke** explained that with 48% of the population having mental health diagnoses and 33% having serious emotional disturbance, there is a need for a sub-acute mental health unit. This unit will be housed at the juvenile correction facility at the Nampa Idaho State School and Hospital grounds. They will be forming a program design team to develop this program. The team will be made up of the Department of Health and Welfare, Department of Juvenile Corrections, members from the community and the courts.

There was discussion and questions from the committee.

**Rep. Henbest** questioned the recidivism rates that were provided on page 1 of the PowerPoint presentation. **Mr. Reinke** said that he will provide her the document with the explanation for those figures in the very near future.

Chairman Block thanked Mr. Reinke for his presentation.

## **HCR 63**

**Rep. Skippen** presented **HCR 63** which authorizes the creation of an interim committee to be created by the Legislative Council, for the purpose of evaluating the merits of removing the programs of substance abuse and adult and children's mental health from the Department of Health and Welfare, and combining them into a new agency.

**Rep. Skippen** stated that she has many concerns about where the programs for substance abuse and adult and children's mental health programs are headed. She stated that both the Department of Corrections and the Department of Environmental Quality use to be part

of the Department of Health and Welfare and now operate as a single unit. She said that this is a huge area that may warrant enough attention to stand on its own. She believes that by establishing an interim committee over the summer, some form of ground work can be laid by the time a new administration comes along in 2007.

**Rep. Garrett** expressed concern for the various groups, projects, and organized efforts that have already been in place and making significant progress in the area of mental health. She named some of them; Mental Health Coalition, Mental Health Subcommittee, and Mental Health Transformation Group, which is based on the President's Freedom Initiative and the need for a state plan. She commented that she would not like to see all of these efforts put on hold for a year while another study is done.

**Rep. Garrett** asked how this would fit with what is already being done currently. **Rep. Skippen** replied that all of these committees are doing good work which can still be done. She said that when the ATR grant which provides 21 million dollars over a three year period is up, the state of Idaho will have to take over the responsibility for funding. She believes all of these groups can be part of the solution. She said, "we need to be bolder than we have been."

**MOTION:**

**Rep. Henbest** moved to send **HCR 63** to the floor with a Do Pass Recommendation. She commented that she thinks there is a need to view the services delivered, the finances of those services, and also the over all administration and management of those services.

**Rep. Skippen** added that JLOC voted unanimously to support this effort.

**Rep. Garrett** added another work group which is the Idaho Childrens' Council on Mental Illness.

**Bill Walker**, Deputy Director of the Department yielded to Rep. Garrett who asked him to give his input if this legislation goes forward and what will happen to the current work in progress. Mr. Walker said that the department is committed to moving forward with the efforts that have been mentioned. He said that their perspective is that it makes good sense to keep the mental health authority and substance abuse authority within the department. He named another workgroup which is the Regional Mental Health Boards. He stated that they are greatly committed to all of the various collaborations.

**VOTE:**

**The motion carried by voice vote.**

**S 1338**

**Paul Leary**, Acting Chief, Medicaid Division, presented **S 1338** which relates to the confidentiality of an individual who files a complaint in belief that a portion of the laws governing Certified Family Homes has been violated. During the 2005 Legislative session Idaho Code section 39-3556 was inadvertently repealed as part of the repeal and re-write of the Certified Family Home Chapter. This section of code protected the identity of an individual filing a complaint against a Certified Family Home with the certifying agency. To protect the Health and Safety of clients in Certified Family Homes the department encourages individuals to file a

complaint if they think that any provision of the law dealing with Certified Family Homes has been violated.

There are two interrelated changes in Idaho Code – one in Title 9 and one in Title 39.

**Mr. Leary** explained that to comply with Title 9 section 349 of the Idaho Code - Title 9 Section 340B of the code is amended to include a new paragraph – number 16 - which exempts from disclosure records or information identifying a complainant pursuant to section 39-3556 of the Idaho Code relating to Certified Family Homes unless the complainant consents in writing to the disclosure or the disclosure of the complainant's identity is required in any administrative or judicial proceeding.

Title 39 Chapter 35 is amended by the addition of a new section, designated 39-3556. This addition allows a person to file a complaint if they think any portion of Chapter 35, laws governing CFHs have been violated and to do so anonymously. It refers back to Title 9 section 340B. Additionally, it directs the certifying agency to investigate any complaint alleging a violation of Chapter 35.

**Rep. Nielsen** questioned the language under section 2, page 3, line 46, “*reasonably believes*” as being very subjective. Mr. May responded that the “bottom line” is that any complaint is one that needs to be investigated. Mr. May said that their practice is that if there is a complaint filed, they have to look at it.

**MOTION:**

**Rep. Rusche** moved to send **S 1338** to the floor with a Do Pass Recommendation. He commented that it is appropriate that the information be protected and that an investigation be required if a violation has occurred. **The motion carried by voice vote. Rep. Garrett** will carry the bill on the floor.

**S 1339**

**Leslie Clement**, Administrator, Medicaid Division, presented S 1339 which is a proposal to amend Idaho Code 39-5603 which describes the standards for the provision of Personal Care Services. She explained that personal care services are provided to individuals in their own homes or personal residences to prevent unnecessary institutional placement and to provide for the greatest degree of independence possible. Services typically provided under this category of service include assistance with bathing, dressing and eating.

This proposed amendment deletes Section (2) which currently requires that personal care services shall be ordered by a physician or authorized provider. Changes in the Federal Code of Regulations, Section 440.167, give states the option to authorize Personal Care Services in accordance with a service plan approved by the state instead of relying on a physician order. The physician order is an additional unnecessary requirement.

**Loa Perin**, AARP, addressed the committee in support of this bill. (See attached testimony)

**MOTION:**

**Rep. Garrett** moved to send **S 1339** to the floor with a Do Pass Recommendation. **The motion carried by voice vote. Rep. Garrett** will

carry the bill on the floor.

**S 1343**            **Michael Sheeley**, Executive Director, Board of Dentistry, presented **S 1343** which is proposed legislation that would provide authorization for the Board of Dentistry to renew professional licenses issued to dentists and dental hygienists on a biennial basis.

**MOTION:**            **Rep. Shepherd** moved to send **S 1343** to the floor with a Do Pass Recommendation. **The motion carried.** **Rep. Shepherd** will sponsor the bill on the floor.

**ADJOURN:**            The meeting was adjourned at 3:20 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 22, 2006

**TIME:** 2:15 PM

**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:** Please see attached sign-in sheet.

**Vice President Garrett** called the meeting to order. A silent roll was taken. The minutes of March 10, 2006 were reviewed. **Rep. Martinez** moved to approve the minutes. **The motion carried.**

**H 832** **Rep. Henbest** presented **H 832** which expands the Board of Health and Welfare's oversight of the Department of Health and Welfare. Rep. Henbest explained that the Joint Legislative Oversight Committee (JLOC) directed by the Office of Performance Evaluation (OPE) recommended in their evaluation report on the Management in the Department of Health and Welfare that the membership of the Board of the department be expanded in order to give more oversight of the department.

**Rep. Henbest** further explained that this legislation puts additional responsibility on the Board and requires they meet more frequently and also requires the Chairs of the germane committee to be on the Board. She explained that there will be some additional costs due to some increase in travel and compliance with new reporting requirements.

**Marilyn Sword**, Executive Director of the Council for Developmental Disabilities addressed the committee. She stated that she does not have a problem with expanding the role of the Board. However, she is opposed to the language on page 5, (e) and (d). She explained that this language, after checking with Legislative Services, does not clarify if this applies to independent councils and commissions. She proposed adding an amendment which would exclude the three existing independent councils and commissions for which the department is only the administrative agency.

**Ms. Sword** said that their council is under the department for administrative purposes only. This language would potentially conflict with non interference language in their federal and state authorizing statute as well as creating potential conflicts with general operations.

**Jim Baugh**, Executive Director of Disability Advocacy Services, addressed the committee. He supports the position taken by Marilyn Sword. He stated that he is an advisory board member as well as a member

of several other entities which may or may not be included in this language. There is a variety of semi-independent boards and groups, and advisory boards. He further stated that the language causes confusion related to what and how the Board of Health and Welfare is suppose to evaluate the performance of those entities. He stated that there needs to be clarification of which entities the Board is suppose to report on and specify them in the statute.

**Rep. Henbest** asked if **Mr. Baugh** has a problem with the Board of Health and Welfare evaluating the performance of these boards. He said that would depend on the Board. There could be an operational problem. Responding to another question, he said that the Council of Developmental Disabilities is audited and reviewed by the federal government. He stated that he believes that each entity should be evaluated as to whether or not they have adequate independent oversight.

Responding to a question, **Mr. Baugh** stated that adding the amendment suggested by Ms. Sword would be adequate for now.

**MOTION:**

**Rep. Henbest** moved to send **H 832** to the Amending Order with the amendment to delete subsection (e), page 5, which could be revisited by the Board and the Legislature and could always be inserted later as it is redefined.

**Rep. Sali** commented that this may require one to two new FTE\*s and asked if this has been addressed. He stated that it is a requirement, according to Joint Rule 18, that the fiscal impact reflect any costs that could be incurred for at least one year. **Rep. Henbest** replied that in discussions with OPE, the need for additional staff has not risen.

**Rep. Henbest** was in agreement to include additional specificity on the fiscal impact.

**SUBSTITUTE MOTION:**

**Rep. Sali** moved to hold **H 832** to a time certain subject to the call of the Chair to allow for the completion of the work on the fiscal note.

In response to a question, **Dave Butler**, Department of Health and Welfare, explained that there is currently one administrative assistant who coordinates the board meetings, makes travel arrangements, etc. He said that he would provide the committee with the actual cost per meeting.

**Rep. Henbest** replied to a question from **Rep. Nielsen** regarding the ambiguity of the language on page 3 regarding who would serve on the Board in the event of the absence of one of the members. She said that she would address clarifying the language with Legislative Services and bring the information back to him.

**The substitute motion carried by voice vote.**

**Chairman Block** resumed the duties of the Chair.

**H 833**

**Rep. Henbest** presented **H 833** which seeks to establish a committee to focus on statewide efforts to address substance abuse based on a recommendation from OPE. The committee will analyze agency services, assess statewide needs, develop a statewide plan and coordinate efforts for pertinent agencies. It will advise state agencies and annually inform the Legislature and the governor of results and further needs.

**Rep. Henbest** stated that no extra dollars have been identified.

Responding to a question regarding additional costs incurred, **Rep. Henbest** replied that they are asking that the work be done within the existing budget.

**MOTION:**

**Rep. Garrett** moved to send **HB 833** to the floor with a Do Pass Recommendation. She commented that JLOC brought forth a lot of concerns and issues from their study that necessitates further study relating to substance abuse. She further commented that the ATR grant will be lost if it is not managed well.

**Rep. Sali** questioned the fiscal impact stating that it does not meet the requirements set forth by Joint Rule 18. **Rep. Henbest** replied that the intent of this legislation was that existing resources be applied to this effort.

**VOTE:**

**On a roll call vote the motion passed.**

- 8 Ayes - Representatives Block, Garrett, Nielsen, Ring, Bilbao, Henbest, Martinez, Rusche
- 4 Nays - Representatives Sali, McGeachin, Loertscher, Shepherd

**SCR 128**

**Paige Parker**, Legislative Services, presented **SCR 128**. He explained that this is the omnibus resolution on the concurrent resolution which would approve all of the pending fee rules that the administrative agencies have proposed in the last year, with the exception of the two fee rules that the Legislature does not want to go into effect.

**Mr. Parker** listed the following factors:

- Rejected by both the House Resource & Conservation Committee and the Senate Resources & Environment Committee was one subsection of Department of Lands pending fee rule governing exploration and surface mining in Idaho, contained in Docket No. 20-0302-0502
- Rejected by both the House and Senate Health and Welfare Committees were eleven sections and subsections of Department of Health and Welfare pending fee rule on residential care or assisted living facilities in Idaho, contained in Docket No. 16-0322-0502.
- In addition, the Senate Commerce and Human Resources Committee voted to apply retroactively to October 1, 2005, a pending fee of the Real Estate Commission, contained in Docket No. 33-0101-0502, an action that is permitted by statute.

**Randy May** yielded to a question from Rep. Nielsen related to the assisted living rules. Mr. May stated that they are committed to

promulgating new rules which will happen at the next board meeting in May. They will be published and promulgated in June.

**Chairman Block** reminded the committee that both germane committees had voted to approve this rule with the exceptions. She asked **Mr. Stevenson**, Rules Administrator, to provide a review of the process of the concurrent resolution. **Mr. Stevenson** replied that the next step for the committee would be to send it to the floor of the House to be voted on.

**MOTION:** **Rep. Garrett** moved to send **SCR 128** to the floor with a Do Pass Recommendation. She commented that this is the reflection of the decision made by the committee at the hearing on Rule Docket 16-0322-0502.

**On a roll call vote, the motion was a tie vote.**

6 Ayes - Representatives Block, Garrett, Ring, Henbest, Martinez, Rusche  
6 Nays - Representatives Sali, McGeachin, Nielsen, Loertscher, Bilbao, Shepherd

**No action was taken.**

**Chairman Block** asked **Mr. Stevenson** to explain to the members what the outcome of **SCR 128** would be in this case. He stated that rejecting this concurrent resolution rejects all pending rules for all agencies imposing fees or charges and stops those rules from becoming final and effective.

**Rep. Bilbao** requested to change his vote, based upon the information just given by Mr. Stevenson.

**Rep. Sali** objected.

**MOTION:** **Rep. Garrett** moved to allow **Rep. Bilbao** to change his vote, commenting that we have received information that clarifies the action we are about to take that we did not have prior to the vote.

There was discussion on the motion.

**SUBSTITUTE MOTION:** **Rep. Martinez** commented that since there was no action taken on the bill because of the tie vote, he would move to send **SCR 128** to the Floor of the House with a Do Pass Recommendation.

**Rep. McGeachin** questioned whether or not the substitute motion was in order.

**Chairman Block** replied that she believed this action was appropriate; however, for the comfort of the committee, would seek parliamentary procedure.

The Chairman recessed the meeting at 4:30 PM.  
The Chairman reconvened the meeting at 4:35 PM.

**Chairman Block** stated that after consulting with the parliamentarian, the

substitute motion was determined to be in order.

**On a roll call vote, the substitute motion passed.**

7 Ayes - Representatives Block, Garrett, Ring, Bilbao, Henbest,  
Martinez, Rusche.

5 Nays - Representatives Sali, McGeachin, Nielsen, Loertscher, Shepherd.

**S 1340a**

**Cameron Gilliland**, Program Manager for the department, presented **S 1340a** which would permit a master level health professional to serve on an evaluation committee. Mr. Cameron explained that this change will protect individuals with developmental disabilities by assuring that qualified developmental disabilities evaluation committee members are available throughout the state.

**Mr. Cameron** further explained that in recent years the department has been unable to find Ph.D level psychologists willing to serve on these committees. Because of this, the department has used the services of department Masters Degree level psychology clinicians for these roles. This legislation would protect individuals by assuring that evaluation committees throughout the state are qualified and appointed according to Idaho Statute.

**Marilyn Sword** addressed the committee stating that with the amended language, they are in support of the bill. The amendment deletes language on page 2, line 1, "*master level health professional*" and inserts: "*individual who has a master's degree in psychology.*"

There were questions from the committee.

**MOTION:**

**Rep. Henbest** moved to send **S 1340** as amended to the Floor of the House with a Do Pass Recommendation. She commented that this will provide adequate input from professionals about this important decision. **The motion carried. Rep. Rusche** will sponsor the bill on the floor.

**ADJOURN:**

The meeting was adjourned at 4:50 PM.

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Representative Sharon Block  
Chairman

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Jennifer O\*Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 24, 2006

**TIME:** 12:45 PM

**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:** Please see attached sign-in sheet.

The Chairman called the meeting to order. A silent roll was taken.

The minutes of March 16, 2006 were reviewed. Rep. Rusche moved to approve the minutes. **The motion carried.**

The minutes of March 20, 2006 were reviewed. Rep. Bilbao moved to approve the minutes. Rep. Nielsen requested to have the minutes include discussion related to S 1338. The Chairman entertained the motion to approve the minutes, with the addition, as written. **The motion carried.**

**H 832** **Rep. Henbest** explained that **H 832** was held at a previous meeting subject to the call of the Chair in order to address issues raised about the fiscal impact, a copy of the reprint of the fiscal note was included in their packets. Rep. Henbest said that the revised statement of purpose (SOP) includes the additional mailing costs of \$1,000, publication costs of \$5,000 for a new annual report, and \$15,900 for travel and per diem for four new board members. The SOP also reflects the number of meetings. The resulting general fund portion is a total of \$22,000.

**MOTION:** **Rep. Rusche** moved to send **H 832** to the Amending Order with the deletion of subsection (e), page 5, line 29 and subsection (d), page 5, line 36.

**Rep. Ring** raised an issue that was shared by a current board member concerned with having greater difficulty of getting a quorum together, due to expanding the Board.

**Rep. Henbest** stated that she understands that this will create a greater commitment from the members and some may decide that it is too much of a demand. However, the importance of this legislation is for improving the functionality and the oversight of the Board and addressing some of the concerns presented in the report by the Office of Performance Evaluations. Many of the boards of other agencies do far more than this agency which is one of the largest if not *the* largest. She commented that additional oversight is certainly warranted.

Concern was expressed relating to giving proxy to someone in the event a

member couldn't attend a meeting.

**VOTE:**

**On a roll call vote the motion passed.**

8 Ayes - Representatives Block, Garrett, McGeachin, Ring, Bilbao, Henbest, Martinez, Rusche

3 Nays - Representatives Nielsen, Loertscher, Shepherd

**SCR 124**

**Robert Vande Merwe**, Executive Director of Idaho Health Care, presented **SCR 124** which directs the Department of Health and Welfare to develop an informal dispute resolution process for Intermediate Care Facilities for the Mentally Retarded (ICF/MR). Idaho Health Care represents nursing homes, intermediate care facilities, and assisted living facilities. He said that skilled nursing facilities currently have informal dispute resolution processes which are partially independent from the department in order to dispute inspection findings made by the department; ICF/MR's do not have this process available to them. He said that this legislation asks the department to create a similar legislation.

**Mr. Vande Merwe** stated that this will not require more than ½ day a month, and there will not be a fiscal impact. He commented that Randy May, Medicaid Division, has agreed to work with them in this effort. They will review the project in a year and see if this is as successful as it has been in the nursing home venue.

**Rep. Henbest** questioned why he doesn't adopt the same process that is currently being used by the skilled nursing home facilities. He responded that they may end up using the same process. However, because there are differences in the regulations, size of populations; the panels and meeting times may be different, they want to have the opportunity to test this avenue specific to ICF/MR facilities.

**MOTION:**

**Rep. Nielsen** moved to send **SCR 124** to the floor of the House with a Do Pass Recommendation. **The motion carried.** Rep. Nielsen will sponsor.

**S 1390a**

**Chairman Block** explained that there would not be another hearing on this bill since it has already been before the committee. She invited Rep. Henbest to give an overview of what has transpired with this bill.

**Rep. Henbest** explained that the bill had been pulled back to committee because of concerns expressed about this new benefit being revenue neutral. She stated that she has worked with the department and Cathy Holland-Smith, Budget Analyst. The action that they have taken was an appropriation bill which includes long term care and home and community based services and adds respite care. A new section 9 was added which puts a cap on respite care services and states that this benefit must be revenue neutral. Respite care is a new service that would be used for caregivers in order to avoid or delay the one needing the care to have to be admitted into a nursing home.

**Rep. Sali** expressed concern that the language in the bill indicates that the Director of the department has to give a Medicaid benefit to anyone who is a caregiver of someone who does not meet nursing home level of care.

**David Rogers**, Medicaid Division yielded to a question. He defined informal care to mean non-paid care. He said that eligibility will be further defined in rule. Mr. Rogers said that this program is targeting unpaid caregivers, typically unpaid family members, statistically daughters of persons needing the care. Respite care can mean having a provider of respite care enter a home to give the caregiver a break. It can also mean the person can enter an adult day-care center, or overnight stay.

Responding to a question, Chairman Block explained that since a new funding criteria has been added to the bill, the committee will need to vote on the bill again.

Responding to a question, Ms. Holland-Smith said that this program must be done within the FY 2007 budget request of \$200 million. Ms. Holland-Smith said that by combining the forecasted cost of nursing home facilities and waived services, this is the most that the department would be able to spend for those services. Responding to a question regarding dollars spent toward nursing home care. Ms. Holland-Smith referred to the Medicaid Budget book, which illustrates a breakdown of how much has been spent for nursing facilities. The projections for nursing facilities in FY 2007 are \$141 million, and waived services, \$65 million.

Responding to a question, Mr. Rogers explained that respite care is targeting individuals who do not qualify for nursing home care, but are anticipated to qualify for care at a future time. He explained that the money to pay for the benefit will come from supporting informal caregivers who are keeping the person from having to enter a nursing home, and Medicaid from incurring that cost; diverting a person from receiving nursing home care. Mr. Rogers referred to the Statement of Purpose which states that one nursing home diversion would offset the cost of 20 persons receiving respite care, resulting in this being revenue neutral.

**Rep. Rusche** commented that this is a population based neutrality rather than an individual case based neutrality. He said that with the use of appropriate assessment, this would result in an overall lower cost for nursing level of care for the aged and disabled. He offered language that could be added for the purpose of clarifying intent. "It is the intent of this legislature that use of this benefit is limited to situations wherein the expected overall cost of services for nursing facilities and services for aged and disabled, as defined in federal code, will be budget neutral."

**Rep. Garrett** suggested that this language be added to the statement of purpose.

**Rep. Nielsen** questioned what the woodwork effect would be in future years, knowing that the cap will not hold. Ms. Holland-Smith said that an appropriation bill is for the year in which it is written. There is no indication that there would be a future cap. She said that the issue can be monitored and reviewed each year, and put caps on in future years. This would take diligence on the part of the department staff and legislature.

**Rep. Henbest** stated that the cap will come up in a year. The forecast can be looked at to see if it has been met to the level of intent. This will also be looked at in rule. This will give us a budget cap in this year, then

we will be looking at the rules, the history of the program, and JFAC will look at the cap. Then we can evaluate the program.

**Rep. Garrett** explained that we will have opportunity to review rules, and can reject them if we deem fit.

**MOTION:** **Rep. Garrett** moved to send **H 1390a** to the House floor with a Do Pass Recommendation with the correction on the SOP provided by **Rep. Rusche** to include the intent language.

**SUBSTITUTE MOTION:** **Rep. Loertscher** moved to hold **H 1390a** in committee.

**AMENDED SUBSTITUTE MOTION:** **Rep. Sali** moved to send **S 1390a** to General Orders to add a sunset clause effective July 1, 2008. He commented that the statement of purpose is not law and does not have legislative intent.

**Rep. Henbest** commented that the essence of this bill is supporting people, taking care of their loved ones in their home.

Further committee comments were: "there are side bars on this legislation, and rules will further define the bill;" "this is an entitlement, letting government come into homes to take care of their families;" "ten hours is not enough."

**Joe Gallegos**, AARP, spoke in favor of the bill as amended.

**Rep. Loertscher** asked for unanimous consent to withdraw his motion. With no objection, the request was granted.

**VOTE:** **On a roll call vote the amended substitute motion was tied. No action was taken.**

6 Ayes - Representatives Sali, McGeachin, Nielsen, Loertscher, Shepherd, Rusche

6 Nays - Representatives Block, Garrett, Ring, Bilbao, Henbest, Martinez

**On a roll call vote the main motion passed.**

7 Ayes - Representatives Block, Garrett, Ring, Bilbao, Henbest, Martinez, Rusche

5 Nays - Representatives Sali, McGeachin, Nielsen, Loertscher, Shepherd

**ADJOURN:** The meeting was adjourned at 2:30 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 28, 2006

**TIME:** 1:30 PM

**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 and Loertscher

**GUESTS:** Please see attached sign-in sheet.

The Chairman called the meeting to order. A silent roll was taken. The minutes of March 22, 2006 were reviewed. Rep. Rusche moved to approve the minutes. The motion carried

The minutes of March 24, 2006 were reviewed. Rep. Martinez moved to approve the minutes. The motion carried

#### **S 1370**

Skip Smyser, Attorney representing Idaho State Dental Association, which provides for dentists to receive the same kind of rate of Medicaid reimbursement as physicians receive. He explained that in 1996, the Legislature enacted Idaho Code, which provided reimbursement to physicians, but was limited only to physicians at that time. He said that it has been approximately sixteen years since dentists have had any kind of increase in Medicaid reimbursement. Today, dentists are reimbursed approximately 40 to 45 percent for their costs of providing services. Many of the them provide the services at no cost. He commented that access to dental treatment is a concern around the state. Approximately 80 percent of dentists in Idaho provide treatment to Medicaid patients. Mr. Smyser stated that this does have a small fiscal impact of \$150,000 annually from the general account.

Jerry Davis, Executive Director, Idaho State Dental Association, spoke in favor of the bill. He stated that he cannot guarantee that this will improve access, but believes that this will have a positive impact on dentists. A recent survey indicated approximately \$60 million are written off by dentists per year. This bill will help provide a "stop gap" from making the current situation worse.

Responding to a question related to the \$60 million and write off, Mr. Davis replied that that is the total amount of care, had it been paid for at the normal fee.

Rep. Rusche commented that access is a real issue in the northern part of the state.

Mr. Davis responded to a question from Rep. Rusche replying that this

program does not apply to dental hygiene services, only dental services.

Responding to a question from Rep. Nielsen relating to the federal match, Paul Leary, Medicaid Division, replied that the federal match is 70%, which equates to a total increase of about \$490,000 per year.

Responding to a question from Rep. Henbest relating to language in the bill referring to Idaho Code that includes dental hygienists and assistants, as well as dentists, Mr. Leary said that they considered all dental codes; consequently, this language does not discriminate.

Roy Eiguren, Attorney, representing Small Smiles Dental Clinics, spoke in support of the bill. He explained that his client provides dental services exclusively to Medicaid patients for ages 0 to 21. Mr. Eiguren stated that 40% of his clients' patients who are calendared-in do not show for the appointment. He further stated that this is a problem endemic within the Medicaid population in Idaho, which is also true throughout the country. He added that the costs of providing dental services have escalated during the past ten years. In the past five years alone, annual costs have exceeded the 3% growth rate.

Responding to a question from Rep. Bilbao relating to who are the no-shows, Mr. Eiguren replied one of the reasons is that there is not a strong culture of dental hygiene and dental health within Medicaid families.

Responding to a question from Rep. Henbest relating to going the private insurer route, Mr. Eiguren said that this point has been discussed and he believes that it will be an issue that will be revisited before the legislature in the coming year. He also said that collectively, they thought this would be the appropriate first step.

Rep. Martinez questioned how to address preventive care and use the money with the greatest efficiency, given the greatest number of children who need dental services as compared to those one-hundred or so with severe dental problems. Mr. Eiguren replied that in discussions about preventive types of programs, there are indications that there are a number of these programs taking place throughout the state, particularly through the department of education. He explained that his client aggressively addresses preventive dental care and has an education component built in, which includes mothers and children working with the dental hygienist on appropriate and healthy procedures for dental hygiene.

**MOTION:**

**Rep. Nielsen** moved to send **S 1370** to the House floor with a Do Pass Recommendation. **The motion carried.** **Rep. Rusche** will carry the bill. Rep. Nielsen commented that teaching and encouraging proper hygiene is going to affect many aspects of the lives of individuals; their personalities, their health, and their welfare. "This is most valuable."

Rep. Rusche commented about how dental medicine and the rest of medicine interrelate. He shared that one of the primary causes of pre-term birth is poor oral hygiene. He commented that restoration and repair are equally as valuable as prevention.

Rep. Henbest expressed her concern for situations where more aggressive services are provided and billed for in some clinics than are necessary. She commented that she would like to see the resources go into preventive services rather than expensive crowns and dental work.

**ADJOURN:**

Announcements: The next meeting will be Thursday, March 30 at 1:30 PM. After the germane committee meeting, the Medicaid Savings and Efficiencies Subcommittee will meet to approve subcommittee minutes. Responding to a question, Chairman Block said that it is unclear at this point, whether or not Thursday will be the last meeting.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE**

**DATE:** March 30, 2006

**TIME:** 3:15 PM

**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, McGeachin

**GUESTS:** None

The meeting was called to order. The minutes of March 28, 2006 were reviewed. Rep. Nielsen approved the minutes as written. The motion carried.

The secretary and the page were given gifts. Appreciation and thanks were exchanged among the members and the Chairman.

**ADJOURN:** The meeting was adjourned at 3:30 PM.

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Representative Sharon Block  
Chairman

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Jennifer O’Kief  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** April 5, 2006

**TIME:** 2:05 PM

**PLACE:** Room 404

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

**ABSENT/  
EXCUSED:** Representative Henbest

**GUESTS:** Please see attached sign-in sheet.

The meeting was called to order at 2:05 PM.

**S 1482a**

**Rep. McGeachin** presented the bill. She explained that this bill relates to women receiving informed consent when they are considering an abortion. This bill seeks to strengthen the current statute as it is written. This bill adds definitions and creates an exception in cases of medical emergency. The Supreme Court, after hearing *Pennsylvania v. Casey* in 1992, ruled that informed consent statutes must contain a medical emergency exception to state-mandated information requirements. Rep. McGeachin explained that the definition of "Fetus" has been taken from the Casey language. She further explained that this bill is also an attempt to close the "loop hole" as indicated on page 3 of the bill, line 19 and 20 by removing the words "if reasonably possible." This would allow more women to receive the information. She also noted the added language that subjects the physician to a \$100 fine in the event of failure to comply with the provisions of the code.

**Rep. McGeachin** referred to a summary of the Executive Summary by the Attorney General's Office (Attachment 1) which lists recommendations and changes, most of which are related to existing language, not the new language of this bill. The 21-page legal opinion by the Attorney General's Office was also provided (Attachment 2). She referred to the Senate Amendment which reflects the changes that were recommended by the Attorney General's Office.

**Rep. McGeachin** referred to three brochures provided by the Department of Health and Welfare that include very detailed information regarding facts about abortion and fetal development, and a directory of state health care programs and agencies: See the following attached brochures: 1) What You Should Know About Abortion, 2) Fetal Development, 3) Directory of Pregnancy and Child Health Services.

**Bill Von Tagen**, Deputy Attorney General, addressed the committee, stating that the Attorney General's Office has not taken a position either for or against the bill. He explained that they have been involved to answer legal questions and address legal issues. He referred to the

Executive Summary (Attachment 2) commenting that all of the recommended changes in the summary have been made. From their reviews, they have determined that they can predict that this bill is constitutional and will withstand any court challenge. He stated that the present law is unconstitutional, primarily because of the medical emergency language not being in place.

**Rep. Rusche** questioned the definition of "Fetus" in the language as being different than the definition given in the materials provided by the department. Mr. Von Tagen replied that because the definition is the same as that in the Casey language, he does not have a problem with the definition.

The Chairman stated that because the committee would have to be back on the Floor at 3:00 PM, anyone wishing to testify would be limited to three minutes.

**Ralph Flager**, representing the Roman Catholic Diocese in Boise and Respect Life of Idaho, spoke in support of the bill. He stated that women should have access to information prior to having the procedure done.

**Kerri Uhlenkott**, Legislative Coordinator for Right to Life of Idaho, spoke in support of the bill. She stated that S 1482 has been modeled after Casey-like informed consent laws in 15 other states. The laws in these states have been responsible for reducing their abortion rates. She stated that many Idaho women and others, including former U.S. Supreme Court Justice Powell, have stated that giving informed consent for any medical procedure should be standard medical practice, but is not the case in the typical abortion experience. She said that most women go to an abortion clinic rather than their regular physician where there is usually no consultation between the woman and the physician prior to the abortion. She stated that many Idaho women, had they been given more information about the developing unborn child and abortion-alternative options, would have made a different choice. (See attached testimony.)

**Julie Lynde**, Executive Director of Cornerstone Institute of Idaho, spoke in support of the bill. She stated that receiving informed consent from a patient is standard medical practice in all circumstances except for abortion. She further stated that this procedure continues to pose countless physical and emotional risks to American women, sometimes costing their lives. It has not been the act of empowerment that it was promised to be. She stated that this legislation allows women, who may be vulnerable and in crisis, to acquire knowledge and information that will help her in her decision. (See attached testimony.)

**Marty Durand**, Legislative Council for the ACLU of Idaho, spoke in opposition to the bill. She stated that the standards of the medical profession insure that women are provided accurate and unbiased information from health care practitioners who, in turn, obtain a patient's informed consent for any medical procedure. She stated that this legislation promotes biased counseling and will discourage women from having abortions. She said that biased counseling can be pointless and cruel. She said that physicians should have the authority to determine what kind of information would be helpful or harmful to their patient, not

the state of Idaho. She stated that the American Medical Association opposes these types of measures.

**Bryan Fischer**, Executive Director of the Idaho Values Alliance, spoke in support of the bill. He stated that this bill is a pro-woman, pro-family, pro-child bill. A recent study conducted by The Journal of Child Psychology and Psychiatry concluded that the findings suggest that abortion in young women may be associated with increased risks of mental health problems. (See attached testimony.)

**Rory Williamson**, representing Planned Parenthood, spoke in opposition to the bill. She said that she is extremely concerned with the trusting relationship cultivated between the patient and the physician. This process should not be legislated because the bill is unnecessary. There is an informed consent law already in statute which provides patients and physicians the information that they need. She said that requiring the same information to each and every case is not always in the best interest of the patient and could reflect further harm to women who are already in a difficult situation.

**Rep. McGeachin**, in closing thanked the Attorney General's Office, other legislatures and members of the pro-life community for working on this effort. She responded to an earlier comment made relating to biased information, that the information provided in the booklets from the department are detailed facts and information and are not misleading or biased. She stated that the United States Supreme Court, in the ruling in the Casey law, stated that states have a legitimate interest in protecting the health and safety of women considering abortion, which is what this bill is attempting to do.

**MOTION:**

**Rep. Sali** moved to send **S 1482** as amended to the Floor of the House with a Do Pass Recommendation.

**Rep. Sali** acknowledged the work that the Attorney General's Office has done. He commented that he is concerned that "we've erred on the side of caution." He said that he would like to have seen other features included, but due to the Attorney General's recommendations to avoid legal challenge, they were not. He believes that the bill should be passed because there are some good aspects such as the clarification of some of the definitions, and adding the medical emergency exception. He referred to a statement made earlier relating to the civil penalty charge. He explained that this is only a record keeping function and will not have anything to do with whether or not an abortion is performed.

**The motion was carried by voice vote.**

**ADJOURN:**

The meeting was adjourned at 2:55 PM.

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Representative Sharon Block  
Chairman

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Jennifer O'Kief  
Secretary