

# House Health & Welfare Committee

Minutes  
2007



## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 10, 2007

**TIME:** 1:30 p.m.

**PLACE:** Room 404

**MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives Bilbao, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Henbest, Rusche, Chew

**ABSENT/  
EXCUSED:** Representative McGeachin

**GUESTS:** Dennis Stevenson, Administrative Rules Coordinator, Department of Administration; Bill Walker, Deputy Director, Department of Health and Welfare.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the members and guests, and invited each member to give a brief introduction regarding their goals for the committee. The Chair introduced the page, **Michelle Olsen**, and secretary, **Rachel Johnstone**, and recognized the assistant secretary, **Mary Lou Moon**.

**Chair Block** read the committee's rules of decorum for legislative hearings, and provided copies to members and guests.

**Chair Block** then introduced **Dennis Stevenson**, Administrative Rules Coordinator (Department of Administration), and invited him to present on the rules process. **Mr. Stevenson** noted that administrative rules have the force and effect of law, and changes to rule are driven by changes to state and federal laws. **Mr. Stevenson** also observed that Idaho is one of the few states to have a process for the Legislative Branch to review the rules of the Executive Branch. **Mr. Stevenson** discussed the review role of the Legislative Branch and the committee: pending fee rules and temporary rules must be affirmed by concurrent resolution, and rejected by omnibus resolution. **Mr. Stevenson** explained that the committee may reject all or part of a pending rule, but that pending rules automatically go into effect unless rejected by concurrent resolution.

Responding to a question from **Rep. Nielsen**, **Mr. Stevenson** explained that the Legislature has the equivalent of a line-item veto for rules and that the committee could review, accept, or reject any rule placed before the committee by the Chair. Responding to a point by **Rep. Henbest**, **Mr. Stevenson** explained that the correction of typographical errors is required by statute and is handled by the Administrative Rules Coordinator. The Chair thanked **Mr. Stevenson** for his presentation.

**Chair Block** then announced that in addition to administrative rules review which will take place in the full committee, the following subcommittees will review rules:

1. Rep. Pete Nielsen, Chair  
Rep. Paul Shepherd  
Rep. Jim Marriott  
Rep. Margaret Henbest
2. Rep. Janice McGeachin, Chair  
Rep. Lynn Luker  
Rep. John Rusche
3. Rep. Carlos Bilbao, Chair  
Rep. Tom Loertscher  
Rep. Steven Thayn  
Rep. Sue Chew

Responding to a question from **Rep. Bilbao**, the Chair noted that the Speaker has requested rules review to be completed by January 30; **Chair Block** directed to subcommittees to complete their reviews by January 26.

**Chair Block** thanked **Rep. Henbest** for agreeing to review the minutes. There being no new announcements, the Chair announced the next meeting will be on Friday, January 12, 2007.

**ADJOURN:** The meeting adjourned at 4:00 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 12, 2007

**TIME:** 8:30 a.m.

**PLACE:** Room 404

**MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives Bilbao, Shepherd(8), Luker, Marriott, Thayne, Henbest, Rusche, Chew

**ABSENT/  
EXCUSED:** Representatives McGeachin and Loertscher

**GUESTS:** Senator Joe Stegner; Tana Cory, Bureau Chief, Bureau of Occupational Licenses; Roger Hales, Bureau of Occupational Licenses; AJ Burns, Office of Performance Evaluations; Pharis Stanger, Substance Abuse Program, Department of Health and Welfare; Bill Walker, Deputy Director, Department of Health and Welfare; Kathleen Allyn, Administrator, Division of Behavioral Health, Department of Health and Welfare.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the guests and introduced **Mary Lou Moon**, assistant secretary.

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

**Chair Block** introduced **Sen. Joe Stegner**, co-chair of the Mental Health and Substance Abuse Treatment Delivery Systems Interim Committee, and invited him to present.

**Sen. Stegner** circulated copies of the interim committee's recommendations. The Senator explained that HCR63 (2006) had charged the interim committee to study mental health and substance abuse treatment delivery systems in Idaho. **Sen. Stegner** observed that this was a significant task and that the interim committee had made progress through four meetings, held in Nampa, Blackfoot, Orofino, and Boise; the interim committee hosted over 35 presenters from state agencies, medical professionals, and community organizations.

**Sen. Stegner** outlined the major lessons of the interim committee:

- Access to treatment services is often available only to those who break the law first.
- Access to state hospital care is limited by long waiting lists and provided only to court-committed patients, while there has been no significant increase in the capacity of the state hospital system.
- Many people in state hospital care struggle with co-occurring mental health and substance abuse disorders; the interim committee recognized the need for coordination of these services.
- Idaho suffers a shortage of psychiatrists, and mental health and substance abuse treatment professionals, especially for children.

**Sen. Stegner** observed that Idaho's system also lacks transitional

housing, detoxification facilities, residential treatment facilities, secure holding facilities, and timely assessments.

**Sen. Stegner** outlined some recommendations of the interim committee:

1. Mandate state collaboration on a uniform assessment tool by January 1, 2008.
2. Endorse the Department of Correction proposal for a secure mental health treatment facility, at a building cost of \$56 million. Responding to a question from **Rep. Nielsen**, **Sen. Stegner** stated that the proposed facility would provide 300 beds and pointed out that Idaho does not have a stand-alone, secure facility as required by Idaho Code §66-1301 since 1971. **Sen. Stegner** also observed that there are an estimated 250 prison inmates with severe mental health issues, and an estimated 1100 with mental health conditions that require treatment, while the Department of Correction has 12 beds for such treatment.
3. Modify the regional mental health board grant program to accept applications from multiple agencies. **Sen. Stegner** remarked on a community-based alternative sentencing program in District 7 (Idaho Falls) that would be able to apply for a grant under the proposed modifications; if implemented statewide, piloting such programs could reduce the burden on the correctional system (by an estimated 500-700 people) and support treatment; the interim committee is asking Legislature and this committee for \$2 million (one-time) and \$1 million (ongoing).
4. Increase ongoing funding for substance abuse treatment: \$6.5 million to replace the federal Access to Recovery (ATR) grant and \$6.0 million in new monies. **Rep. Nielsen** asked if outcome-based measures would be used to track the effectiveness of programs. **Sen. Stegner** stated that accountability was important to the interim committee; programs would be evaluated to ensure funds are used for treatment and support that is effective in reducing dependence over the long-term .

In the interest of time, **Sen. Stegner** summarized the interim committee's remaining recommendations, including: sentencing alternatives for judges, an expanded psychiatric residency program, and an independent contractor to evaluate treatment systems and advise the Legislature on tailored programs for children, a new executive department of behavioral health, state hospitals, crisis intervention training, alternatives to incarceration, adding probation officers, and a regionally-based delivery system.

**Rep. Luker** requested clarification on the funding request attached to recommendation 4. **Sen. Stegner** explained that the federal ATR grant has funded current treatment programs with approximately \$6.5 million per year for three years; that grant is ending, as expected. The Senator noted that Governor Risch had recommended those funds be replaced; the additional \$6 million requested would fund continued and longer-term treatment and monitoring. Responding to a question from **Rep. Bilbao**, **Sen. Stegner** acknowledged that this request was not included in Governor Otter's budget for 2007-2008, and that he had not yet examined the Department of Health and Welfare's appropriation request.

**Rep. Rusche** thanked the Senator, and asked if the interim committee had examined the equity of private insurance coverage for mental health and substance abuse services. **Sen. Stegner** acknowledged the concern and explained that the Health Care Task Force has traditionally dealt with discussions related to private insurance. **Rep. Rusche** noted that the majority of children needing treatment in this area are neither Medicaid-eligible nor adjudicated, and that this gap is a question to consider eventually.

**Rep. Nielsen** complemented the work of the committee and asked about what provisions were made for prevention activities. **Sen. Stegner** explained that the state's efforts to address substance abuse were divided into four areas: prevention, law enforcement, treatment, and support to assist recovery. **Sen. Stegner** noted that while the state spends millions on law enforcement and prevention activities for children, the interim committee focused on treatment to address the immediate social and fiscal costs of substance abuse.

Pointing out that 80% of children in foster homes are placed in foster care because of substance abuse in the home, **Chair Block** thanked the Senator for his presentation and indicated the committee would look forward to continuing to work with him.

**Docket No.  
16-0604-0601**

**Chair Block** explained the procedures for making motions on administrative rules in committee (a second is required only in the case of amendments) and reviewed the appropriate form of motions to accept or reject a docket in whole or part.

**Chair Block** introduced **Pharis Stanger**, Substance Abuse Program Specialist (Division of Behavioral Health, Department of Health and Welfare), and invited him to present administrative rule docket no. 16-0604-0601.

**Mr. Stanger** explained that this docket would repeal rules made obsolete by changes to code in 2006; 2006 legislation established a statewide interagency substance abuse committee and reactivated regional advisory committees. **Rep. Rusche** asked if the repealed rules would be replaced by another body of rules. **Mr. Stanger** stated that Idaho Code §39-303A provided all needed guidance and no further rules are required. Responding to a question from **Rep. Nielsen**, **Mr. Stanger** explained that, as a "housecleaning" decision of the department, this change was not subject to public comment. **Chair Block** thanked Mr. Stanger.

**MOTION:**

**Rep. Rusche** moved that the committee accept docket no. 16-0604-0601 as presented. The motion carried by voice vote.

**RS16505**

**Chair Block** explained the procedures for hearing RSs and recommended the print process be kept as efficient as possible. The Chair then invited **Roger Hales**, attorney for the Bureau of Occupational Licenses, to present RS16505.

**Mr. Hales** explained that RS16505 was designed to raise the cap on license fees established by the Board of Examiners of Residential Care Facility Administrators. **Mr. Hales** stated that the board generates

revenue solely from license fees; the board has now reached the statutory fee cap and is currently in a budget deficit. **Rep. Rusche** asked when the license fee was last raised and whether this current change was related to an increase in board activity. **Mr Hales** replied that he did not recall; last year the board had raised its application fee from \$50 to \$100, but the application fee was not a significant source of board revenue.

**MOTION:** **Rep. Nielsen** moved that the committee send RS16505 to print. The motion carried by voice vote.

**RS16508C1** **Mr. Hales** presented RS16508C1 from the Board of Cosmetology. **Mr. Hales** explained that cosmetology is made up of a number of sub-parts, including : hairstyling, nails, electrolysis, and esthetics, and that RS16508C1 was intended to modernize definitions and clearly define the nature of the practice. **Mr. Hales** pointed out that the language is careful to not cross over into medical care, and specifies "noninvasive care."

**MOTION:** **Rep. Bilbao** moved that the committee send RS16505 to print. The motion carried by voice vote.

**RS16573** **Mr. Hales** presented RS16573, also from the Board of Cosmetology. **Mr. Hales** explained that RS16573 is designed to eliminate the apprenticeship program, citing the Board of Cosmetology's concerns regarding the quality of training and of the difficulty students have had in passing examinations. **Rep. Nielsen** observed that the committee should invite public discussion of this issue by sending this RS to print.

**MOTION:** **Rep. Nielsen** moved that the committee send RS16573 to print. The motion carried by voice vote.

**Chair Block** thanked Mr. Hales for his presentations. Following discussion regarding administrative rules subcommittee schedules, **Chair Block** thanked the members and guests, and directed the committee to review their assigned rules in preparation for next week. There being no new announcements, the Chair announced the next meeting will be on Tuesday, January 16, 2007, at 1:15 p.m.

**ADJOURN:** The meeting adjourned at 9:45 a.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 16, 2007

**TIME:** 1:15 p.m.

**PLACE:** Room 404

**MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Henbest, Rusche, Chew

**GUESTS:** Quane Kenyon, Chair, Board of Health and Welfare; Richard Armstrong, Director, Department of Health and Welfare; Peggy Cook, Program Manager, Department of Health and Welfare; Mick Markuson, Executive Director, Idaho State Board of Pharmacy; Roger Hales, Bureau of Occupational Licenses.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the guests and acknowledged **Richard Armstrong**, Director of the Department of Health and Welfare, and **Quane Kenyon**, Chair of the Board of Health and Welfare.

**MOTION:** **Rep. Bilbao** moved to accept the minutes of January 12, as written. The motion carried by voice vote.

**Chair Block** announced a card of appreciation from **Rep. Rusche**. The Chair invited **Richard Armstrong** to present to the committee.

**Mr. Armstrong** introduced himself and his staff, and circulated an organizational chart detailing how to contact the Department of Health and Welfare's Division Administrators. **Mr. Armstrong** explained that in his presentation to the Joint Finance-Appropriations Committee (JFAC) he discussed the goals of the department, including to continue improving customer service and provide clear and concise responses to individuals seeking information. Responding to questions from **Rep. Nielsen**, **Mr. Armstrong** explained that his recent presentation to JFAC did not include detailed budget information, but was an overview of the department's management principles and report on the value of welfare reform; each division will address in detail the proposed (Governor's) budget to JFAC.

**Docket no. 16-0305-0601:** **Chair Block** reviewed the form for motions on administrative rules in committee and announced that guests would be invited to testify on rules. The Chair invited **Peggy Cook**, Program Manager at the Division of Welfare (Department of Health and Welfare) to present administrative rule docket no. 16-0305-0601.

**Ms. Cook** explained that docket 16-0305-0601 increases the basic allowance (from \$67 to \$77 per month) for Medicaid-Medicare recipients living in room and board situations, in residential assisted living facilities, or in certified family homes. Responding to a question from **Chair Block**, **Ms. Cook** explained that the funding for the allowance is from the



individual's own income, which is then used to pay for costs of living or care in those designated facilities; Medicaid will make up the difference, less an individual's personal needs allowance. Responding to a question from **Rep. Marriott**, **Ms. Cook** explained that the personal needs allowance is the amount of income an individual may retain when living in one of the designated types of facilities, in this case to defray the costs of prescription medications.

**Rep. Nielsen** asked about the rationale for increasing the allowance by \$10, rather than \$20. **Ms. Cook** stated that the decision was a compromise reached through negotiations with stakeholders in 2006. **Ms. Cook** stated that \$10 is assigned to the individual allowance and another \$10 was assigned to the facility, to pay for rent, utilities, and food.

**MOTION:** **Rep. Rusche** moved that the committee accept docket no.16-0305-0601 as presented. The motion carried by voice vote.

**Docket no. 16-0305-0604:** **Ms. Cook** presented docket 16-0305-0604 and explained that this provides an annual increase for Medicaid recipients based on the annual Social Security cost of living increase. Responding to a question from **Rep. Luker**, **Ms. Cook** stated that individuals and client advocacy groups had participated in the decision to assign 20% of the allowance to the individual for personal needs, and make the remaining 80% available for rent, utilities, and food. **Chair Block** thanked Ms. Cook.

**MOTION:** **Rep. Rusche** moved that the committee accept docket no.16-0305-0604 as presented. The motion carried by voice vote.

**RS16470:** **Chair Block** invited **Mick Markuson**, Executive Director of the Idaho State Board of Pharmacy, to present RS16470.

**Mr. Markuson** explained that RS16470 corrects an omission and provides law enforcement access to patient information through the exercise of court orders, search warrants, subpoenas. **Rep. Luker** led a discussion about the placement of numbered and lettered sections in RS16470.

**MOTION:** **Rep. Nielsen** moved that the committee send RS16470 to print. **Rep. Luker** stated his concern that lack of clarity on the numbering of subsections could affect the meaning of RS16470.

**SUBSTITUTE MOTION:** **Rep. McGeachin** concurred and offered a substitute motion that the committee return RS16470 to the sponsor so that corrections may be discussed with the drafter, and the RS be resubmitted to the committee. **Rep. Nielsen** concurred. The motion carried by voice vote.

**RS16507:** **Chair Block** invited **Roger Hales**, attorney for the Bureau of Occupational Licenses, to present RS16507.

**Mr. Hales** explained that RS16507 had two purposes regarding licenses and certifications for acupuncturists: to delete outdated language and to clarify the objects of obtaining licensure and certification. **Rep. Luker** asked if any practicing acupuncturists would be disqualified from licensure by the proposal to strike language in Section 1. **Mr. Hales** noted that any

acupuncturists licensed under the one-year (1999-2000) "grandfather" clauses (now sunset) have since renewed under the current requirements and will remain licensed.

**Mr. Hales** explained that acupuncture certification is reserved for medical professionals who are either members of the American Academy of Medical Acupuncture or fellows of the International Academy of Medical Acupuncture. Responding to a question from **Rep. Nielsen**, **Mr. Hales** explained that eliminating membership in the International Academy as a path to certification was intended to promote a clear and objective basis for qualification.

**Mr. Hales** noted that RS16507 also expands the basis on which the Board of Acupuncture could discipline members who are in violation of the laws of the board. Responding to a requests for clarification from **Rep. Marriott** and **Rep. Luker**, **Mr. Hales** explained that the term "the law" in Section 3 referred to the act of Idaho Code which created and governed the Board of Acupuncture. **Rep. Marriott** noted that "violates the law" could suggest "any law" if not clarified. Responding to a question from **Rep. McGeachin**, **Mr. Hales** stated it was the intent of RS16507 to confine the term to the laws governing the board, and suggested replacing "the law" with "this chapter" would resolve the concern.

Responding to a question from **Rep. McGeachin**, **Mr. Hales** acknowledged that a different version of this bill had been presented to the Legislature in the 2006 session. Responding to a question from **Rep. Luker**, **Mr. Hales** pointed out that medical doctors and osteopaths are exempt from the act, but may voluntarily seek certification. **Chair Block** thanked Mr. Hales.

**MOTION:**

**Rep. Ruche** moved to return RS16507 to the sponsor to amend the wording of "the law" in Section 3, and return the amended RS to the committee. **Rep. Loertscher** noted the sponsor should also address whether any adverse effect would result from the proposal to strike language in Section 1. The motion carried by voice vote.

Following announcements regarding rules subcommittee schedules, **Chair Block** thanked the members and guests, and reminded the members to conclude their rules review by Friday, January 26. The Chair announced that Leslie Clement would speak on Medicaid reform at the next meeting, scheduled for Thursday, January 18, 2007, at 1:15 p.m.

**ADJOURN:**

The meeting adjourned at 2:15 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE  
BILBAO SUBCOMMITTEE**

**DATE:** January 16, 2007

**TIME:** 2:30 p.m.

**PLACE:** Room 408

**MEMBERS:** Chairman Bilbao, Representatives Loertscher, Thayne, Chew

**GUESTS:** Roger Hales, Bureau of Occupational Licenses; Linda Jackson, Executive Director, Idaho Occupational Therapy Association.

**Docket no. 24-1301-0601 and 24-1301-0701:** **Chair Bilbao** invited **Roger Hales**, attorney for the Bureau of Occupational Licenses, to present administrative rule dockets 24-1301-0601 and 24-1301-0701.

**Mr. Hales** introduced the pending rules governing the Physical Therapy Licensure Board (docket 24-1301-0601) and explained that 24-1301-0701 was to identify a national examination.

**Chair Bilbao** invited **Linda Jackson**, Executive Director of the Idaho Occupational Therapy Association to testify on dockets 24-1301-0601 and 24-1301-0701. **Ms. Jackson** stated that the association has sent a letter to the Physical Therapy Licensure Board outlining its point that Subsection .010.08.a.xvi regarding "activities of daily living" should be limited to "functional mobility training as it pertains to activities of daily living." **Ms. Jackson** said that adding this limitation would align the rules with Idaho Code 54-22-03(9)(b), the Physical Therapy Practice Act. **Mr. Hales** stated that he would work to resolve this concern and suggested the board make the change with a new temporary rule following the legislative session. **Chair Bilbao** thanked Ms. Jackson.

**MOTION:** **Rep. Loertscher** moved that dockets 24-1301-0601 and 24-1301-0701 be transferred to the full committee with a recommendation to accept as written, with the exception of Subsection .010.08.a.xvi. The motion carried by voice vote.

**Docket no. 24-1201-0601:** **Mr. Hales** introduced docket no. 24-1201-0601, which he explained intends to raise service fees for the Board of Psychologist Examiners. **Mr. Hales** stated that renewal fees had last been raised in 2005, and service extender fees in 2004. **Mr. Hales** explained that this board has faced a financial deficit since December 2006, in part due to the significant expense of serious disciplinary proceedings; this rule raises fees to the statutory cap; fees comprise the sole revenue for the board.

**Rep. Thayne** led a discussion regarding the nature and impact of disciplinary proceedings. Responding to a question from **Rep. Bilbao**, **Mr. Hales** stated that the proposed rule was published in the board's bulletin and website, and received no adverse comment.

**MOTION:** **Rep. Thayne** moved that docket 24-1201-0601 be transferred to the full committee with a recommendation to accept as written. The motion

carried by voice vote.

**Docket no. 24-1501-0601:** **Mr. Hales** explained that docket no. 24-1501-0601 updates language and deletes restricting terms for the Board of Professional Counselors and Marriage and Family Therapists. **Mr. Hales** stated that this docket clarifies rules guiding supervised experience and provides flexibility for therapists licensed in other states.

**MOTION:** **Rep. Loertscher** moved that docket 24-1501-0601 be transferred to the full committee with a recommendation to accept as written. The motion carried by voice vote.

**Docket no. 24-1501-0602:** **Mr. Hales** introduced docket no. 24-1501-0602, which he explained raises the annual renewal fee for the Board of Professional Counselors and Marriage and Family Therapists. **Mr. Hales** noted that the board has been in a deficit situation since October 2006, as revenue from its annual renewal fees has decreased. Responding to questions from **Rep. Bilbao** and **Rep. Thayn**, **Mr. Hales** said he believed the board notified stakeholders of the change by postcard and through the board's website.

**MOTION:** **Rep. Loertscher** moved that docket 24-1501-0602 be transferred to the full committee with a recommendation to accept as written. The motion carried by voice vote.

**Docket no. 24-1901-0601:** **Mr. Hales** explained that docket no. 24-1901-0601 raises the renewal fee for the Board of Examiners of Residential Care Facility Administrators to the statutory cap. **Mr. Hales** noted that the board has been in a deficit situation since December 2006. **Mr. Hales** reminded the committee that RS16505, now H0004, proposed raising the fee cap.

**Mr. Hales** further explained that the Scope of Practice section requires nursing home administrators to practice only within the scope of the experience and education. Responding to a question from **Rep. Loertscher**, **Mr. Hales** stated that the intent is to emphasize that administrators should have appropriate training to deliver specialized types of care. **Rep. Loertscher** expressed his concern about apply a scope of practice that does not include objective standards for judging an individual's education and experience.

**MOTION:** **Rep. Thayn** moved that docket 24-1901-0601 be transferred to the full committee with a recommendation to accept as written, with the exception of Section .450. The motion carried by voice vote.

**Docket no. 24-0301-0601:** **Mr. Hales** explained that docket no. 24-1501-0602 makes a minor update to standards for the Board of Chiropractic Physicians.

**MOTION:** **Rep. Loertscher** moved that docket 24-0301-0601 be transferred to the full committee with a recommendation to accept as written. The motion carried by voice vote.

**Docket no. 24-0901-0601:** **Mr. Hales** explained that docket no. 24-1901-0601 was a compromise between the Board of Examiners of Nursing Home Administrators and the Idaho Hospital Association to define applicable education and experience that does not penalize individuals with out-of-state experience.

- MOTION:** **Rep. Loertscher** moved that docket 24-1901-0601 be transferred to the full committee with a recommendation to accept as written. The motion carried by voice vote.
- Docket no. 24-1001-0601:** **Mr. Hales** explained that docket no. 24-1001-0601 updates language, and modifies standards for continual practice and education credits for the Board of Optometry. **Mr. Hales** stated that the docket also attempts to modernize the code of ethics by eliminating restraints on certain arrangements between optometrists and ophthalmic suppliers which affect “big box” optometry practices within retail corporations. Responding to a question from **Rep. Chew**, **Mr. Hales** stated that the board has not seen a need to restrain either sample products from suppliers or “big box” operations. Responding to questions from **Rep. Chew** and **Rep. Loertscher**, **Mr. Hales** stated that this docket would allow optometrists to engage in behavior previously prohibited. **Rep. Loertscher** stated the committee should ensure that allowing this behavior is the intent of the board.
- MOTION:** **Rep. Thayn** moved that docket 24-1001-0601 be transferred to the full committee for further discussion of Subsection 325.04.e. **Mr. Hales** suggested the chair of the Board of Optometry could be ready to testify before the full committee at that time. The motion carried by voice vote.
- Docket no. 24-1401-0601:** **Mr. Hales** explained that docket no. 24-1401-0601 relates to Board of Social Work Examiners policies for credentialing and documentation and application retention; the docket also eliminates sunset exemptions for clinical and independent practice. Responding to question from **Rep. Thayn**, **Mr. Hales** stated that these exemptions expired in July 2006.
- MOTION:** **Rep. Thayn** moved that docket 24-1401-0601 be transferred to the full committee with a recommendation to accept as written. The motion carried by voice vote.
- Docket no. 24-1701-0601:** **Mr. Hales** explained that docket no. 24-1401-0601 included a fee reduction from the Board of Acupuncture and adjusts basic information.
- MOTION:** **Rep. Thayn** moved that docket 24-1701-0601 be transferred to the full committee with a recommendation to accept as written. The motion carried by voice vote.
- Chair Bilbao** thanked Mr. Hales for his presentations, and announced that the next meeting will take place on Thursday, January 18, 2007, following adjournment of the full committee.
- ADJOURN:** The meeting adjourned at 3:35 p.m.

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Representative Carlos Bilbao  
Chairman

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Rachel Johnstone  
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE  
NIELSEN SUBCOMMITTEE**

**DATE:** January 16, 2007

**TIME:** 2:30 p.m.

**PLACE:** Room 404

**MEMBERS:** Chairman Nielsen, Representatives Shepherd, Marriott. Henbest

**GUESTS:** Nick Nudell, Regional Operations Manager, EMS Bureau, Department of Health and Welfare; James Aydelotte, Department of Health and Welfare.

**Docket no. 16-0202-0701:** **Chairman Nielsen** called the meeting to order and the Chair welcomed the guests and invited **Nick Nudell** to present in place of **Dia Gainor** who was out of town.

**Nick Nudell** presented 16-0202-0701 and explained that his agency, the Idaho Emergency Medical Services (EMS) Physicians Commission has adopted a temporary rule and the proposed rule making procedures have been initiated to protect the public's health and safety. Currently, he said there are no scope of practice rules in effect since the previously-existing EMS scope of practice rules were transferred from the Board of Medicine to the EMS Physician Commission by the 2006 Legislature and the Commission is establishing new rules to comply with the current statutory requirements.

**Chairman Nielsen** asked if the rules would all be new and was told they would be new, but similar to the others and said town hall meetings will be scheduled across the state for comments and input. The temporary rules were passed last year, with no rule changes since and will be effective Feb. 2, 2007, so no rules are in effect now.

**MOTION:** **Representative Henbest** moved that Docket 16-0202-0701 be recommend to the committee as written. The motion carried by voice vote.

**Docket no. 16-0208-0601:** **James Aydelotte** presented 16-0208-0601 on Vital Statistics Rules Changes and indicated that last year the Funeral Service Association introduced HB 646 to the legislature to clarify Idaho's disinterment law—that is, who can legally request the removal of a body from where it is buried. The amended law gives that authority to the person who had the authority to determine final arrangements of that body. He said this is a very straightforward change to allow rules to agree with the amended statute (39-269) and asked for approval.

**MOTION:** **Representative Shepherd** moved that Docket 16-0208-0601 be recommend to the committee as written. The motion carried by voice vote.

**Docket no.**  
**16-0215-0601:**

**Dieuwke Spencer** read 16-0215-0601 School Immunization Rules saying the rule change is to allow the physician to choose the most medically appropriate interval for a child's immunization schedule, within recommendations, rather than requiring them to immunize at the youngest age of the recommended schedule.

The question was asked if a child would be allowed in school if he/she did not have the immunizations required. It was explained that parents can decline to have their child immunized and that lack of immunization will be included in the child's school records but the child would still be able to attend classes. The same exceptions apply for polio vaccinations. It was stated that it is sometimes difficult for a parent to decline to have their child immunized and then keep that child in school, as often times the school will withhold the exception information to try to persuade parents to have the immunizations. The committee strongly suggested that next year the rules clearly state that this exception applies, as this problem comes up every year.

**MOTION:**

**Representative Henbest** moved that Docket 16-0215-0601 be recommend to the committee as written. The motion carried by voice vote.

**Docket no.**  
**23-0101-0601:**

**Sandra Evans** for the Idaho Board of Nursing was not available.

**ADJOURN:**

**Chairman Nielsen** reminded the Subcommittee there would be a meeting on Thursday, January 18, 2007 upon adjournment of the Health and Welfare Committee Meeting and adjourned at 3:10 PM.

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Representative Pete Nielsen  
Chairman

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Mary Lou Moon  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 18, 2007

**TIME:** 1:15 p.m.

**PLACE:** Room 404

**MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Henbest, Rusche, Chew

**GUESTS:** Roger Hales, Bureau of Occupational Licenses; Leslie Clement, Administrator, Division of Medicaid, Department of Health and Welfare; Patti Campbell, Sr. Program Manager, Division of Medicaid; Paul Leary, Division of Medicaid; Randy May, Deputy Administrator; Damaris Borden, Division of Welfare; Peggy Cook, Program Manager, Division of Welfare; Susie Cummins, Division of Welfare; Larry Benton, Idaho Assisted Living Association.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the members and guests.

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

**Chair Block** announced a message received from the Chief Clerk of the House on protocol for handling RSs, and requested amendments to the agenda; dockets 16-0909-0603 and -0604 will be heard during a following meeting.

**RS16507C1** **Chair Block** invited **Roger Hales** to present RS16507C1 to the committee. **Mr. Hales** explained that this version of the RS contains a correction, to rephrase "the law" to "this chapter" in the last line of the bill. **Mr. Hales** reminded the committee that this RS was brought on behalf of the Board of Acupuncture, and sought to eliminate language no longer effective, outline objective requirements for obtaining medical certification, and add an additional ground on which the board could discipline a licensee. **Chair Block** thanked **Mr. Hales**.

**MOTION:** **Rep. Rusche** moved that the committee send RS16507C1 to print. The motion carried by voice vote.

**Chair Block** introduced **Leslie Clement** and invited her to present to the committee. **Ms. Clement** reviewed the Medicaid Legislation passed by the Legislature in 2006, and updated the committee on the progress made by the Department of Health and Welfare in implementing those reforms. **Ms. Clement** distributed copies of the department's "Medicaid Modernization Status Report" to the committee.

**Ms. Clement** explained that the Medicaid Simplification Act (MSA) sets the ground work for reforms; working in collaboration with the federal Centers for Medicare and Medicaid (CMS) to accomplish the reforms of



the federal Deficit Reduction Act (DRA), the department created three benchmark plans: Basic, Enhanced, and Coordinated (Medicare-Medicaid). **Ms. Clement** stated that the department has implemented the Basic and Enhanced plans, and will implement the Coordinated plan in April 2007; the department expects to have 100% of participants in the new structure by the end of the fiscal year. Responding to a question from **Rep. Luker**, **Ms. Clement** said there were approximately 177,000 participants in the Idaho Medicaid program.

**Ms. Clement** stated that the department has created two types of preventative health assistance (PHA) benefit accounts: a behavioral PHA and a wellness PHA. **Ms. Clement** noted that legislation directed the department to establish co-pays to encourage medical awareness and encourage cost effective care in appropriate settings; H0664 will be implemented this month; S1417 has been partly implemented; implementation of H0877 is pending the department's application for a Medicaid Transformation Grant.

**Chair Block** thanked Ms. Clement and invited **Paul Leary** to present. **Mr. Leary** explained that HCR048 encouraged the department to match Medicaid mental health services with need; in response, rule docket 16-0309-0604 seeks to remove partial care services from the basic Medicaid plan. **Mr. Leary** stated that, among other changes, implementation of a health risk assessment helped decrease the time taken to identify a primary care provider from over 56 days to less than 30. **Rep. Ruche** asked about the relative capacity of the provider system. **Mr. Leary** responded that some regions have no barriers, but that other regions the department has had difficulty finding enough primary care providers. Responding to a question from **Rep. Luker**, **Mr. Leary** explained that elders with severe mental health issues are currently covered by the Enhanced Medicaid plan, and will be later be able to opt for the Coordinated plan.

**Mr. Leary** explained that to implement HCR050, the department began premiums and cost-sharing measures, including PHA accounts, for children and working-age adults with incomes at 133% of the federal poverty level. Responding to a question from **Rep. Nielsen**, **Mr. Leary** noted that about 20% of participants in the higher income-levels did not pay their premiums. Responding to a question from **Rep. Henbest**, **Mr. Leary** clarified that the 20% drop rate was a historical statistic gathered before PHA accounts were created. **Rep. Henbest** asked if the link between the account and premiums was clear to participants. **Mr. Leary** stated that the department publishes informational materials, such as a monthly statement for participants. Responding to a question from **Rep. Marriott**, **Mr. Leary** explained that participants receive coupons to accompany their mailed premium payment. Responding to questions from **Rep. Nielsen**, **Mr. Leary** stated that once enrolled, participants stay on the program for one year, and the department works with participants who fall behind on their premiums; PHA accounts help participants accrue credit to offset late premiums, but if a participant does not have credit to cover the delinquency, they would drop off the program.

**Mr. Leary** explained that in accordance with HCR051, the department has engaged in a number of selective contracts with Medicaid providers to

economize the supply of dental services, transportation, and durable medical equipment (DME), especially incontinence supplies. Responding to a question from **Rep. Marriott, Mr. Leary** explained that medical supplies are distributed through drug stores and DME providers; the department is working through the scope for transportation services, and has posted an RFP for dental services.

**Chair Block** thanked Mr. Leary and invited **Patti Campbell** to present. **Ms. Campbell** explained that HCR049 encouraged the department to create seamless programs for prescription drug coverage; the department is developing an optional Coordinated plan (to integrate Medicaid and Medicare) for elders who qualify for both Medicaid and Medicare in 24 counties; the department estimates that 10% of eligible participants will opt for the plan. Responding to questions from **Rep. Nielsen** and **Rep. Thayne, Ms. Campbell** confirmed that prescription drugs and the varied health concerns of the elderly and disabled participant population will be covered by the Coordinated plan.

Responding to a question from **Rep. Rusche, Ms. Campbell** stated the department expects that 20% and then 30% will join in the second and third years of the optional Coordinated plan. Responding to a question from **Rep. Bilbao, Ms. Clement** stated the department anticipates cost savings, even if only 30% opt for the plan. Responding to a question from **Rep. Rusche, Ms. Campbell** stated the department is working with Blue Cross-True Blue, which is available in a limited number of counties; other vendors are not ready to implement the plan. Responding to a question from **Rep. Luker, Ms. Campbell** confirmed that an eligible individual who chooses not to opt for the Coordinated plan would still be covered under the Medicaid Enhanced plan.

**Ms. Campbell** explained that HCR052 related to Medicaid-financed long-term care; three offices have been opened in northern Idaho to provide counseling to 100 individuals on reverse mortgages, long-term options, and access to community support. Responding to questions from **Rep. McGeachin** and **Rep. Nielsen, Ms. Campbell** stated that the department has not yet determined cost savings, but has seen anecdotes of success as families make informed decisions about long-term care.

**Ms. Campbell** explained that HCR053 directed the department to ensure Medicaid is the payer of last resort, and the department has promulgated rules (16-0305-0606) to require those eligible for Medicare parts A, B, or D, to enroll in Medicare as a condition of eligibility for Medicaid. **Chair Block** thanked Ms. Campbell for her presentation.

**Docket no.  
16-0322-0601**

**Chair Block** directed the committee to consideration of administrative rules, and invited **Randy May** to introduce docket 16-0322-0601.

**Mr. May** explained that 16-0322-0601 adds a grandfather clause to the rule requiring residential care or assisted living facilities to install fire-suppression sprinkler systems, and clarifies conditions and language. Responding to a question from **Rep. McGeachin, Mr. May** stated that the section of rule regarding "written interpretations" had been replaced with language mirroring Idaho Code. Responding to a question from **Rep. Nielsen, Mr. May** noted that the department refers to national research

for guidance in interpreting the rule.

**Chair Block** commended the department for standing behind the commitment they made in the last legislative session. The Chair invited members of the public to testify on the docket and recognized **Larry Benton** of the Idaho Assisted Living Association. **Mr. Benton** thanked the department for their cooperation, expressed his appreciation for the concessions made last year; the association supports approval of this rule. **Rep. Nielsen** led a discussion on the value of smoke detectors. **Chair Block** and **Rep. Nielsen** commended the association and the department for their cooperative efforts.

**MOTION:**

**Rep. Rusche** moved that the committee accept docket no.16-0322-0601 as presented. The motion carried by voice vote.

**Docket no.  
16-0301-0602**

**Chair Block** invited **Damaris Borden** to introduce docket 16-0301-0602. **Ms. Borden** explained that 16-0301-0602 intends to improve readability and consolidate rules for children, remove the asset test for children, and add new rules to comply with federal standards: Medicaid participants who claim US citizenship must provide proof of citizenship and identity. Responding to questions from **Rep. Luker**, **Ms. Borden** confirmed that the rule is entirely new, and includes amendments written in response to public comments received. **Ms. Borden** explained that adult and child “qualified non-citizens” must have legal standing with Homeland Security at time of application. Responding to questions from **Rep. Nielsen**, **Ms. Borden** confirmed that a green card is a qualifying factor, as proof of legal standing. Responding to a question from **Rep. Henbest**, **Ms. Borden** confirmed that Section .221 does require original documents; applicants may bring documents into their local field office; the department has enacted protocols to ensure the safety of documents mailed to them.

Responding to a question from **Rep. Rusche**, **Ms. Borden** stated that in October and November, 27 individuals or applications were denied or closed due to a failure to provide appropriate identification, but that later, over half were able to provide the needed documentation; in December, 38 individuals were denied, and again, more than half of those later successfully provided documentation. Responding to a question from **Rep. Thayn**, **Ms. Borden** stated that the identity documentation rules for children under age three were a result of the federal Deficit Reduction Act and have been written with federal guidance.

**Rep. McGeachin** led a discussion of the documentation requirements for proof of citizenship and identify. **Ms. Borden** stated that the rule has been rewritten to comply with federal policy; Section .222 outlines levels of documentation for citizenship and identity for adults and children, including subsections outlining which combination of documents are acceptable. **Ms. Borden** stated that applicants may make a declaration or obtain an affidavit to attest to either citizenship or identity, but not both; in addition children may use the types of documentation listed in Section .223 for identity. **Chair Block** invited **Peggy Cook** to address the committee’s questions. **Ms. Cook** explained that the department can also obtain proof of a child’s citizenship directly from Vital Statistics, the Social Security Administration, and partnerships with hospitals. **Rep. McGeachin** pointed out that a written declaration or affidavit as proof of

identity is not listed as acceptable documentation for adults under Section .222.05, but is allowed for children under Section .223. Responding to a question from **Rep. Henbest**, **Ms. Cook** stated that the intent was to require applicants to provide affirmative proof their own identity, or the identity of their child. **Chair Block** thanked Ms. Borden and Ms. Cook.

**MOTION:**

With consideration to the federal mandate for this rule, **Rep. Henbest** moved that the committee accept docket no.16-0301-0601 as presented. **Rep. McGeachin** stated her concern that the rules for proof of citizenship and identity were not sufficiently clear. **Rep. Nielsen** led a discussion on the proper means the committee may use to address the issue. Chair Block recommended the department gather more information on the subject and that the committee address the docket again at a following meeting. **Rep. Henbest** requested that her motion be withdrawn. By unanimous consent, the committee agreed. The Chair directed the department to provide more information when the committee next considers docket 16-0301-0602, and announced that docket 16-0301-0602 would be considered at that time.

Following announcements regarding rules subcommittee schedules, **Chair Block** thanked the members and guests, and announced the next meeting would take place on Monday, January 22, 2007, at 1:15 p.m.

**ADJOURN:**

The meeting adjourned at 3:30 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

MINUTES

**HOUSE HEALTH & WELFARE COMMITTEE  
BILBAO SUBCOMMITTEE**

**DATE:** January 18, 2007

**TIME:** 3:10 PM

**PLACE:** Room 408

**MEMBERS:** Representatives Loertscher, Thayn, Chew

**ABSENT/  
EXCUSED:** Chairman Bilbao

**GUESTS:** Susie Cummins, Division of Welfare, Department of Health and Welfare;  
Paul Leary Deputy Administrator, Division of Welfare, Department of  
Health and Welfare.

**Representative Loertscher** called the meeting to order at 3:40 and excused Chairman Bilbao who was ill.

**Docket no.  
16-0310-0603**

Paul Leary presented 16-0310-0603 and said to streamline the program administration, services to individuals with Traumatic Brain Injuries (TBI) will now be provided under the department's Aged and Disabled (A&D) waiver. The department now administers three Home and Community Based Services (HCBS) waivers. TBI services not previously covered by the A&D waiver have been moved into the A&D services, which include habilitation, supported employment, behavior consultation, and crisis management. The TBI Waiver participation eligibility requirements for this rule change were made in the Aid to the Aged, Blind and Disabled chapter of rules under Docket 16-0605-0607. A question was asked if the level of service will change and it was discussed that there needs to be a reason for change. It was stated that people who have interest in the services will go to meetings and express their concerns.

**MOTION:**

**Representative Thayn** moved that Docket 16-0310-0603 be recommended to the committee. The motion carried by voice vote.

**Docket no.  
16-0305-0602  
and  
16-0305-0605**

**Susie Cummins** presented 16-0305-0602 and 16-0305-0605 which intend to align state Medicaid rules with the "Deficit Reduction Act." She stated she met with the Senate Health and Welfare Committee and was directed to meet with them again Monday. There was discussion about Federal Regulations tied to the rules, guidelines for married couples, and the way the resources of the couple are evaluated. It was decided to hold action until after the Senate had heard the rule.

**ADJOURN:**

**Representative Loertscher** adjourned the meeting.

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Representative Loertscher  
Acting Chairman

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Mary Lou Moon  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE McGEACHIN SUBCOMMITTEE

**DATE:** January 18, 2007

**TIME:** 3:35 p.m.

**PLACE:** Room 406

**MEMBERS:** Chair McGeachin, Representatives Luker, Rusche

**GUESTS:** Rosie Andueza, Division of Welfare, Department of Health and Welfare; Cameron Gilliland, Program Manager, Division of Family and Community Services; Shirley Alexander, Program Manager, Division of Family and Community Services; Mond Warren, Bureau Chief, Division of Management Services; Vivian Parrish, Idaho Interfaith Roundtable Against Hunger; Bill Whitaker, National Association of Social Workers (Idaho Chapter); Jeanette Ross von Alten, Church Women United; Rev. Jeff Lowery, United Methodist Church (Boise); Adriane Wright, Roman Catholic Diocese of Boise and Catholic Charities; Fawn Petit; Tracy Warren, Idaho Council on Developmental Disabilities.

**Docket no.** **Chair McGeachin** invited **Rosie Andueza** to present administrative rule **16-0304-0601**. **Ms. Andueza** stated this docket updates an antiquated rule under which owning even a modest vehicle is a barrier to participation in the food stamp program, impacting married and working households and rural families; rule change also intends to make benefit determinations more efficient for the Department of Health and Welfare.

**Rep. Luker** led a discussion on the alignment of rules with the Code of Federal Regulations (CFR), and asked if the CFR allowed states to deviate in some instances. **Ms. Andueza** stated that the 2002 Farm Bill gave the states this flexibility, provided they remain in compliance with Temporary Assistance for Needy Families (TANF) regulations; the department has aimed to simplify the language for families and staff.

**Rep. Luker** asked if the department had established a method for determining the fair market value of non-exempt vehicles, as required by the CFR. **Ms. Andueza** stated the department has outlined this methodology in its staff handbook, utilizing the NADA Guides and Kelley Blue Book. Responding to questions from **Rep. McGeachin**, **Ms. Andueza** explained the department chose to exempt one vehicle per family rather than updating the old threshold value of \$4,650, or adding an escalation fee, because the benefits were greater than the risks for families in crisis; income limitations still apply. **Ms. Andueza** anticipated saving 15 minutes in staff time per application with this rule change; the department processed approximately 75-100,000 last year. Responding to a question from **Rep. Luker**, **Ms. Andueza** anticipated some increase in the number of families participating.

**Chair McGeachin** invited the public to testify on the docket. **Vivian Parrish** spoke in support of the docket, citing Idaho's rural nature and limited public transportation as reasons. **Bill Whitaker** spoke in support of the docket, stating that food stamps between employment is our first

line of defense against hunger, and that providing a vehicle exemption supports participants who seek to maintain employment. **Jeanette Ross von Alten** spoke in support of the docket, stating that amending the rule would be compassionate, intelligent, and sustainable. **Rev. Jeff Lowery** spoke in support of the docket, stating the old rule hurt those who use food stamps as a bridge or own modest vehicles. **Adriane Wright** spoke in support of the docket, stating that a family in poverty needs access to food stamps and a reliable vehicle to support employment; there is no evidence that recipients will drive expensive cars or that hunger should be used to motivate people to work. **Fawn Petit** spoke in support of the docket, citing the impact on families in short term crisis and stating that reliable transportation in rural Idaho is essential to obtaining and maintaining work. **Chair McGeachin** thanked the guests. There being no further testimony, **Chair McGeachin** reviewed the proper forms of motions on administrative rules.

**MOTION:** Stating that 15 minutes saved on each food stamp application could equate to \$200,000 in cost savings for this rule, **Rep. Rusche** moved that the subcommittee report finding no reason to reject docket 16-0304-0601. The motion passed by voice vote.

**Docket no. 16-0308-0601** **Chair McGeachin** invited **Ms. Andueza** to present docket 16-0308-0601 for Genie Sue Weppner. **Ms. Andueza** explained that 16-0308-0601 aligns TANF/TAFI (Temporary Assistance for Families in Idaho) rules with Food Stamp Program rules; TAFI operates work first/work search activities and community services that require reliable transportation. Responding to questions from **Rep. Luker**, **Ms. Andueza** confirmed that TAFI, along with food stamps, is federally funded; the department does not anticipate an increase in participation as a result of this rule change. **Chair McGeachin** thanked Ms. Andueza.

**Chair McGeachin** invited the public to testify on the docket. **Adriane Wright** spoke in support of the docket, citing a study by the Boise State University School of Social Work which found unreliable transportation as the primary reason individuals are unable to find and sustain employment.

**MOTION:** **Rep. Luker** moved that the subcommittee report finding no reason to reject docket 16-0308-0601. The motion passed by voice vote.

**Docket no. 16-0411-0601** **Chair McGeachin** invited **Cameron Gilliland** to present docket 16-0411-0601. **Mr. Gilliland** explained this rule intends to fill a service gap for individuals with developmental disabilities by adding supportive counseling (within the scope of practice of a bachelors-level social worker), as requested by stakeholder organizations.

Responding to a question from **Rep. Rusche**, **Mr. Gilliland** explained that supportive counseling is typed as a new service in developmental disability agencies, and, as a subtype of psychotherapy (which is a current service), will be provided on the recommendation of qualified personnel. Responding to questions from **Rep. Luker**, **Mr. Gilliland** stated that as a result of the rule change, the department may see services increase in some regions, and expects an increase in access overall, at an estimated cost of \$11,000 per year.

**MOTION:** **Rep. Rusche** moved that the subcommittee report finding no reason to reject docket 16-0411-0601. The motion passed by voice vote.

**Docket no. 16-0606-0601** **Mr. Gilliland** explained that 16-0606-0601 provides a list of standards, written with stakeholder and family collaboration, for the Developmental Disabilities Family Support and In-Home Assistance program; this fulfills a promise made by the department and formalizes standards already in practice. **Chair McGeachin** invited the public to testify on the docket. **Tracy Warren** spoke in support of the docket, which would make these standards enforceable.

**MOTION:** **Rep. Rusche** moved that the subcommittee report finding no reason to reject docket 16-0606-0601. The motion passed by voice vote.

**Docket no. 16-0601-0601** **Chair McGeachin** invited **Shirley Alexander** to present docket 16-0601-0601. **Ms. Alexander** explained this docket intends to provide improved safety for children in foster care and state guardianship, by clarifying background checks and other language in coordination with stakeholders. **Ms. Alexander** explained that part of the docket allows the department to establish visitation arrangements with other states (according to an interstate compact), for Idaho children placed with a relative or adoptive family out-of-state. Responding to a question from **Rep. Luker**, **Ms. Alexander** stated that when filling out the paperwork for the interstate compact, the department specifies the frequency of contact between the child and a social worker and establishes a reporting schedule. **Rep. McGeachin** pointed out that the fiscal impact for this docket is reported to be a savings of approximately \$50,000 per year.

**Ms. Alexander** further stated that 16-0601-0601 promotes stability by allowing a foster child to relocate with his or her family (especially a relative family) if that family moves out of state; without this provision the department would be required to relocate the child within the state. **Ms. Alexander** explained the docket also aligns rules with Idaho Code § 56-801, to benefit hard-to-place children by providing a permanent home.

**MOTION:** **Rep. Luker** moved that the subcommittee report finding no reason to reject docket 16-0601-0601. The motion passed by voice vote.

**Docket no. 16-0602-0601** **Ms. Alexander** explained that 16-0601-0601 outlines reasonable background check and fingerprinting requirements for dependants (age 18 and over) who are living in a licensed foster home, and establishes requirements for alcohol and drug counselors living in those facilities; the docket also establishes safeguards to protect children in foster care from accidental drowning on or near the foster parent's property. **Ms. Alexander** explained that drowning is the primary cause of death for children in foster care; these safeguards are prudent and identical to those for residential care facilities. Responding to questions from **Rep. Luker** and **Rep. McGeachin**, **Ms. Alexander** stated she was not sure of the exact number of families impacted by the rule change, but that the department would work with families, with training and support. Responding to a question from **Rep. Rusche**, **Ms. Alexander** stated she was unsure of the precise liability for foster homes where a violation results in an accident. **Chair McGeachin** thanked Ms. Alexander.



**MOTION:** **Rep. Rusche** moved that the subcommittee report finding no reason to reject docket 16-0602-0601. The motion passed by voice vote.

**Docket no.** **Chair McGeachin** invited **Mond Warren** to present docket 16-0506-0602.  
**16-0506-0602** **Mr. Warren** explained these rules govern the department's Bureau of Audits and Investigations, which is charged with conducting criminal histories and background checks for personnel with access to children and vulnerable adults; the docket updates and clarifies processes, requires, in compliance with 2006 legislation, that costs be paid by the individual and not the department, allows results to be transferred within one year, and updates a list of disqualifying crimes and offenses.

Responding to questions from **Rep. Luker**, **Mr. Warren** stated that withheld judgements are disqualifying factors only in the case of the crimes listed in Section .210, and do not include petty offenses such as littering; a complete list of persons subject to the rule is provided in Section .100; individuals given a conditional denial may request an exemption review, but unconditional denials are considered a final order and appeals must be filed with the District Court.

**MOTION:** **Rep. Luker** moved that the subcommittee report finding no reason to reject docket 16-0506-0602. The motion passed by voice vote.

**Docket no.** **Mr. Warren** explained that docket 16-0506-0601 repeals old rule to make  
**16-0506-0601** way for the docket just approved.

**MOTION:** **Rep. Rusche** moved that the subcommittee report finding no reason to reject docket 16-0506-0601. The motion passed by voice vote.

**Docket no.** **Mr. Warren** introduced docket 16-0507-0601, which re-titles the rules  
**16-0507-0601** governing the department's Medicaid Fraud and Integrity Unit; this reflects the Office of Performance Evaluations' recommendation to separate the unit from the Division of Medicaid and place it under the Bureau of Audits and Investigations. **Chair McGeachin** thanked Mr. Warren.

**MOTION:** **Rep. Luker** moved that the subcommittee report finding no reason to reject docket 16-0507-0601. The motion passed by voice vote.

**ADJOURN:** **Chair McGeachin** announced the next meeting would take place on Monday, January 22, 2007, and the committee adjourned at 5:50 p.m..

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Representative Janice McGeachin  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

Subcommittee Nielsen

**DATE:** January 18 Thursday, 2007

**TIME:** 3:55

**PLACE:** Room 404

**MEMBERS:** Subcommittee Members Vice Chairman Nielsen, Representatives, Marriott, Henbest, Shepherd (8)

**GUESTS:** John Wheeler, Department of Health and Welfare food stamp program; Peggy Cook, Program Manager, Department of Health and Welfare, Division of Welfare

**Docket No. 16-0304-0602** John Wheeler presented **Docket No. 16-0304-0602**, which simplifies the way in which some complex types of income are counted for Food Stamps.

**Questions from members:** **Representative Henbest** asked for clarifications on Federal guidelines. Mr. Wheeler discussed with the subcommittee that this docket is aligned with Federal guidelines.

**MOTION:** **Representative Henbest** recommended **Docket No. 16-0304-0602** be sent to the full committee for a hearing. **Motion passed.**

**Docket No. 16-0305-0606** **Peggy Cook** presented **Docket No. 16-0305-0606**, which states that the department has proposed a rule that requires Medicare eligible individuals to enroll in Medicare as a condition of eligibility for Idaho Medicaid.

**Questions from members:** **Representative Marriott** asked for clarification on the reimbursement. **Ms. Cook** made it known that there would be no change in the amount of money the person receives. The department makes the adjustment to Medicaid. The state saves money this way.

**Motion:** **Representative Henbest** recommended **Docket No. 16-0305-0606** be sent to the full committee for a hearing. **Motion passed.**

**Docket No. 16-0305-0607** **Peggy Cook** presented for **Susie Cummins** on **Docket No. 16-0305-0607**. This docket provides coverage for Traumatic Brain Injury participants under the waiver benefits that expired on September 30, 2006. The A&D Wavier has similar eligibility criteria for the level of care and services and will provide TBI Wavier participants continued coverage without disruption.

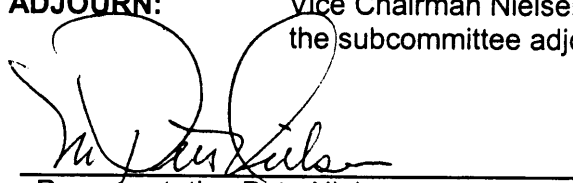
**Questions from members:** **Representative Henbest** asked for clarifications on whether the state rolled this into the enhanced benefit plan. **Ms. Cook** stated that it did. **Representative Henbest** asked if this docket is accepted will it reduce or affect the cost? **Ms. Cook** replied that there will be no fiscal change. This docket helps with the number of providers and the new system is administratively easier.

**Motion:**

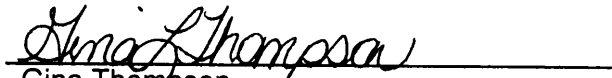
**Representative Henbest** recommended **Docket No. 16-0305-0607** be sent to the full committee for a hearing. **Motion passed.**

**ADJOURN:**

Vice Chairman Nielsen moved the there being no further business that the subcommittee adjourned at 4:15.



Representative Pete Nielsen  
Vice Chairman



Gina Thompson  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 22, 2007

**TIME:** 1:15 p.m.

**PLACE:** Room 404

**MEMBERS:** Chair Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Bilbao, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew

**GUESTS:** Leslie Clement, Administrator, Division of Medicaid, Department of Health and Welfare; Patti Campbell, Sr. Program Manager, Division of Medicaid; Pat Guidry, Department of Health and Welfare; Krys Miley; Paul Leary, Division of Medicaid; Mike Friend, Idaho Association of School Administrators; Chantel Jones, Community Partnerships of Idaho and Idaho Mental Health Counselors Association; Kelly Keele, Vocational Providers of Idaho; Kris Ellis, Idaho Residential Supported Living Association; Laura Scuri, Case Management Association of Idaho; Dennis Stevenson, Rules Administrator, Department of Administration.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the members and guests, and announced the Department of Health and Welfare's JFAC presentations are included in the minute book. **Chair Block** commended the department for working toward savings and efficiency.

**Docket no.  
16-0309-0604**

**Chair Block** invited **Patti Campbell** to present 16-0309-0604 to the committee. **Ms. Campbell** circulated handouts and explained this docket reformatted and added rules in accordance with Medicaid reform legislation of 2006. **Ms. Campbell** stated that the department mailed 782 letters to individuals who indicated interest in tobacco cessation or losing weight, and has received 20 calls regarding the Behavior personal health assistance (PHA) benefit account since the start of January.

**Ms. Campbell** explained that this rule specifies that only school districts, charter schools, or the Idaho Infant Toddler Program may bill the state (reimbursed through intergovernmental transfers) for school-based services, such as speech therapy; this is meant to prevent duplicated billings or fragmented services. Responding to a question from **Rep. McGeachin**, **Ms. Campbell** stated that school-based services have been in place since 2000, but the department is changing the way it reimburses: schools pay up-front and the department reimburses at the federal match rate; school-based services were not part of the legislative direction, but are not new. Responding to a question from **Rep. Rusche**, **Ms. Campbell** stated that such services are available to those medically eligible. **Chair Block** invited **Leslie Clement** to respond. **Ms. Clement** stated that the federal review of the Idaho Medicaid program looked at each service and eliminated the individualized plan, which was deemed an educational activity, from the list of eligible school-based services. **Chair Block** invited **Mike Friend** to speak. **Dr. Friend** stated that the Idaho Association of School Administrators supported the docket and

have been involved in its development.

Referencing Section .000, **Rep. Nielsen** asked which parts of the rule mirrored federal regulation or were a result of federal direction, and which sections were at the discretion of the state. **Ms. Clement** explained that the federal government gives states a lot of flexibility in the administration and management of their Medicaid programs; some sections of rule are tied to federal regulations or law (such as the Deficit Reduction Act of 2005); for the most part, including the scope and duration of benefits, rules are within the state's scope (with federal approval). **Chair Block** thanked Ms. Campbell and Ms. Clement.

**Chair Block** invited the public to testify on the docket. **Krys Miley** spoke against the docket, citing the concerns of therapists treating eating disorders that the rule limits the Medicaid Basic plan to 26 sessions per year (down from 45 sessions), while the Journal of the American Psychiatric Association has found that 57-79 months is needed for recovery; anorexia has the highest mortality rate of any disorder listed in the DSM (Diagnostic and Statistical Manual of Mental Disorders). Responding to a question from **Rep. Henbest**, **Ms. Miley** explained that the Enhanced plan has a very narrow list of eligible diagnoses and anorexia is not among them.

Responding to a question from **Rep. Henbest**, **Ms. Clement** stated that a Basic plan participant might access more services (1) if the Legislature amended the definitions of serious emotional disturbance or severe and persistent mental illness, or (2) if a child demonstrating a medical necessity presented that information for medical review. **Rep. Rusche** pointed out the department should keep in mind the intersection of medical and psychiatric diagnoses—a daily visit for electrolyte imbalance and vomiting would be covered, but a weekly visit for anorexia would not. Responding to questions from **Rep. Nielsen**, **Ms. Clement** recognized that finding a place for some diagnoses between the Basic and Enhanced plans is a problem, but that appeal process is available for medical necessities.

Responding to a question from **Rep. Marriott**, **Ms. Clement** explained that the eligibility criteria in this docket fulfills HCR048 (2006); anorexia is not part of the definition for serious emotional disturbance (SED) or severe and persistent mental illness. **Rep. Rusche** pointed out that the definition of an SED in Idaho Code § 16-2403(13) is broad enough to allow for conditions that result in a serious disability, and Enhanced plan eligibility in this case is a question of interpretation rather than a defect of law. **Ms. Clement** said she would study the statute.

**MOTION:**

**Rep. Rusche** moved that the committee accept docket no.16-0309-0604 as presented. **Rep. Nielsen** requested more information from the department regarding interpretation, and requested a letter that explaining how the rules can incorporate the intent of legislation to provide needed services. **Ms. Clement** stated the department would write the letter and would work to provide progressed mental health rules in the next year. The motion carried by voice vote.

**Docket no.**

**Ms. Campbell** explained that docket 16-0309-0603 repeals old rule to

16-0309-0603

make way for the docket just approved.

**MOTION:**

**Rep. Nielsen** moved that the committee accept docket no.16-0309-0604 as presented. The motion carried by voice vote.

**Docket no.  
16-0310-0602**

**Chair Block** invited **Paul Leary** to present 16-0310-0602. **Mr. Leary** circulated handouts and explained that 16-0310-0602 intends to meet the needs of those eligible (by demonstrating a clinical need) for the Enhanced plan and the intent of 2006 legislation by rearranging and adding to existing rule; the department incorporated public comments that were consistent with policy or met the intent of H0766.

**Rep. Rusche** pointed out that Section .112.02.d refers to a particular score on the Child and Adolescent Functional Assessment Scale (CAFAS) that appears to be more restrictive than the Children's Mental Health Act in Idaho Code. **Chair Block** invited **Pat Guidry** to address the committee. **Ms. Guidry** explained that CAFAS measures a child's functional adaptation, and is one of several measures used by the department to gauge an SED. Responding to a question from **Rep. Rusche**, **Ms. Guidry** stated that CAFAS measures behavior and so crosses medical-mental diagnoses and is considered appropriate. Responding to a question from **Rep. Luker**, **Mr. Leary** explained that "waiver services" are home and community-based services provided because they are medically necessary, although not provided by the state plan; these may allow people to stay at home rather than an institution, if cost effective.

**Chair Block** invited the public to testify. **Chantel Jones** spoke against the docket, stating that clinical eligibility requirements do not include, for example, post-traumatic stress (PTSD), obsessive-compulsive disorder, or eating disorders, which are clinically indicated for intensive treatment beyond the Basic plan. **Ms Jones** expressed concern about the use of CAFAS for determining eligibility and about providing treatment for current cases while rules are redrafted.

**Rep. Luker** asked why PTSD is not part of the eligibility for the Enhanced plan. **Ms. Guidry** explained that eligibility is determined by HCR048 (2006); at the same time, the department is moving forward to reform the system according to legislative direction. **Rep. Luker** pointed out that not providing services for these groups may lead to increased costs in other areas. **Ms. Clement** stated the department needed to maintain a deliberate, defined benefit structure; she recognized the department would need to address evidence-based mental health services in the future, as it moves participants into the new structure every month.

**Kelly Keele** spoke against the docket, because it has not addressed a specific goal of H0776, now Idaho Code § 56-251(2)(b)(iii), "to provide opportunities for employment for persons with disabilities." **Mr. Keele** stated that the docket does not correct discrepancies in the old rule, and allows Community Supported Employment services to increase only at the expense of therapy, up to a combined total of 40 hours per week in Section .653.05.b; he requested the department meet with vocational rehabilitation providers to address the statutory goal. Responding to a question from **Rep. Rusche**, **Ms. Clement** explained that the department

had not yet examined developmental disabilities benefits, but needed to do so. Responding to a question from **Rep. McGeachin**, **Mr. Keele** said he did not have a specific commitment from the department to improve the rules, but would request that direction from the committee now.

**Kris Ellis** spoke against the docket, requested that the committee delete Section .514.04.c because the proposed cap for hourly support is arbitrarily set and inflexible. **Ms. Ellis** said the Idaho Residential Supported Living Association would meet monthly with the department to work on these issues. Responding to a question from **Rep. McGeachin**, **Ms. Clement** said the department has been working on the reimbursement methodology for some time; she pledged to address the issue, but requested the committee not strike the section. Advised by **Dennis Stevenson**, **Rep. McGeachin** suggested that the committee obtain a letter of intent from the Division of Medicaid. **Chair Block** directed that the discussion be reflected in the minutes.

**Laura Scuri** was neutral on the docket, commending the department for expressing an commitment to reform; citing a lengthy assessment process, she asked the committee be cognizant of the cost of rule change for providers. **Chair Block** thanked the guests for their presentations and testimony.

**MOTION:** **Rep. McGeachin** moved that the committee accept docket no.16-0310-0602 as presented, and request a letter of intent from the Division of Medicaid to work with providers of supported employment to improve implementation of Idaho Code § 56-251(2)(b)(iii), and request a letter of intent from the Division of Medicaid to work through the methodology of House Bill 190 (2005) to further elaborate on docket Section .514.04.c. relating to establishing accurate costs measurement for supported living, or residential habilitation.

**SUBSTITUTE MOTION:** **Rep. Rusche** offered a substitute motion that the committee accept docket no.16-0310-0602, and reject Sections .112.02.d and .112.03.a, and request a letter of intent from the Division of Medicaid to work with providers of supported employment to improve implementation of Idaho Code § 56-251(2)(b)(iii), and request a letter of intent from the Division of Medicaid to work through the methodology of House Bill 190 (2005) to further elaborate on docket Section .514.04.c. relating to establishing accurate costs measurement for supported living, or residential habilitation. **Rep. Rusche** pointed out that one of the reasons the Legislature developed an Enhanced package was to serve those individuals who needed help, while limiting excessive benefits for those who did not; this motion is intended to strike those sections which do not reflect the intent of the Legislature or may be inappropriate. Responding to a question from **Rep. Nielsen**, **Mr. Leary** indicated that this motion would provide treatment eligibility for eating disorders under the Enhanced plan. Responding to a question from **Rep. Henbest**, **Mr. Leary** stated that the unserved population is probably small, but that this motion will provide the opportunity to re-craft policy. The motion carried by voice vote.

**Docket no. 16-0310-0601** **Mr. Leary** explained that docket 16-0310-0601 repeals old rule to make way for the docket just approved.

- MOTION:** **Rep. Nielsen** moved that the committee accept docket no.16-0310-0601 as presented. The motion carried by voice vote.
- MOTION:** Following announcements regarding rules subcommittee schedules, **Chair Block** thanked the members and guests, and announced the next meeting would take place on Tuesday, January 23, 2007, at 3:30 p.m.
- ADJOURN:** The meeting adjourned at 4:10 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary



## MINUTES

### HOUSE HEALTH & WELFARE SUBCOMMITTEE BILBAO SUBCOMMITTEE

**DATE:** January 22, 2007

**TIME:** 4:20

**PLACE:** Room 408

**MEMBERS:** Chairman Bilbao, Representatives Loertscher, Thayn and Chew

**ABSENT/  
EXCUSED:** None

**Chairman Bilbao** called the meeting to order and asked for the first presentation.

**Docket #  
16-0305-0602**

**Susie Cummins** from the Idaho Department of Health and Welfare said she is a Medicaid Program Specialist and explained 16-0305-0602, the "Deficit Reduction Act of 2005" which was passed into law at the federal level to help reduce and slow the rising costs of Medicaid. She said there is a rule change that requires citizenship documentation and another that extends the period of time for asset transfers to be reviewed from 3 to 5 years. She also told how the penalties are imposed.

**Ms. Cummins** said all the rule changes are a result of the Federal Law changes passed February 8, 2006, with the purpose of protecting Medicaid for the needy by discouraging sheltering of assets. She explained how the new rules separate annuities and life estates into their own section and clarifies how to treat each of them.

A question was asked if any of the new rules would have an adverse effect for a spouse and the way married couples are evaluated. The answer was no and the new rules even help a spouse. It was also stated that the people involved with the elder laws knew about the rule changes and this hearing and were not in attendance.

**Representative Loertscher** moved that Docket 16-0305-0602 be recommended to the committee. The motion carried by voice vote.

**Docket #  
16-0305-0605**

**Susie Cummins** presented 16-0305-0605 as a rule change to help protect Medicaid for these who need it by discouraging the sheltering of assets and the rules are necessary because they provide clarifications based on Federal Laws that are used in determining eligibility for Idaho Medicaid assistance and how the rules should be applied.

**MOTION:**            **Representative Thayn** moved that Docket 16-0305-0605 be recommenced to the committee. The motion carried by voice vote.

**ADJOURN:**        Meeting was adjourned at 4:35.

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Representative Carlos Bilbao  
Chairman

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Mary Lou Moon  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE McGEACHIN SUBCOMMITTEE

- DATE:** January 22, 2007
- TIME:** 4:20 p.m.
- PLACE:** Room 311
- MEMBERS:** Chair McGeachin, Representatives Luker, Rusche
- GUESTS:** Paul Leary, Division of Medicaid, Department of Health and Welfare; Susie Cummins, Division of Welfare; Nancy Kerr, Executive Director, State Board of Medicine; Mick Markuson, Executive Director, Idaho State Board of Pharmacy.
- Docket no. 16-0310-0701:** **Chair McGeachin** welcomed the members and guests and invited **Paul Leary** to present administrative rule docket 16-0304-0601. **Mr. Leary** explained that 16-0304-0601 contains more specific criminal history-background check requirements for Medicaid home and community services providers; responding to S1339 (2006), removes the need for a “physician’s order” for personal care services.
- MOTION:** **Rep. Rusche** moved that the subcommittee report finding no reason to reject docket 16-0310-0701. The motion passed by voice vote.
- Docket no. 16-0310-0601:** **Mr. Leary** explained that 16-0506-0601 is a chapter repeal which makes way for the docket just approved. **Rep. McGeachin** thanked Mr. Leary.
- MOTION:** **Rep. Luker** moved that the subcommittee report finding no reason to reject docket 16-0310-0601. The motion passed by voice vote.
- Docket no. 22-0104-0601:** **Chair McGeachin** invited **Nancy Kerr** to present administrative rule docket 22-0104-0601. **Ms. Kerr** explained that 22-0104-0601 reflects the concerns of Board of Medicine licensees regarding the number of unlicensed personnel providing intense pulse light laser services; provides accountability and guidelines for supervision of prescriptive and cosmetic treatments and products, defines responsibilities and training for medical personnel and physicians, and aligns terminology with Idaho Code.
- Responding to questions from **Rep. Rusche** and **Rep. Luker**, **Ms. Kerr** clarified that intense pulse light lasers provides an intense light that does not destroy or cut the skin; the docket defines medical personnel as those who provide prescriptive medical or laser treatment under a physician (does not include salon or spa personnel). Responding to a question from **Rep. McGeachin**, **Ms. Kerr** stated the board held public meetings attended by dermatologists, laser specialists, business owners, and corporate representatives.
- MOTION:** **Rep. Rusche** moved that the subcommittee report finding no reason to reject docket 22-0104-0601. The motion passed by voice vote.
- Docket no.** **Ms. Kerr** explained that 22-0105-0601 repeals the rules for physical

**22-0105-0601:** therapists and physical therapy assistants, which were transferred to the Bureau of Occupational Licenses by the 2006 Legislature.

**MOTION:** **Rep. Luker** moved that the subcommittee report finding no reason to reject docket 22-0105-0601. The motion passed by voice vote.

**Docket no. 22-0106-0601:** **Ms. Kerr** explained that 22-0106-0601 repeals the rules for emergency medical services (EMS) personnel, which have been transferred to the Department of Health and Welfare, Emergency Services Physician Commission. **Rep. McGeachin** thanked Ms. Kerr.

**MOTION:** **Rep. Rusche** moved that the subcommittee report finding no reason to reject docket 22-0106-0601. The motion passed by voice vote.

**Docket no. 16-0305-0701:** **Chair McGeachin** invited **Susie Cummins** to present administrative rule docket 16-0305-0701. **Ms. Cummins** explained that these rules encourage the purchase of long-term care insurance, following the direction of the federal Deficit Reduction Act of 2005 and Idaho statute. Responding to questions from **Rep. Rusche** and **Rep. Luker**, **Ms. Cummins** stated that individuals with such a long-term care insurance policy (certified by the Department of Insurance) will receive an exemption for Medicaid eligibility and estate recovery equal to the value of the policy (when exhausted). Responding to a question from **Rep. McGeachin**, **Ms. Cummins** stated that she would follow-up with the Department of Insurance on its role in certifying long-term care insurance policies and working with the industry.

**MOTION:** **Rep. Rusche** moved that the subcommittee report finding no reason to reject docket 16-0305-0701. The motion passed by voice vote.

**Docket no. 27-0101-0602:** **Chair McGeachin** invited **Mick Markuson** to present administrative rule docket 27-0101-0602. **Mr. Markuson** explained that this rule will assist the Board of Pharmacy in investigating fraudulent prescriptions and diverted medications by requiring pharmacies to maintain positive identification records for persons obtaining controlled substances; pharmacies may choose the means and method of storage, provided they are able to match an identification to a prescription within two days. **Rep. McGeachin** referred to letters from the Idaho Retailers Association and National Association of Chain Drug Stores, expressing opposition. **Mr. Markuson** stated that the board added flexibility and exemptions to the rule in response to those concerns and knew of no further objections from the board's own representatives of chain drug stores.

Responding to questions from **Rep. McGeachin** and **Rep. Luker**, **Mr. Markuson** clarified that pharmacies must make a positive identification regardless; this docket requires that they also keep a record of that identification. **Mr. Markuson** said maintenance of these records will incur some extra costs for pharmacies, but not necessarily a financial hardship. **Rep. McGeachin** pointed out that although she understood the docket's intent and value, more information about the costs to pharmacies should be considered. **Rep. Rusche** pointed out that this rule pertains to controlled substances such as OxyContin that are prone to abuse and diversion; it would be helpful to have more information from the retailers association regarding record keeping.

**MOTION:** **Rep. Rusche** moved that docket 16-0305-0701 be transferred to the full committee for further discussion and testimony. The motion passed by voice vote.

**Docket no. 27-0101-0603:** **Mr. Markuson** explained that docket 27-0101-0603 requires pharmacies to provide the board with copies of theft loss reports when those reports are submitted to the Drug Enforcement Administration (DEA). **Rep. McGeachin** thanked Mr. Markuson.

**MOTION:** **Rep. Rusche** moved that the subcommittee report finding no reason to reject docket 16-0305-0701. The motion passed by voice vote.

**ADJOURN:** The meeting adjourned at 5:30 p.m.

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Representative Janice McGeachin  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE REP. NIELSEN SUBCOMMITTEE

**DATE:** January 22, 2007  
**TIME:** 4:19 pm  
**PLACE:** Room 404  
**MEMBERS:** Chairman Nielsen, Representatives Shepherd (8), Marriott, Henbest  
**GUESTS:** Genie Sue Weppner, Mark Markuson, Sandra Evans, Sarah Scott

The meeting was called to order by Chairman Nielsen at 4:19 pm.

**16-0308-0602**

**Genie Sue Weppner**, Program Manager with the Division of Welfare, said the rule could be found behind yellow tab 9 on page 161. Since the beginning of welfare reform the Temporary Assistance for Families in Idaho (TAFI) has been a top performer in the nation. New federal regulations require the Department to increase the work participation rates of needy families in Idaho or face financial penalties of up to 21% of the Temporary Assistance for Needy Families (TANF) grant. She asked that the committee remove the requirement that the Department provide a 10 day notice before closure of a TANFI case. Some TANFI participants decide not to comply with their Personal Responsibility Contract or fail to participate in work activities. When this happens the case is closed with a 10 day notice before they can close them. If they do away with the 10 day notice and inform participants when they sign the Personal Responsibility Contract, they will be closed immediately for failure to comply, they can improve participation rates. Finally, this rule makes a correction to the monthly grant amount in the work incentive table and align it with the current TAFI grant. She requested the committee approve the changes.

**MOTION:** **Representative Shepherd** made a motion to recommend approval of 16-0308-0602 to the full committee. The motion passed 4-0.

**16-0414-0601**

**Ms. Weppner** spoke about the Low Income Energy Assistance Program (LIHEAP), which provides federal subsidies to assist low-income families with their energy needs during the winter months. Currently the LIHEAP program requires applicants to attend conservation classes and receive a home energy audit. These requirements are burdensome and create barriers for families applying for assistance. LIHEAP offers an additional \$25 benefit to vulnerable households, with 1) children under the age of 6, 2) a disabled family member or 3) individuals over the age of 60.

It was asked if the charge on Idaho Power bill for low income households goes to the same program and was answered that Project Share is the Idaho Power program. It is a voluntary contribution managed through the Red Cross.

**MOTION** **Representative Henbest** moved to recommend approval of 16-0414-0601 to the full committee. The motion passed 4-0.

**27-0101-0601**

**Mick Markuson**, Executive Director for the Board of Pharmacy, spoke on the temporary rule. He said that a number of pharmacies in rural Idaho have closed. This rule provides a Remote Dispensing Pilot Project for pharmaceutical care through the use of telecommunications and Remote Dispensing Machines (RDM) to patients at a distance from the pharmacy and pharmacist. The practitioners will write prescriptions, that will be filled by the RDM, the patient will go into a counseling room that is secure with two-way audio and visual equipment to speak with the pharmacist.

In response to a question about the visual and audio communications, Mr. Markuson said that the patient and pharmacist sit at a computer screen and can see and talk to each other. This is a new concept and they would like to watch it remain temporary throughout the year. Only the pharmacist has access to the machine and the prescription only comes out when the pharmacist releases it through a remote. The prescription is pre-labeled and pre-filled.

**Representative Henbest** asked if it would be kept as a temporary rule. It was said that it would remain temporary for another year.

**Representative Henbest** said it is posed as a pilot program, but there is not a geographic or regional distribution to the pilot. We could end up with 20 or 30 pilots in the state. She asked is this was for anyone that asks for it.

**Mr. Markuson** said that was correct. If they need to change language in some manner in a year then they can do that and it will be a rule in place and at that time the Board can approve locations.

**Representative Henbest** said that she would like to see a responsible pharmacist defined when the rules are re-written.

**Representative Marriott** asked if the program would be limited to the number of different medications.

**Mr. Markuson** said that was correct. They would develop a formulary for the medications they want and that changes could be made along the way.

**MOTION**

**Representative Marriott** so moved to send 27-0101-0601 to the full committee for approval based on the fact that a temporary rule can be extended and does not become a pending rule or we will have to write another temporary rule. The motion passed 4-0.

**15-0120-0601**

**Sarah Scott**, of the Idaho Commission on Aging, introduced the rule. She said it was a very simple rule change. About 3 years ago the policy changed to only have one provider for an entire area. Area agencies can now have a choice of providers. They are requiring that they have multiple providers with a medicaid number. The providers cannot be family providers, they must be an institutional provider that has employees. There is a focus on the federal level to go to consumer choice. Consumers now have a list of providers to choose from. They proposed that there will only be assessments on providers with contract of \$50,000 or more. The new focus is a survey of each service provider's clients to

see if the providers are performing as they should.

**Representative Henbest** asked if they were the only agency that looks at billing practices of these providers. And now they would only look at ones with over \$50,000 in contracts.

**Ms. Scott** said no other agency has any oversight. They visit with the clients to see how the providers are doing. They will still review the providers, just not with an on-site assessment.

In response to a question regarding providers taking advantage of seniors, **Ms. Scott** said in their experience those things are caught when you visit with the clients.

## MOTION

**Representative Shepherd** moved to recommend approval to the full committee 15-0120-0601. The motion passed 4-0.

## 23-0101-0601

**Sandra Evans**, the Executive Director for the Board of Nursing, addressed the committee and said there were 3 main objectives. 1) General housekeeping, 2) to provide clarity within sections for better ease of use, and 3) changes related to grounds for disciplinary action and to titles for graduate advance practice professional nurses. Under housekeeping, they would delete the section describing the processes related to hearings before the Board since these processes are in the Idaho Administrative Procedure Act. They would relocate reference to specific fee amounts to the section of rules related to fees and clarify the definitions related to patient abandonment, technicians and technologists. She said various licensure procedures have been elaborated. The provisions for limited licensure have been revised by defining categories of limited licensure including unique requirements and explaining provisions for summary suspensions of a limited license.

**Chairman Nielsen** asked if the disciplinary action was fairly strict.

**Ms. Evans** believed they are, in comparison to other boards. They monitor them for 5 years. Instances of tampering with medication is so extreme it would result in automatic license removal.

**Ms. Evans** said the substantive changes are to add two additional grounds for disciplinary action. Failure to cooperate with the Board in investigations of violations. Another change is to set forth a description of the peer review process for nurses as a condition of licensure renewal, and to establish titles for graduate advanced practice professional nurses pending notice of national certification and/or results of criminal background checks.

In response to the peer review process, **Ms. Evans** said it was going very well. In 2005 the law went into effect about the time their licensure process was in effect. They alerted nurses that the peer review process would be required.

**Representative Marriott** said regarding the failure to cooperate section, he did not know why anyone would fail to cooperate unless it had to do with the fifth amendment.



**Ms. Evans** said they run into administrative level people that fail to share documents or allow employees to talk with them. If they have a licensee that fails to speak with them and disrupts the investigation, the Board has the right to intervene. The process of disciplining allows a nurse to appeal to the Board and the court before the action is imposed.

In response to a question, **Ms. Evans** said the Board has the ability to subpoena witnesses to a hearing, but not documents.

**MOTION:** **Representative Henbest** recommended approval of 15-0120-060 to the full committee as written. The motion passed 4-0.

**ADJOURN:** Chairman Nielsen adjourned the meeting at 5:39 pm.

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Representative Peter Nielsen  
Chairman

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Amber Bonte  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 23, 2007

**TIME:** 3:30 p.m.

**PLACE:** Room 311

**MEMBERS:** Chair Block, Vice Chairman Nielsen, Representatives Bilbao, Shepherd(8), Marriott, Thayn, Henbest (Joan Wallace), Rusche, Chew

**ABSENT/  
EXCUSED:** Representatives McGeachin, Loertscher, Luker

**GUESTS:** Damaris Borden, Division of Welfare; Peggy Cook, Program Manager, Division of Welfare, Department of Health and Welfare; Dennis Stevenson, Rules Administrator, Department of Administration.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the guests and **Rep. Joan Wallace**, acting for **Rep. Henbest**.

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

**Docket no.  
16-0310-0602** **Chair Block** invited **Damaris Borden** to introduce docket 16-0301-0602. **Ms. Borden** circulated handouts and explained that 16-0301-0602 adds new rules to comply with the federal Code of Regulations (CFR) and Deficit Reduction Act of 2005: Medicaid participants who claim US citizenship must provide proof of citizenship and identity. Responding to questions from **Rep. Marriott**, **Ms. Borden** stated that use of a written declaration to establish citizenship is considered a "fourth level" documentation in the CFR.

**Chair Block** invited **Dennis Stevenson** to review the protocol for rules review, especially as it relates to federal regulations. **Mr. Stevenson** explained the relationship between agency rules and guiding federal regulations as it pertains to compliance; he discussed the practice of incorporating a rule by reference to a federal regulation or law, and explained that sections of this docket are authorized by federal law.

Responding to a question from **Rep. Bilbao**, **Mr. Stevenson** said that federal guidance and public comment have altered this docket in a way that would make it difficult to distinguish sections of state or federal origin. **Chair Block** invited **Peggy Cook** to address questions from **Rep. Bilbao**. **Ms. Cook** explained that failure to align state rules with federal regulations could result in the loss of some federal matching funds, which constitute approximately 65% of funding for the program; as written, this docket is taken direction from the Deficit Reduction Act. Responding to questions from **Rep. Nielsen**, **Ms. Cook** clarified that the docket is virtually identical to the Deficit Reduction Act, with the exception of sentence structure, and represents the Act in good faith. **Chair Block** thanked the guests for their presentations.

- MOTION:** **Rep. Nielsen** moved that the committee hold rule docket no.16-0301-0602 to a time certain at the discretion of the chair in order to hear a more definitive answer from the department and the Office of the Attorney General regarding the consequences to federal compliance of rejecting any given section of this rule. **Rep. Nielsen** noted the concerns of some members regarding the use of a declaration, which may be subject to hearsay, to establish citizenship.
- SUBSTITUTE MOTION:** **Rep. Thayne** indicated his view that the docket has sufficient federal authority and offered a substitute motion that the committee accept docket no.16-0301-0602 as presented. The motion tied 4-4; the Chair voted aye and the motion carried.
- Docket no. 16-0301-0601** **Ms. Borden** explained that docket 16-0301-0601 repeals old rule to make way for the docket just approved.
- MOTION:** **Rep. Rusche** moved that the committee accept docket no.16-0301-0601 as presented. The motion carried by voice vote.
- Chair Block** thanked the members and guests, and announced the next meeting would take place on Wednesday, January 24, 2007, at 1:15 p.m.
- ADJOURN:** The meeting adjourned at 4:10 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 24, 2007

**TIME:** 1:15 p.m.

**PLACE:** Room 404

**MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Marriott, Luker, Thayn, Henbest (Joan Wallace), Rusche, Chew

**GUESTS:** Patti Campbell, Sr. Program Manager, Division of Medicaid, Department of Health and Welfare; Paul Leary, Division of Medicaid; Peggy Cook, Division of Welfare; Steven Millard, President, Idaho Hospital Association.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the guests and **Rep. Joan Wallace**, acting for **Rep. Henbest**.

**Docket no. 16-0316-0601:** **Chair Block** invited **Patti Campbell** to present 16-0316-0601 to the committee. **Ms. Campbell** explained that this docket re-titles rules governing the Access Card for low-income children and the Access to Health Insurance program, which by offsetting premiums, enables small business employees to access health insurance; new changes aim to strengthen enrollment and provide broader coverage by aligning employer contributions with the less restrictive requirements of insurance carriers. **Rep. Nielsen** pointed out that S1318 (2006) recognized that many uninsured were held back by the requirement that employers pay 50% of premiums for the employee and spouse; now the employer pays 50% of the employee's premium only; this is cost effective and provides access to private insurance for families, without government involvement. Responding to a question from **Rep. Luker**, **Ms. Campbell** explained this program has a maximum participation of 1000 adults, to ensure enough funding is available to cover the needs of low-income children. **Chair Block** thanked Ms. Campbell.

**MOTION:** Noting that the Access Card and Access to Insurance programs reflected legislation passed in 2006 and were good attempts to incrementally increase the number of the insured, **Rep. Rusche** moved that the committee accept docket no.16-0316-0601 as presented. The motion carried by voice vote.

**Docket no. 16-0318-0601:** **Chair Block** invited **Paul Leary** to present docket 16-0318-0601. **Mr. Leary** explained that this docket implemented cost-sharing premiums for Medicaid Basic plan participants at 133% to 150% of the federal poverty guidelines. Responding to a question from **Rep. Rusche**, **Mr. Leary** said the premiums were intended to work in conjunction with personal health assistance (PHA) benefit accounts; credits in PHAs could be used to pay premiums, resulting in no out-of-pocket expenses for the participant.

**MOTION:** **Rep. Luker** moved that the committee accept docket no.16-0318-0601 as presented. The motion carried by voice vote.

**Docket no.  
16-0309-0701:**

**Mr. Leary** explained that H0663 (2006) directed the department to establish cost-sharing measures that would increase Medicaid participants' awareness of the cost of health care; docket 16-0309-0701 allows hospitals and emergency transportation providers to collect co-payments for non-emergent use of emergency services or for missed appointments (provided that non-Medicaid patients are also charged for missed appointments). Responding to questions from **Rep. Marriott** and **Rep. Chew**, **Mr. Leary** explained that the co-pay itself, and who may and may not be charged, are defined in the next docket (16-0318-0701). **Rep. Rusche** pointed out that the rule appropriately specifies that a hospital "may" charge a co-pay, allowing hospitals the latitude to waive charges for situations that are beyond a patient's control. Responding to a question from **Rep. Bilbao**, **Mr. Leary** stated that while the department has its own definitions, the receiving doctor or nurse determines what is an appropriate use of emergency services.

**Chair Block** invited the public to testify on the docket. **Steven Millard** stated that the Idaho Hospital Association supported the docket because the co-pays are voluntary; charging a co-pay obligates a hospital to ensure alternative arrangements in the event that a patient refuses to pay. Responding to a question from **Rep. Nielsen**, **Mr. Millard** said Idaho hospitals would probably continue to provide care to non-emergent emergency room patients without charging co-pays, unless as a pilot project. Responding to a question from **Rep. Bilbao**, **Mr. Leary** explained that federal law required the department to notify Medicaid participants of the co-pay. Responding to a question from **Rep. Nielsen**, **Mr. Leary** confirmed that the Idaho Citizen Action Network had expressed some lukewarm feelings, but the rule change has been supported overall.

**MOTION:**

**Rep. Bilbao** moved that the committee accept docket no.16-0309-0701 as presented. **Rep. Nielsen** commented that while the idea behind this docket is sound, its application lacks appropriate strength. **Rep. Bilbao** pointed out that this rule addresses the state's responsibility to help Medicaid participants understand and take responsibility for their health care. The motion carried by voice vote.

**Docket no.  
16-0318-0701:**

**Mr. Leary** explained that docket 16-0318-0701 identifies a co-pay consistent with the intent of H0663 (2006). Responding to a question from **Rep. Luker**, **Mr. Leary** stated that \$3 is the nominal amount specified by the Secretary of the federal Department of Health and Human Services; the alternative—a sliding scale—is administratively cumbersome.

**Rep. Luker** led a discussion on alternatives to co-pays just for non-emergent use of emergency services. **Rep. Marriott** suggested the state should consider providing incentives for doctors who remain available later at night for non-emergent care. **Chair Block** and **Rep. Rusche** commended this suggestion. **Rep. Nielsen** noted that Section .300.01 includes an exemption for those who must access an emergency department in order to receive routine services for a medical condition, and that this would apply in cases where a regular physician is closed or too far away. **Chair Block** pointed out that this topic and related federal regulations have been raised by the National Conference of State

Legislatures (NCSL) as an emerging issue for states; the Legislature has an opportunity to draft resolutions to the federal government expressing the ideas of this committee.

**MOTION:** **Rep. Rusche** moved that the committee accept docket no.16-0318-0701 as presented. The motion carried by voice vote.

**Docket no. 16-0318-0602:** **Mr. Leary** explained that docket 16-0318-0602 intends to help individuals with disabilities increase employment; individuals must otherwise limit their work to maintain eligibility for Medicaid coverage; the rule also includes a sliding-scale premium based on 133% to 500% of the federal poverty guidelines. **Chair Block** invited **Peggy Cook** to respond to a question from **Rep. Nielsen**. **Ms. Cook** stated that currently, 133% of the federal poverty guidelines for a single person is \$1,086 per month; 250% is \$2,042 per month, and so on. Responding to a question from **Rep. McGeachin**, **Ms. Cook** explained that individuals who qualify as having a disability under Social Security also qualify for this program. **Chair Block** thanked Mr. Leary and Ms. Cook.

**MOTION:** **Rep. McGeachin** moved that the committee accept docket no.16-0318-0701 as presented. **Rep. Nielsen** noted that this rule, for a nominal co-pay, allows individuals to seek employment and prove their self-worth, without risking health coverage. The motion carried by voice vote.

**Docket no. 16-0305-0603:** **Chair Block** invited **Peggy Cook** to present docket 16-0305-0603. **Ms. Cook** explained that 16-0305-0603 sets criteria (including citizenship and resources limitations) for the Medicaid eligibility of the working disabled (ages 16-64). Responding to a question from **Rep. Nielsen**, **Ms. Cook** stated that the participation rate was approximately 70%. Responding to a question from **Rep. Luker**, **Ms. Cook** explained that participants must not have countable resources (excluding those essential to maintenance of the individual) in excess of \$10,000 (compared to a resource limit of \$2,000 for an individual without employment). **Rep. Nielsen** pointed out that Section .799.04 provides exemptions for an individual to invest in a retirement account, life insurance policy, etc.

**MOTION:** Observing that individuals with disabilities would not be likely to have access to private insurance beyond a slimmed-down, high-risk policy which would not cover their condition, **Rep. Rusche** moved that the committee accept docket no.16-0305-0603 as presented. The motion carried by voice vote.

Chair Block thanked the committee member for their ideas and, following subcommittee announcements, announced that the next meeting would take place on Friday, January 26, 2007, at 8:30 a.m.

**ADJOURN:** The meeting adjourned at 2:50 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE  
NIELSEN SUBCOMMITTEE**

**DATE:** January 24, 2007

**TIME:** 4:00 p.m.

**PLACE:** Room 404

**MEMBERS:** Chairman Nielsen, Representatives Shepherd, Marriott, Henbest (Joan Wallace)

**GUESTS:** Senator Joyce Broadsword; Mike Sheeley, Executive Director, Idaho Board of Dentistry; Jerry Davis, Executive Director, Idaho Dentistry Association; Dennis Stevenson, Rules Administrator, Department of Administration; Jerry Mason, Attorney, Panhandle Health District; Terry Harwood, Executive Director, Basin Environmental Improvement Project Commission; Jeri DeLange, Basin Environmental Improvement Project Commission.

**Chair Nielsen** called the meeting to order and welcomed the guests.

**Docket no. 19-0101-0601:** The Chair invited **Michael Sheeley** to present docket 19-0101-0601. **Mr. Sheeley** explained that S1343 (2006) allowed the Board of Dentistry to adopt a biennial licensing cycle; this subsequent rule change allows the board to stagger its workload. Responding to a question from **Rep. Marriott**, **Mr. Sheeley** stated that, as part of the board's successful effort to encourage more *pro bono* public services, credits for continuing education may include two hours of volunteered dental practice. **Chair Nielsen** commended the board for these efforts.

**MOTION:** **Rep. Marriott** moved that docket 19-0101-0601 be transferred to the full committee with a recommendation to accept as written. The motion carried by voice vote.

**Docket no. 19-0101-0602:** **Mr. Sheeley** explained that 19-0101-0602 updates information about the board's physical address.

**MOTION:** **Rep. Marriott** moved that docket 19-0101-0602 be transferred to the full committee with a recommendation to accept as written. The motion carried by voice vote.

**Docket no. 19-0101-0603:** **Mr. Sheeley** explained the board's Extended Access to Oral Healthcare program expands the locations where dentists may practice for charitable purposes (e.g., nursing homes, residential care facilities, hospitals, etc.); about 25 hygienists have obtained an endorsement for extended service; 19-0101-0603 seeks to allow hygienists to place and finish a tooth, under supervision, so allowing dentists more time to treat more patients in extended settings. Responding to a question from **Rep. Marriott**, **Mr. Sheeley** explained that this allowance applies only to charitable Extended Access projects, and does not apply to hygienists in private practice. **Rep. Marriott** led a discussion regarding Legislative Services' analysis of the docket. **Mr. Sheeley** and **Dennis Stevenson** confirmed that the docket has not received a formal objection from Legislative Services.

**MOTION:** **Rep. Shepherd** moved that docket 19-0101-0603 be transferred to the full committee with a recommendation to accept as written. **Chair Nielsen** commended dentists and hygienists for stepping up from private practice to provide vital services to those in need. **Rep. Marriott** concurred. The motion carried by voice vote.

**Docket no. 19-0101-0604:** **Mr. Sheeley** explained that docket 19-0101-0604 clarifies the definition of unprofessional conduct to include failure to comply with or violation (including withheld judgements) of any laws relating to or affecting the practice of dentistry; this is in response to a serious case handled by the board in the last two years. Responding to a question from **Rep. Marriott**, **Mr. Sheeley** stated that the definition of unprofessional conduct includes not practicing to the standard (i.e., malpractice), but that the board affords due process and an appeal path to state court and does not summarily revoke licenses. Responding to a question from **Chair Nielsen**, **Mr. Sheeley** confirmed that there would be a proposed change to related statute in the current session, as part of the Governor's package. **Chair Nielsen** thanked Mr. Sheeley for his presentation.

**MOTION:** **Rep. Marriott** moved that docket 19-0101-0604 be transferred to the full committee with a recommendation to accept as written. The motion carried by voice vote.

**Docket no. 41-0101-0601:** **Chair Nielsen** invited **Jerry Mason** (for Jeanne Bock) to present docket 41-0101-0601. Responding to a question from **Rep. Shepherd**, **Mr. Mason** explained this rule includes a method for determining the waste water flows of septic tanks, and a section dealing with the common practice of placing speculative versus actual use drain fields; another section limits rebuilding or remodeling in some areas to 10% expansion.

**Mr. Mason** explained that Sections .511 and .512 add rules related to the environmental clean-up of the Bunker Hill Mine Superfund site; in 1996-7, the US Environmental Protection Agency (EPA) began clean-up in a 7x3 mile area called the "Box" (including the smelter site). **Mr. Mason** explained that as a result of an 18-month failure of the scrubber (a device that traps or removes pollutants in emissions), thick concentrations of heavy metals were disbursed and settled in the Box, killing most of the vegetation on the hillsides. Responding to a question from **Chair Nielsen**, **Mr. Mason** clarified that contaminants included lead, cadmium, and in the Basin area, arsenic; these contaminants were ingested by children and observed in blood tests. **Mr. Mason** stated that because full restoration was unaffordable, the EPA chose to remove a yard of top soil and set down a layer of plastic membrane as a barrier; this is followed by an institutional controls program (ICP) which documents maintenance. Responding to questions from **Chair Nielsen**, **Mr. Mason** stated that a membrane under new top soil helps keeps in place heavy metals deposited by mining and distributed by natural forces, such as erosion.

**Mr. Mason** stated that the EPA, with Monsanto Company, Consolidated Mining Group, and others, funded the first layer of remediation; the health district was chosen as the appropriate entity to implement the ICP and focus on local control and maintenance. **Mr. Mason** explained this docket extends the health district's existing ICP (in the Box since 1996-7) to the Basin area, which was contaminated by river flooding and is approaching its second year of EPA clean-up. **Mr. Mason** stated the ICP supports the



economy by providing a means for landowners to prove the integrity of marketable land; in Kellogg, the cost of housing has almost doubled; condominiums, ski resorts and golf courses are in development.

Responding to questions from **Rep. Shepherd, Mr. Mason** stated that three public meetings were held, with very little attendance, but that discussions leading to hearings were well attended; the health district, rather than the Department of Environmental Quality (DEQ), was chosen to implement the ICP in the Basin because of its cross-county jurisdiction, its local infrastructure (a database and staff on the ground), and experience implementing the ICP in the Box, including issuing free permits, delivering clean soil and hauling contaminated soil, and providing training and support.

Responding to a question from **Chair Nielsen, Mr. Mason** stated that some funding for the ICP could come from general revenue. Responding to a question from **Chair Nielsen, Mr. Mason** circulated a map [attached to full committee minutes of January 30, 2007] and stated that the Superfund clean-up area already includes the Box and the Basin (within those areas, clean-up occurs only where contaminants are found); these rules merely extend the ICP in the Box to cover the Basin as well. Responding to a question from **Rep. Marriott, Mr. Mason** explained that the EPA would devise a remediation plan when and if contamination is found on private land.

**Chair Nielsen** invited **Terry Harwood** to testify. **Mr. Harwood** explained that the Basin Environmental Improvement Project Commission was created by the 2002 Legislature (H0489); negotiations are going on now to fund the Basin ICP; the Consolidated Mining Company and EPA fund 90% (nearly \$1 billion) of the clean-up (the state provides a 10% match of federal costs); the state is responsible for 100% of maintenance costs once the clean-up is finished.

Responding to a question from **Chair Nielsen, Mr. Harwood** stated that agricultural lands are exempt from the ICP. Responding to a question from **Rep. Shepherd, Mr. Mason** stated that the health district issues free permits under the ICP for all other occasions when it is necessary to remove a yard of dirt or more. Responding to questions from **Rep. Shepherd** and **Chair Nielsen, Mr. Harwood** stated that the slopes of the Box have been capped, but that the ground water in the Box is still contaminated and much material remains in the Basin.

**Chair Nielsen** invited **Sen. Joyce Broadsword** to address the committee. **Sen. Broadsword** expressed the concerns raised by her constituents that broadly extending the ICP (including permitting and dirt removal processes) to the Basin would place a burden on citizens who do not feel their property is contaminated; for example, if contaminants are found in a driveway, but the surrounding property is clean. **Mr. Harwood** stated that in such an instance a permit would be required and the driveway would be replaced at no expense to the landowner; the ICP applies only to locations where contamination is found and remediated by the EPA; records of clean properties are maintained by the ICP. **Sen. Broadsword** said her constituents were concerned that the ICP would be applied too broadly, rather than as a patchwork that responds to actual contamination.

Responding to questions from **Rep. Marriott** and **Chair Nielsen**, **Mr. Mason** stated that if these rules were rejected, individual cities, counties, the state, or the federal government would undertake ICPs; while these entities have not volunteered to administer the Basin, the health district is committed to operate and be accountable for the ICP and maintain the EPA clean-up. **Chair Nielsen** thanked Mr. Mason and Mr. Harwood.

**MOTION:** **Rep. Shepherd** moved that docket 41-0101-0601 be transferred to the full committee with a recommendation to reject as written, unless more information from both sides of the issue is presented.

At the request of **Chair Nielsen**, **Mr. Harwood** said he would present letters of support from the cities of Mullan, Kellogg, and Wallace and the Silver Valley Economic Development Corporation to the full committee.

**SUBSTITUTE MOTION:** **Rep. Marriott** moved that docket 41-0101-0601 be transferred to the full committee with a recommendation to accept as written. **Rep. Shepherd** expressed his concern for more complete information.

**MOTION:** **Rep. Marriott** withdrew his substitute motion, and moved that docket 41-0101-0601 be transferred to the full committee without recommendation. The motion passed by voice vote.

**Chair Nielsen** invited **Jeri DeLange** to testify on docket 41-0101-0601. **Ms. DeLange** stated that she was born and raised in the Box and was encouraged by the regrowth of vegetation resulting from the EPA remediation; the ICP protects that investment, which she would like to see continue. **Chair Nielsen** thanked **Ms. DeLange** and requested she summarize in writing her viewpoint for the full committee.

**ADJOURN:** The meeting adjourned at 5:50 p.m.

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Representative Pete Nielsen  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 26, 2007

**TIME:** 1:15 p.m.

**PLACE:** Room 404

**MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Bilbao, Shepherd(8), Marriott, Luker, Thayn, Henbest (Joan Wallace), Rusche, Chew

**ABSENT/  
EXCUSED:** Representative Loertscher

**GUESTS:** Former Rep. Kathie Garrett; David Simnitt, Division of Medicaid, Department of Health and Welfare; Genie Sue Weppner, Division of Welfare; Tracy Warren, Idaho Council on Developmental Disabilities; Adriane Wright, Roman Catholic Diocese of Boise and Catholic Charities; Ross Borden, President's Office, Boise State University; Leah Barrett, President, Boise State University Student Union; Jennifer Stolley, President, Boise State University Single Parents' Club; Anne McDonald; Darian Apollo; Sylvia Chariton, American Association of University Women; Marty Durand, Idaho Women's Network.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the guests and **Rep. Joan Wallace**, acting for **Rep. Henbest**.

**MOTION:** **Rep. Nielsen** moved to accept the minutes of January 22, as written. The motion carried by voice vote.

**MOTION:** **Rep. Nielsen** moved to accept the minutes of January 23, with a spelling correction. The motion carried by voice vote.

**Docket no. 16-0313-0602:** **Chair Block** invited **David Simnitt** to present docket 16-0313-0602. **Mr. Simnitt** explained this docket provides an opportunity (piloted in Moscow, Pocatello, and Boise) for adults with developmental disabilities to decide about and direct their Medicaid services. **Mr. Simnitt** circulated flowcharts for these consumer-directed services, and explained the program is optional; participants receive an individualized budget, from which they find and hire a support broker, a fiscal agent, and community support workers. Responding to a question from **Rep. Nielsen** regarding Sections .150.01.a and .200.08, **Mr. Simnitt** said that allowing participants the option of waiving the criminal history-background check for a community support worker was a compromise for providers who do not have direct access to the participant (e.g., lawn service) or who is known by the participant; processes are in place to ensure safety.

Responding to questions from **Rep. Rusche**, **Mr. Simnitt** explained support brokers are individuals, not agencies, who work with the participant and their support team to plan and assess the quality of services; they must have a criminal history check, formal education in

developmental disabilities, additional department training, an examination, and 12 hours of continuing education annually; the rules prohibit both direct relationships and direct services between participants and brokers. Responding to questions from **Rep. Luker**, **Mr. Simnitt** explained that individualized budgets are determined by the methodology in Section .190, and could range from \$10,000 to \$80,000 per year; the fiscal agent (e.g., time sheets, withholdings, payments for services, etc.) costs around \$100 per month, and the amount paid the support broker (similar to a service coordinator) is decided by the participant, although Sections .135.05.b and .136.01.c place limits on that payment. Responding to a question from **Rep. Nielsen**, **Mr. Simnitt** explained that although this docket allows family members to act as paid support brokers, the self-directed budget encourages participants to maximize their resources with voluntary services.

**Chair Block** invited the public to testify on the docket. **Former Rep. Kathie Garrett** spoke in favor of the docket, explaining that these rules were the result of years of coordination; in a 2003 speech on the House floor, she encouraged the state to think creatively about choice and individualized services for Idahoans with developmental disabilities; in a speech to the House in 2005, she spoke about the benefits of choice to independence and quality of life. Responding to a question from **Rep. Thayn**, **Ms. Garrett** explained this rule is cost-effective because it invests in individual development rather than in irrelevant tasks. Responding to a question from **Rep. Nielsen**, **Ms. Garrett** said that the criminal history waiver is meant to be limited and includes protections and supports which do not add greatly to administrative costs. **Chair Block**, **Rep. Rusche**, and **Rep. Nielsen** commended **Ms. Garrett** for her work.

**Tracy Warren** spoke in favor of the docket, as a goal of the Idaho Council on Developmental Disabilities since 2000; she said the program included no new administrative costs and will be reviewed during piloting through interviews, and record and budget monitoring, and by a quality assurance oversight committee. **Chair Block** thanked Ms. Warren.

**MOTION:** **Rep. Rusche** moved that the committee accept docket no.16-0313-0602 as presented. The motion carried by voice vote.

**Docket no. 16-0313-0601:** **Mr. Simnitt** explained that docket 16-0313-0601 repeals old rule to make way for the docket just approved. Responding to a question from **Rep. Marriott**, **Mr. Simnitt** clarified this docket does not repeal the traditional service model for Medicaid developmental disability benefits. **Chair Block** thanked Mr. Simnitt.

**MOTION:** **Rep. Nielsen** moved that the committee accept docket no.16-0313-0601 as presented. The motion carried by voice vote.

**Docket no. 16-0612-0602:** **Chair Block** invited **Genie Sue Weppner** to present 16-0612-0602. **Ms. Weppner** explained this docket responds to recommendations of the Idaho Child Care Advisory Panel, the Office of Performance Evaluations (OPE), and Legislative Audits by raising the income eligibility threshold for the Idaho Child Care Program (ICCP) from 150% of the 1998 federal poverty guidelines to 150% of the 2005 guidelines; currently a single parent with one child who earns \$8.47 per hour is not eligible for child

care support; the rule also proposes to institute a more gradual co-pay scale, with increases of not more than 5%, to more accurately align with the small pay increases of low-income families.

**Ms. Weppner** explained that to offset the costs of these improvements, the rule proposes to (1) limit the period of child care support for post-secondary (undergraduate) students to two years, and (2) require students to work at least 10 hours per week to maintain benefits. **Ms. Weppner** circulated a handout comparing benefits for working and student families, and stated this docket intends to target working families as valuable members of the economy, although they may not choose to pursue a college education.

Responding to a question from **Rep. Rusche**, **Ms. Wepper** did not know why the Department of Health and Welfare had not requested additional funding from the Legislature to implement the recommendations of the advisory panel, OPE, and Legislative Audits. Responding to a question from **Rep. Luker**, **Ms. Wepper** stated there is no limit, in the existing or proposed rules, to the length of time working families could receive benefits. Responding to a question from **Rep. Thayne**, **Ms. Wepper** explained that under the existing rule students are eligible for benefits for as long as they are in vocational or college undergraduate education. Responding to a question from **Rep. Luker**, **Ms. Wepper** stated the department may work with higher education to craft and implementation policy that is respectful of the needs of students.

**Chair Block** invited the public to testify on the docket. **Adriane Wright** spoke against the docket, stating that dollars invested in education translates into self-sufficiency and real economic return; the proposed rule may reduce costs in the short-term, but does not address long-term issues. Responding to a point from **Rep. Nielsen** regarding the need for private and community organizations to address poverty, **Ms. Wright** stated that Catholic Charities work to compliment state programs and fill gaps where they find them. **Ross Borden** spoke against the docket, stating that while higher education is the best avenue to gainful employment and the best solution to eliminating these costs in the long term, financial wherewithal is a bigger obstacle to graduating than performance. Responding to questions from **Rep. Luker**, **Mr. Borden** stated the universities would work with the department to craft new rules; of the limits proposed by the department—(a) maximum 2 years of benefits, and (b) 10 hours per week employment requirement—he objected less to the work requirement.

**Leah Barrett** spoke against the docket, noting that ICCP is an excellent resource for low-income students on their way to obtaining a better job; she discussed the costs of textbooks and fees on student income and stated the Boise State student union would work with the department. **Jennifer Stolley** spoke against the docket, observing that education can lead to self-sufficiency; two years is not sufficient to gain a degree leading to better employment. Responding to a question from **Rep. Rusche**, **Ms. Stolley** said she would have to arrange for additional child care if required to work. **Anne McDonald** spoke against the docket, emphasizing the importance of education to the self-sufficiency of single parent families; she noted the need to support families who are trying to improve their

situation and their contributions through education. **Darian Apollo** spoke against the docket, stating that limiting student eligibility to two years would deter students' ability to complete a bachelor's degree.

**Sylvia Chariton** spoke against the docket, stating the proposed rule is a roadblock to ability of single-parent families to move out of poverty; she cited studies from the Institute for Women's Policy Research that showed Idaho ranks 36<sup>th</sup> in the nation, and 7<sup>th</sup> in the mountain states, for women with four or more years of college. Responding to a question from **Rep. Nielsen**, **Ms. Wright** explained that the American Association of University Women offered national and local scholarships to support female students in economic hardship. **Marty Durand** spoke against the docket, stating that ICCP is a valuable support for students with children who are required to balance their duties at work, at school, and as a parent; she remarked that education can break the cycle of poverty. **Chair Block** thanked the guests for their testimony.

**Rep. Luker** observed that while the committee is at liberty to accept or reject subsections of a rule, this docket is a single, coordinated package which calls for acceptance or rejection as a whole. **Rep. Nielsen** led a discussion of the needs to balance costs, support the working poor, and encourage the pursuit of education as an investment; he asked what alternatives the department had considered. **Ms. Weppner** stated the department had considered limiting payment to licensed or non-relative providers but felt this unduly limited parent choice, whereas students often had access to resources not available to working families.

**MOTION:** Observing that this docket lacked a long-term rationale and was not accompanied by an additional funding request, **Rep. Rusche** moved that the committee reject docket no.16-0612-0602 as presented. **Rep. Luker** reminded the committee of Mr. Borden's open invitation from the universities to work with the department to find another solution.

**SUBSTITUTE MOTION:** **Rep. Bilbao** offered a substitute motion that the committee reject docket no.16-0612-0602, and recommend to the Department of Health and Welfare that they work during the interim with all parties involved in the Idaho Child Care Program to put a temporary rule in place that updates the poverty level, but does not decrease the number of years of coverage for students to less than four years. **Rep. McGeachin** noted the need to reach a compromise and maximize the limited resources available.

**VOTE:** A roll call vote was taken on the substitute motion:

- Chairman Block, Vice Chairman Nielsen, and Representatives McGeachin, Bilbao, Shepherd, Marriott, Luker, Thayn, Wallace (for Henbest), Rusche, and Chew voted aye.

The motion carried.

**Docket no. 16-0612-0601:** **Ms. Weppner** explained that docket 16-0612-0601 would repeal rules to make way for the previous docket.

**MOTION:** **Rep. Nielsen** moved that the committee reject docket no.16-0612-0601 as presented. The motion carried by voice vote. At the invitation of **Chair Block**, **Dennis Stevenson** explained that the committee's decisions on dockets 16-0612-0601 and 16-0612-0602 will be included in the omnibus

concurrent resolution.

**Chair Block** thanked the members and guests, and announced the next meeting would take place on Tuesday, January 30, 2007, at 1:15 p.m.

**ADJOURN:** The meeting adjourned at 10:50 a.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** January 30, 2007

**TIME:** 1:15 p.m.

**PLACE:** Room 404

**MEMBERS:** Vice Chair Nielsen, Representatives McGeachin, Loertscher, Bilbao, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew

**ABSENT/  
EXCUSED:** Chair Block

**GUESTS:** Jerry Mason, Attorney, Panhandle Health District; Jeri DeLange, Basin Environmental Improvement Project Commission; Toni Hardesty, Director, Department of Environmental Quality; Mick Markuson, Executive Director, Idaho State Board of Pharmacy; Pam Eaton, President, Idaho Retailers Association.

With a quorum present, **Vice Chair Nielsen** called the meeting to order and requested a silent roll call.

**Docket no.  
41-0101-0601:** **Vice Chair Nielsen** welcomed the guests and invited **Jerry Mason** to present docket 41-0101-0601. **Mr. Mason** explained the docket included housekeeping changes for the Panhandle Health District, and policy related to the placement of septic tanks and drain fields, and the implementation of an institutional controls program (ICP) in the Basin area of the Bunker Hill mine Superfund site. **Mr. Mason** explained that US Environmental Protection Agency (EPA) clean-up is on-going in the Basin, following remediation begun in 1996-7 in the "Box"—a 21 square mile area around the mine smelter; in the Box, without the knowledge of the public or the authorities, the smelter had operated for about 18 months without scrubbing (a process that traps or removes pollutants in emissions), leaving a thick layer of lead and cadmium dust. **Vice Chair Nielsen** announced a letter from **Jeri DeLange** regarding her experience living in the Box.

**Mr. Mason** explained the EPA chose to remove the contaminated soil in the Box, install a membrane barrier, and replace clean soil; this barrier has been maintained by the health district and its ICP since. **Mr. Mason** stated that blood-lead tests of children in the area around the smelter and mining influences have shown a gradual decrease in contamination as a result. Responding to a question from **Rep. Henbest**, **Mr. Mason** acknowledged that the test samples were not complete, but stated that the National Academy of Sciences had approved generally of the study; the health district has also cooperated with the US Centers for Disease Control to encourage testing. **Mr. Mason** explained that individuals are now able to buy and sell property in the Box, using ICP records to prove the barrier has been protected; the ICP has also allowed the economy to grow—housing values are rising, retailing has increased, and emigration out of the Silver Valley has been reversed.

**Mr. Mason** explained that contamination in the Basin area of the



Superfund site, from tailings and washes from the mine, initiated clean-up in that area (now approaching its second year); through discussions with stakeholders, the health district was chosen as the best entity to implement the ICP to maintain that clean-up work. **Mr. Mason** circulated letters of support from local officials and organizations. Responding to a question from **Rep. Nielsen**, **Mr. Mason** was unsure of the size of the Basin area, but noted that it was a fraction of all the areas within the greater Superfund perimeter which runs from the Bitterroot Mountains to the Columbia River.

Responding to a question from **Rep. Nielsen**, **Mr. Mason** explained that for clean-up of the Box and Basin, the federal government pays 90% and Idaho pays 10%, but the ICP is financed by a memorandum of understanding between the state, the federal government, and the Consolidated Mining Group. Responding to a question from **Rep. Rusche**, **Mr. Mason** said the EPA stated, in a letter to the Basin Environmental Improvement Project Commission, that when property owners comply with the ICP, they are protected from liability if any action or natural event causes a failure of the barrier, unless there was direct intent to destroy the barrier.

**Vice Chair Nielsen** invited the public to testify on the docket. **Toni Hardesty**, Director of the Department of Environmental Quality (DEQ), spoke in favor of the docket as a member of the Basin Commission. **Ms. Hardesty** explained that the health district's ICP in the Box was a successful model for the Basin ICP; allowing the health district to administer the ICP in the Basin satisfied stakeholders and maintains local control, which is in the best interests of the region.

**Ms. Hardesty** acknowledged Rep. Henbest's concerns about the sample of blood-lead testing, and said that the National Academy of Sciences also wanted to see a more robust sample; the Basin Commission, DEQ, and local physicians have been working on ways to increase number of children tested. **Rep. Henbest** noted the federal government requires all children on Medicaid be lead-tested; if implemented, even in a pilot, this requirement could benefit the sample. **Rep. Rusche** pointed out that these efforts should involve the American Academy of Pediatrics and the Idaho Association of Pediatrics. Responding to a question from **Vice Chair Nielsen**, **Ms. Hardesty** stated that environmental remediation has targeted areas with young children or pregnant mothers, and these efforts have seen blood-lead levels decrease over time.

**Rep. Shepherd** called attention to the concerns expressed by constituents that this program extends beyond what is necessary to ensure recovery of the landscape. **Ms. Hardesty** stated that as the ICP is required as part of the EPA's record of decision, this rule only decides whether a local or outside entity will have control over maintenance of the EPA barrier. **Rep. Rusche** said that given those conditions, the state would benefit from the health district's proven ICP. **Vice Chair Nielsen** discussed the lessons from the Bunker Hill mine, including the need to ensure proper siting and adequate bonding and oversight.

Responding to a question from **Rep. Luker**, **Ms. Hardesty** explained the Legislature has already appropriated DEQ funds to cover Idaho's

responsibility for 100% of maintenance and operation of the ICP in the Box and the Basin; the state's 10% matching costs for clean-up were covered by a fund created some years ago. Responding to questions from **Rep. Luker** and **Rep. Thayn**, **Ms. Hardesty** explained that any action which infringes on personal control is often unpopular, but that the Basin Commission found this to be the best and most affordable solution, and has not received formal opposition. **Vice Chair Nielsen** pointed out that the voiced dissent of citizens also protects our other freedoms.

**MOTION:** **Rep. Rusche** moved that the committee accept docket no.41-0101-0601 as presented.

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

- Vice Chairman Nielsen, and Reps. McGeachin, Bilbao, Loertscher, Marriott, Luker, Thayn, Henbest, Rusche, and Chew voted aye.
- Rep. Shepherd voted nay.

The motion carried.

**Docket no. 27-0101-0602:** **Vice Chair Nielsen** invited **Mick Markuson** to present 27-0101-0602. **Mr. Markuson** explained that while pharmacists have always been required to make a positive identification when filling prescriptions for controlled substances, this docket requires they make a record of that identification; that record will assist the Board of Pharmacy in tracking individuals who obtain drugs fraudulently, for their own use or to sell. **Mr. Markuson** circulated a letter from the Chubbuck Police Department—which noted that abuse of controlled substances was a growing concern and expressed support for the docket—and a letter from an independent pharmacist in Idaho Falls, also in support of the docket. **Mr. Markuson** stated that in response to comment from stakeholders, the board has added flexibility regarding methods of record-keeping; pharmacies have systems in place to implement the new rule, which is intended to promote public safety and aid law enforcement.

Responding to a question from **Rep. Marriott**, **Mr. Markuson** explained the board maintains a statewide database of every prescription filled (approximately 2 million); this database is used by practitioners to assist treatment and track use; this new rule would help ensure the database contains correct information that is linked to retrievable documentation.

**Vice Chair Nielsen** invited the public to testify. **Pam Eaton** spoke against the docket, stating the Idaho Retail Pharmacy Council would like the rule amended to not require a record of positive identification for prescriptions paid by insurance, or previously filled, or filled in a pharmacy in a health care facility. **Ms. Eaton** circulated 16 items of correspondence from associations, retailers, and pharmacists, expressing opposition to the docket. Responding to questions from **Rep. Luker** and **Rep. Marriott**, **Ms. Eaton** explained the old rule required but did not define a positive identification; the associations wanted a definition to prevent differing interpretations, but the proposed rule goes beyond that, and is largely unnecessary in rural areas where patients and pharmacists know each other and fraudulent activity is low. Responding to questions from **Rep. McGeachin** and **Rep. Rusche**, **Ms. Eaton** stated that the Idaho Retailers Association agreed with the amendments recommended by the National Association of Chain Drug Stores; use of a fraudulent insurance

card to obtain prescriptions is so rare it is not worth the effort.

Responding to questions from **Rep. Chew** regarding the letter from the Idaho State Pharmacy Association, **Mr. Markuson** acknowledged that pharmacists are not trained in law enforcement, and explained that this docket targets individuals who take fraudulent prescriptions from one store to another; the proposed rule does not penalize pharmacies that had been deceived by a fraudulent identification, and includes an exception when the pharmacist knows the patient, and does not prevent a pharmacy clerk processing the identification for a prescription filled by a pharmacist. Responding to a question from **Vice Chair Nielsen, Mr. Markuson** said that in lieu of knowing the patient, a notation by the pharmacist or staff person taking the identification would be required each and every time a prescription was filled.

**MOTION:** **Rep. Bilbao** moved that the committee reject docket no.27-0101-0602 as presented, and send it back to both parties to settle their differences and return to the committee when they have reached a compromise. **Rep. Luker** concurred that a better solution was needed. **Rep. Henbest** recognized the retail associations, but expressed concern for the growing problem of controlled substance abuse and commended the board for taking steps to address it. Responding to a question from **Rep. Rusche, Ms. Eaton** stated the associations were committed to address the rule. **Vice Chair Nielsen** thanked Mr. Markuson and Ms. Eaton.

**MOTION:** **Rep. Bilbao** moved the previous question. **Vice Chair Nielsen** explained the motion was to end debate and vote on the previous motion.

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

- Reps. McGeachin, Bilbao, Shepherd, Marriott, Luker, Thayn, Henbest, Rusche, and Chew voted aye.
- Vice Chairman Nielsen and Rep. Loertscher voted nay.

The motion carried.

**VOTE:** **Vice Chair Nielsen** reminded the committee the motion before them was to reject docket no.27-0101-0602 as presented, and send it back to both parties to settle their differences and return to the committee when they have reached a compromise. A roll call vote was taken:

- Vice Chairman Nielsen and Reps. McGeachin, Bilbao, Loertscher, Shepherd, Marriott, Luker, Thayn, Henbest, Rusche, and Chew voted aye.

The motion carried.

**Docket no. 24-1001-0601:** **Vice Chair Nielsen** invited **Roger Hales** to present 24-1001-0601. **Mr. Hales** explained a subcommittee had referred this docket to the full committee for further discussion of Section .325.04.e, where the Board of Optometry proposed to remove certain prohibitions from the code of ethics; these prohibitions were added in 1993 following concerns that corporate pressures would negatively impact patient care; the board, however, has not received a formal complaint regarding any violation of this rule, which is effectively violated every day without enforcement. **Rep. Henbest** discussed the role of boards to protect the safety of the public, rather than to regulate the management of a practice. **Vice Chair Nielsen** thanked Mr. Hales.

**MOTION:** **Rep. Henbest** moved that the committee accept docket no.24-1001-0601 as presented. The motion carried by voice vote.

**Subcommittee Final Reports:** For Subcommittee 1, **Vice Chair Nielsen** presented recommendations to accept, as presented, the 15 dockets listed on page two of the Administrative Rules Final Reports (January 30, 2007):

- 15-0120-0601
- 16-0202-0701
- 16-0208-0601
- 16-0215-0601
- 16-0304-0602
- 16-0305-0606
- 16-0305-0607
- 16-0308-0602
- 16-0414-0601
- 19-0101-0601
- 19-0101-0602
- 19-0101-0603
- 19-0101-0604
- 23-0101-0601
- 27-0101-0601

**MOTION:** **Rep. Loertscher** moved that the full committee accept the recommendations of Subcommittee 1 to approve, as presented, the 15 dockets listed on page two of the Administrative Rules Final Reports (January 30, 2007).

**Rep. Marriott** expressed his concern that docket 23-0101-0601 may not adequately protect the 5<sup>th</sup> Amendment rights of licensees under the Board of Nursing, because Section .100.12 includes failure to cooperate with authorities as grounds for discipline. **Rep. Henbest** explained this rule is in harmony with the oath taken by the profession and noted the need to ensure the board has the resources it needs to fulfill its responsibility to protect the public.

**SUBSTITUTE MOTION:** **Rep. Luker** offered a substitute motion that the full committee accept the recommendations of Subcommittee 1 to approve, as presented, 14 dockets listed on page two of the Administrative Rules Final Reports (January 30, 2007), except that the docket no.23-0101-601 be deferred to a later date in order to hear more discussion. The motion carried by voice vote. Rep. Rusche voted nay.

For Subcommittee 2, **Rep. McGeachin** presented recommendations to accept, as presented, the 16 dockets listed on page three of the Administrative Rules Final Reports (January 30, 2007):

- 16-0304-0601
- 16-0305-0701
- 16-0308-0601
- 16-0310-0701
- 16-0317-0601
- 16-0411-0601
- 16-0506-0601
- 16-0506-0602
- 16-0507-0601

- 16-0601-0601
- 16-0602-0601
- 16-0606-0601
- 22-0104-0601
- 22-0105-0601
- 22-0106-0601
- 27-0101-0603

Responding to a request from **Rep. Bilbao**, **Rep. McGeachin** explained that all those who testified were in support of docket 16-0304-0601. **Rep. Luker** explained this docket exempts one vehicle from the tally of resources which determines food stamp eligibility; previously, only a vehicle worth less than \$4,650 would be exempt; the public testified that families needed a reliable vehicle to seek and maintain employment; in addition, this rule conforms more closely to the intent of the Code of Federal Regulations (CFR). **Rep. Rusche** noted the rule also improves the Department of Health and Welfare's administrative efficiency by saving approximately 15 minutes per application.

**MOTION:**

**Rep. McGeachin** moved that the full committee accept the recommendations of Subcommittee 2 to approve, as presented, the 16 dockets listed on page three of the Administrative Rules Final Reports (January 30, 2007). The motion carried by voice vote.

For Subcommittee 3, **Rep. Bilbao** presented recommendations to accept, as presented, the 8 dockets listed on page four of the Administrative Rules Final Reports (January 30, 2007):

- 16-0305-0605
- 16-0310-0603
- 24-0301-0601
- 24-0901-0601
- 24-1201-0601
- 24-1401-0601
- 24-1501-0601
- 24-1501-0602

**MOTION:**

**Rep. Bilbao** moved that the full committee accept the recommendations of Subcommittee 3 to approve, as presented, the 8 dockets listed on page four of the Administrative Rules Final Reports (January 30, 2007). The motion carried by voice vote.

**ADJOURN:**

The meeting adjourned at 4:10 p.m.

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Representative Pete Nielsen  
Vice Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 2, 2007

**TIME:** 8:30 a.m.

**PLACE:** Room 406

**MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Bilbao, Marriott, Luker, Thayn, Henbest, Rusche, Chew

**ABSENT/  
EXCUSED:** Representatives Loertscher and Shepherd(8)

**GUESTS:** Sandra Evans, Executive Director, Idaho State Board of Nursing; Roger Hales, Bureau of Occupational Licenses; Linda Jackson, Executive Director, Idaho Occupational Therapy Association; Jeremy Pisca, Idaho Physical Therapy Association; Lone Springer, Chair, Idaho Board of Residential Care Administrators; Peggy Cook, Division of Welfare, Department of Health and Welfare; Willard Abbott, Deputy Attorney General.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call.

**Docket no. 23-0101-0601:** **Chair Block** welcomed the guests and invited **Sandra Evans** to present docket 23-0101-0601. **Ms. Evans** explained that all complaints filed with the Board of Nursing are investigated; disciplinary action ranges from an informal letter to license suspension or revocation; licensees are afforded every due process protection in the Administrative Procedures Act, the Idaho and US constitutions. **Ms. Evans** stated that Section .100.12 would help the board guard the safety of the public by ensuring that records are available for investigation.

Responding to questions from **Rep. Nielsen** and **Rep. Thayn**, **Ms. Evans** explained that 5<sup>th</sup> Amendment rights are inherent and thus not explicitly stated in Section .100.12; as a result, "failure to provide information on request of the Board" in Section .100.12 implies only documentation from facilities or third party testimony; the 5th Amendment protects against self-incrimination, which is the right of the individual subject of the complaint; without this rule, an investigation may be halted if a health care facility refuses to share its documents. Responding to a question from **Rep. Marriott**, **Ms. Evans** stated that in a case where a violation of law occurred, there may be a concurrent court case, but violations of ethics are the purview of the board.

Responding to a question from **Rep. Rusche**, **Ms. Evans** explained that the Board of Nursing, like other boards, is charged to actively protect the rights of the public and guard against endangerment by members of the profession; the board does this establishing and enforcing the training and ethical standards of the profession; this role is distinct from that of professional organizations which are designed to protect their membership. Responding to a question from **Rep. Luker**, **Ms. Evans**

explained that an investigation was halted when the nurse filing a complaint, alleging a violation of standard of practice by another nurse, was instructed by the hospital director to not speak with investigators; in another case, the board was unable to determine if a nurse with prescriptive authorization had established the proper relationship with the client, because, as a private clinic owner, the individual chose to not share the relevant medical documents.

Responding to a question from **Rep. Luker, Ms. Evans** stated that although the board has authority to take disciplinary action relative to a criminal conviction, most cases are violations of standards of practice or conduct which are not heard by the courts—such as a nurse who falsified documentation, possibly jeopardizing the patient in future treatment. Responding to a question from **Rep. Marriott, Ms. Evans** stated the board had the authority to discipline licensees up to revocation of the license. Responding to a question from **Rep. Henbest, Ms. Evans** stated that decisions to revoke a licensee may be appealed to the board and then to the highest court. **Chair Block** thanked Ms. Evans.

**MOTION:** **Rep. Luker** moved that the full committee accept docket no. 23-0101-0601, and reject Section .100.12. **Rep. Luker** noted that the phrase “failure to provide information on request of the Board” was overly broad, and suggested restricting the language to “treatment records” as a reasonable compromise between the needs of the board and the rights of the individual. **Rep. Nielsen** concurred. **Rep. Rusche** led a discussion on the need to empower the board to accomplish its responsibilities to protect the public and enforce the ethical standards and competence conditions of the profession. **Rep. Chew** noted this role of the board counteracts the pressures exerted on individuals to take actions that are not in the best interests of the patient or community.

**VOTE:** **Rep. Bilbao** requested that he be excused from the vote, under House Rule 38. The Chair accepted his decision. A roll call vote was taken:

- Chair Block, Vice Chair Nielsen, and Reps. Marriott, Luker, and Thayne voted aye.
- Reps. Henbest, Rusche, and Chew voted nay.

The motion carried.

**Docket no. 24-1301-0601:** **Chair Block** invited **Roger Hales** to present docket 24-1301-0601. **Mr. Hales** explained these rules for the Physical Therapy Licensure Board have been moved to the Bureau of Occupational Licenses, without change from the Board of Medicine; in the process, the bureau has learned that the Idaho Occupational Therapy Association has a concern with a definition in Section .010.08.a.xvi, and is committed to working to address the issue.

**Chair Block** invited the public to testify. **Linda Jackson** spoke in favor of the docket, stating the Idaho Occupational Therapy Association has accepted the bureau’s invitation to revise the definition in Section .010.08.a.xvi to “functional mobility training as it pertains to daily living tasks,” in accordance with Idaho Code § 54-2203(9)(b). **Mr. Hales** said he understood the position of the association, that the current definition goes beyond the professional role of a physical therapist. **Jeremy Pisca** spoke in favor of the docket. Responding to a question from **Rep.**

**Nielsen, Ms. Jackson** stated that this has been an oversight since the original rule was drafted in 2000; the definition as it stands asks physical therapists to provide services that are outside their domain of practice, but rightly the domain of occupational therapists.

**MOTION:** **Rep. Rusche** moved that the full committee accept docket no. 24-1301-0601, as presented.

**SUBSTITUTE MOTION:** **Rep. Nielsen** offered a substitute motion that the full committee accept docket no.24-1301-0601 as presented, and direct the parties involved to resolve the matter of Section .010.08.a.xvi. The motion carried by voice vote.

**Docket no. 23-1301-0701:** **Mr. Hales** introduced docket 23-1301-0701. **Rep. Bilbao** explained that this docket was before the full committee because it also contained the Section .010.08.a.xvi, just discussed.

**MOTION:** **Rep. Thayn** moved that the full committee accept docket no. 24-1301-0701, as presented. The motion carried by voice vote.

**Docket no. 23-1701-0601:** **Mr. Hales** explained that docket 23-1701-0601 had not been initially presented as a fee rule, and requested the committee affirm this docket as a fee rule.

**MOTION:** Noting this docket contained a fee reduction, **Rep. Nielsen** moved that the full committee accept fee rule docket no. 24-1701-0601, as presented. The motion carried by voice vote.

**Docket no. 23-1901-0601:** **Mr. Hales** explained a subcommittee had recommended rejection of Section .450 of docket 23-1901-0601; this section requires that residential care administrators who are responsible for residents with specialized conditions, maintain and document appropriate education and training. Responding to a question from **Rep. Luker**, **Mr. Hales** acknowledged the section did not include specific criteria, but was an honor system based on self-direction. Responding to questions from **Rep. Rusche** and **Rep. Nielsen**, **Mr. Hales** stated that, whereas one list of criteria would not be relevant to all settings, this rule allows the individual administrator to choose the types of education and training that suit the needs of their unique populations.

**Chair Block** invited the public to testify. **Ione Springer** spoke in favor of the docket, explaining that the Department of Health and Welfare's Bureau of Facility Standards has rules providing direction to residential care administrators and outlining training for residential care staff in the areas of dementia, mental illness, developmental disability, and traumatic brain injury (IDAPA 16.03.22, Sections .010.05, .215.01, .620, and .630); it is reasonable to require the administrator to have some knowledge of the specialities they are ultimately responsible for.

Responding to a question from **Rep. Rusche**, **Ms. Springer** stated this rule allows the board to fulfill its duty as a professional board by requiring that administrators pursue competence and maintain documentation. Responding to questions from **Rep. Nielsen**, **Ms. Springer** stated this is in addition to the requirement for 12 hours of annual continuing education



in facility operation; this would ensure administrators are competent to address the needs of individuals when or if they develop complex conditions while in residence, and would allow residents to stay where they are comfortable; conversely, if an administrator did not want to expand the scope of practice, he or she could request the resident move to another facility. Responding to a question from **Rep. Nielsen, Mr. Hales** stated the bureau has received no opposition regarding this rule and has worked with the administrators' association throughout the summer. **Chair Block** thanked Mr. Hales and Ms. Springer.

**MOTION:**

**Rep. Rusche** moved that the full committee accept docket no. 23-1901-0601, as presented. **Rep. Luker** expressed reservations about a scope of practice that did not contain criteria. **Rep. Marriott** noted this rule added a layer of government that exceeded what was necessary. **Rep. Rusche** noted that the field of residential care administrators was very broad, and while constructing criteria for every scenario was not feasible, this rule instructs the individual to be responsible for their own competence. **Rep. Henbest** discussed the importance of recognizing the willingness of the industry to step up and accept these patients and the competency obligations they imply. The motion carried by voice vote. **Rep. Marriott** voted nay.

**Docket no.  
16-0305-0602:**

**Chair Block** invited **Peggy Cook** to present docket 16-0305-0602. **Ms. Cook** explained that the federal Deficit Reduction Act of 2005 required individuals applying for Medicaid to supply proof of citizenship and identity; for citizenship, individuals are allowed to submit "fourth level" evidence (see Section .105.04) such as hospital records, affidavits, etc. **Ms. Cook** acknowledged the subcommittee's concern that this may be open to abuse. **Rep. Marriott** pointed out that Section .105.04.c.iv requires persons making a declaration for someone else to also prove their identity and citizenship.

**Chair Block** invited the public to testify and recognized **Willard Abbott**. **Mr. Abbott** explained that Section 6036 of the Deficit Reduction Act required the Secretary of Health and Human Services to instruct the states on documentation for Medicaid eligibility; these instructions have been promulgated in federal regulations; the state has no flexibility in this regard. **Chair Block** thanked Ms. Cook and Mr. Abbott.

**MOTION**

**Rep. Rusche** moved that the full committee accept docket no. 16-0305-0602, as presented. **Rep. McGeachin** expressed concern about the possible avenues, beyond a Medicaid application, this mandate may provide for those engaged in terrorism; she thanked the department for their response and efforts and acknowledged a letter from the Centers for Medicare and Medicare Services which indicated states could not make rules "more liberal or more restrictive" without losing the federal match; at the same time, the federal government may penalize states for too much use of fourth level evidence, but federal regulations do not define a threshold. **Ms. Cook** stated the department was gathering data on the numbers of people employing fourth level documentation and would supply that information to the Legislature next year. **Rep. Henbest** suggested bringing this issue to the attention of Idaho's federal delegation. **Chair Block** and **Rep. Nielsen** concurred. **Chair Block** announced the committee would follow-up on these suggestions. The

motion carried by voice vote.

**Chair Block** announced the completion of administrative rules review and commended the committee for their hard work. **Rep. Nielsen** relayed information from the Board of Health and Welfare and led a discussion regarding a supplemental and other alternatives to fund the preventative work of poison control centers.

**Chair Block** thanked the members and guests, and announced the next meeting would take place on Tuesday, February 6, 2007, at 1:30 p.m.

**ADJOURN:** The meeting adjourned at 11:30 a.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 6, 2007

**TIME:** 1:30 p.m.

**PLACE:** Room 404

**MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew

**GUESTS:** Representative Robert Ring; Nancy Hausner, Executive Director, Idaho Children's Trust Fund; Bill von Tagen, Deputy Attorney General, Office of the Attorney General; Teresa Molitor, Idaho Pathology Society.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the members and guests.

**MOTION:** **Rep. Rusche** moved to accept the minutes of January 24, as corrected, to indicate the statement by Paul Leary of the Division of Medicaid (Department of Health and Welfare) regarding administrative rule docket 16-0318-0601, that credits in personal health assistance (PHA) benefit accounts could be used to pay Medicaid Basic plan premiums, resulting in no out-of-pocket expenses for the participant. The motion carried by voice vote.

**MOTION:** **Rep. Rusche** moved to accept the minutes of January 26, as written. The motion carried by voice vote.

**MOTION:** **Rep. Nielsen** moved to accept the minutes of January 30, as written. The motion carried by voice vote.

**Chair Block** announced a subcommittee to review budget items from the Department of Health and Welfare in preparation for the committee's recommendations to the Joint Finance-Appropriations Committee (JFAC):

- Rep. Sharon Block, Chair
- Rep. Pete Nielsen, Vice Chair
- Rep. Paul Shepherd
- Rep. Lynn Luker
- Rep. Margaret Henbest
- Rep. John Rusche

**Chair Block** invited **Nancy Hausner** to present to the committee. **Ms. Hausner** explained the Idaho Children's Trust Fund was created in 1985 for child abuse prevention in Idaho, and is funded (\$520,00 this year) by voluntary donations on the Idaho tax form (no general funds) and federal grants; board-governed and with three part-time staff, the fund supports about 25 organizations annually and has distributed \$2 million since its establishment; the fund provides training and assistance for regional coalitions and programs, hosts a state conference and coordinates with other agencies and entities to support families and children with parenting

education, home visits for at-risk families, respite services, and an emphasis on adults' responsibility to prevent child abuse.

Responding to questions from **Rep. Thayn, Ms. Hausner** stated these programs strengthen families by helping parents understand the capabilities of children, and have had positive results. Responding to a question from **Rep. Rusche, Ms. Hausner** explained the Department of Health and Welfare does track community and program data for reported and substantiated abuse cases; however, understanding that most instances of child abuse are never reported, this data is of limited use for the Children's Trust Fund. **Chair Block** thanked Ms. Hausner for her presentation and commended the work of the trust fund.

**RS 16757:** **Chair Block** invited **Bill von Tagen** to present RS16757. **Mr. von Tagen** explained that following the direction of HCR040 (2006), the Attorney General and the Department of Health and Welfare formed a task force to address the shortcomings in the "do not resuscitate" (DNR) statutes and develop a statewide, universal form to replace the DNR orders used in hospitals and other institutions—the result is the Physician Orders for Scope of Treatment (POST) form, along with implementing guidelines and this legislation consolidating statutes dealing with end of life issues.

**Mr. von Tagen** stated the purpose of the POST form is to provide patients with a recognizable document, written in plain language, that would encourage patient confidence, and ensure living wills are carried out; whereas DNR forms are facility-specific, the POST form stays with the patient and is to be followed by all medical personnel. Responding to a question from **Rep. McGeachin, Mr. von Tagen** stated the task force found that requiring two medical doctors to confirm an incurable disease was unnecessary; because oversight is sufficient, Section 11 of RS16757 requires one confirmation. Responding to a question from **Rep. Nielsen, Mr. von Tagen** stated that living wills still requiring two confirmations will be followed. **Chair Block** thanked Mr. von Tagen and the task force for their work.

**MOTION:** **Rep. Nielsen** moved that the committee send RS16757 to print. The motion carried by voice vote.

**RS16840:** **Rep. McGeachin** introduced RS16840, with additional changes, to create direct billing for anatomic services and prohibit markup charges, in compliance with guidance from the American Medical Association, and in line with a philosophy of transparency and cost-reduction. **Chair Block** invited **Teresa Molitor** to address committee questions. Responding to a question from **Rep. Henbest, Ms. Molitor** explained hospitals will not be affected by this legislation; Medicaid and Medicare have required direct billing from hospitals since 1994. Responding to a question from **Rep. Rusche, Ms. Molitor** explained that because dermatologists read their own slides, the changes attached to this RS provide an exemption.

**MOTION:** **Rep. Marriott** moved that the committee send RS16840, as corrected, to print. The motion carried by voice vote.

**RS16892:** **Rep. McGeachin** introduced RS16840 as a joint memorial to the US Congress and the federal Secretary of Health and Human Services, Mike

Leavitt, encouraging the secretary to eliminate or amend the phase-down state contribution, also known as the “clawback” of the Medicaid Modernization Act (MMA) of 2003; this year the cost to Idaho was \$17 million, \$4.7 million more than if the MMA had not been in place, and despite Idaho’s efforts to reduce prescription drug costs.

**MOTION:** **Rep. Loertscher** moved that the committee send RS16892 to print. Responding to a question from **Rep. Nielsen**, **Rep. McGeachin** said that clarification and confirmation of lines 30-31 was forthcoming from the Department of Health and Welfare.

**SUBSTITUTE MOTION:** **Rep. Loertscher** offered a substitute motion that the committee send RS16892 to print, with corrections, if necessary. The motion carried by voice vote.

**RS16814:** **Rep. Bilbao** introduced RS16814 to add two licensed naturopathic physicians to the Board of Naturopathic Medical Examiners. Responding to a question from **Rep. Nielsen**, **Rep. Bilbao** explained that language struck out in Section 1(6) was outdated and was covered by Section 1(5), which requires members of the board to have two years’ experience practicing in Idaho. Responding to a question from **Rep. Henbest**, **Rep. Bilbao** explained the bill has an emergency clause because of a recent (February 1, 2007) board vacancy.

**MOTION:** **Rep. McGeachin** moved that the committee send RS16814 to print. **Rep. Nielsen** discussed the respective roles of professional communities and the Legislature in resolving conflict. The motion carried by voice vote. **Rep. Loertscher** voted nay.

**RS16598:** **Chair Block** invited **Rep. Robert Ring** to present RS16598. **Rep. Ring** explained this bill would remove the smoking exemption for bowling alleys, and so allow families and schools to bring children to bowling alleys. **Rep. Ring** noted the health benefits of these kinds of activities, and that the US Surgeon General has formally recognized the link between second-hand smoke and illness; some bowling establishments have voluntarily become smoke-free, finding that reduced beer sales have been replaced by higher profit margins in non-alcoholic beverages and snacks.

**MOTION:** Noting the need to discuss the matter further, **Rep. Henbest** moved that the committee send RS16814 to print. **Rep. Nielsen** expressed interest in exploring the subject of property rights when this bill receives a full hearing. The motion carried by voice vote. **Reps. Loertscher** and **Thayn** voted nay.

**RS16596:** **Rep. Ring** introduced RS16596, to add *carisoprodol* to the Class IV Controlled Substance Schedule.. Responding to questions from **Rep. Loertscher** and **Rep. Luker**, **Rep. Ring** said *carisoprodol* was not listed by the Food and Drug Administration or in any other controlled substance class, but that its metabolite, *meprobamate*, is a Class IV substance. Responding to questions from **Rep. Rusche**, **Rep. Ring** said 17 other states list *carisoprodol*, and another two are considering listing this year.

**MOTION:** **Rep. Rusche** moved that the committee send RS16814 to print. A roll

call vote was taken:

- Chair Block, Vice Chair Nielsen, and Reps. Bilbao, Luker, Marriott, Henbest, Rusche, and Chew voted aye.
- Reps. Loertscher and Thayn voted nay.

The motion carried.

**Chair Block** thanked the members and guests for their presentations and testimony, and announced the next meeting would take place on Thursday, February 8, 2007.

**ADJOURN:** The meeting adjourned at 2:50 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE BUDGET SUBCOMMITTEE

**DATE:** February 7, 2007

**TIME:** 3:30 p.m.

**PLACE:** Room 406

**MEMBERS:** Chair Block, Representatives Shepherd, Luker, Henbest, Rusche

**ABSENT/  
EXCUSED:** Vice Chair Nielsen

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair announced the subcommittee's goal to review line item budget requests from the Department of Health and Welfare and recommend priorities to the Joint Finance-Appropriations Committee.

**Rep. Henbest** explained that she and Rep. Fred Wood (27) were working with Amy Castro (Legislative Budget and Policy Analysis); while, the Governor's recommended budget is still being revised, supplemental requests may appear within the next couple of weeks. **Rep. Henbest** guided the subcommittee through the comparative summary of decision units in the FY 2008 Legislative Budget Book, including:

#### **FY2007 Supplementals**

- **HIPAA National Provider ID:** The federal Health Insurance Portability and Accountability Act (HIPAA) required the states to establish unique IDs for Medicaid providers; the department planned to incorporate this within its planned Medicaid Information Management System (MMIS) by January 2008; the department now plans to implement a system in five smaller pieces in mid-2008; the federal government provides 90% of funding.
- **AMH Receipts Decline:** Although demand for mental health services has increased, more clients are uninsured (i.e., not Medicaid participants); some of these additional costs have been offset by funds carried over by State Hospital South.
- **Rotavirus, Varicella, Pandemic Flu:** As a universal vaccine state, Idaho has made a commitment to provide certain vaccinations regardless of an individual's ability to pay; purchase through the federal government allows the state to acquire vaccines for 50-60% of open market prices; under an agreement between the federal government and Roche Group—maker of Tamiflu (*oseltamivir*)—to purchase H5N1 (avian flu) drugs for federal and state stockpiles, Idaho has requested 3,500 courses (10 day dosages), costing \$50,500; \$750,000 of federal bioterrorism funding may be available to purchase additional courses.
- **IRIS, Poison Control, & Ed Outreach:** this request replaces federal TANF (Temporary Assistance for Needy Families) funds, which

the state is no longer allowed to use for the Immunization Reminder Information System (IRIS) and immunization and poison control educational outreach.

#### **FY2008 Line Items**

- Family Service Technicians for Regions: As part of a plan to realign caseloads with federal standards, two FTPs per region would provide support and education for families with foster children, and assist social workers with transportation and monitoring; the Governor's recommendations do not fund additional FTPs generally. **Chair Block** requested from the department the current ratio of staff to foster children, so the subcommittee might determine the effect of additional FTPs.
- Replace TANF Funding: The federal government has discouraged the use of TANF funds to support foster families while the child's IV-E federal foster care payment eligibility is determined; this request reflects the Legislature's efforts to keep funds within divisions, so that program growth can be accurately tracked.
- Community Resource Develop. Spec.: This request would hire an FTP to implement a plan to transition students from residential and day programs at the Idaho School for the Deaf and the Blind (ISDB) in Gooding, to regional community-based services; in part due to declining enrollment, two of seven residential cottages at ISDB were closed last year. **Chair Block** led a discussion regarding the status of a plan to phase-out the ISDB campus, educational and residential alternatives, and community concerns.
- Medicaid Fraud: This request relates to RS16914 [H0166] which would transfer these request eight staff from the department to a separate Medicaid Fraud Control Unit in the Attorney General's office; the federal government will reimburse 90% of state costs for the first three years (and 75% of costs thereafter).
- MMIS Reprocurement: A request for one-time, limited service positions to reprocure contracts for MMIS, which has been broken down into five integrated systems, including a web-based component for providers to check the status of billings, etc.; the current system is nearly 20 years old, contains limited information and cannot be efficiently queried; the federal Centers for Medicare and Medicaid (CMS) will provide 90% of most costs.

**Chair Block** announced the budget subcommittee would reconvene on February 8, 2007, upon adjournment of the full committee.

**ADJOURN:** The meeting adjourned at 5:00 p.m.

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Representative Sharon Block  
Chair

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Rachel Johnstone  
Secretary



## MINUTES

### HOUSE HEALTH & WELFARE COMMITTEE

**DATE:** February 8, 2007

**TIME:** 1:30 PM

**PLACE:** Room 404

**MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Bilbao, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew

**GUEST:** Representatives Russ Mathews, Liz Chavez, and George Saylor; Kelly Buckland, Executive Director, Idaho State Independent Living Council; Mick Markuson, Executive Director, Board of Pharmacy.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the committee and guests. **Chairman Block** introduced a letter of intent from the Department of Health and Welfare, Division of Medicaid, as requested by this committee in its motion concerning rules docket 16-0310-0602.

**RS16914:** **Rep. Mathews** introduced RS16914; in compliance with federal law, this bill provides for separate Medicaid fraud programs in the Department of Health and Welfare in the Office of the Attorney General, and defines processes for referral, investigation, prosecution, and retention of Medicaid records; ongoing costs for a separate unit in the Attorney General's office are estimated at \$75,000 (general fund) and \$675,000 (federal match); the federal government will reimburse 90% of costs for the first three years, and 75% of costs thereafter; the state will receive 30% of all funds recovered through investigations and prosecutions. **Rep. Mathews** thanked those legislators involved in drafting this bill.

**MOTION:** **Rep. Nielsen** moved that the committee send RS16914 to print. The motion carried by voice vote. **Vice Chair Nielsen** led the committee while Chair Block presented RS16950 and RS16907C1.

**RS16950:** **Rep. Block** explained that RS16950 would amend and update terms in the Medicaid Simplification Act to be consistent with the federal Deficit Reduction Act of 2005, and approve amendments to Idaho's Medicaid plans (retitled as benchmark plans); no legislative intent has been changed with this bill.

**MOTION:** **Rep. Thayn** moved that the committee send RS16950 to print. The motion carried by voice vote.

**RS16907C1:** **Rep. Chavez** presented RS16907C1 and circulated a cost summary for proposed posters and mailings. **Rep. Chavez** explained this bill would provide for community notices—simple and easily read—to discourage consumption of alcohol shortly before conception or during pregnancy, and to inform consumers of the possibility of birth defects related to alcohol consumption; the notices would be printed by the alcohol beverage control division of the Idaho State Police.

- MOTION:** **Rep. Rusche** moved that the committee send RS16907C1 to print. The motion carried by voice vote. **Chair Block** thanked **Vice Chair Nielsen** and led the committee.
- RS16893:** **Rep. Nielsen** presented RS16893, to amend the Child Protection Act, to allow the Department of Health and Welfare to investigate reports of child abuse only when the person reporting the abuse supplies an affidavit; the name of the individual making an affidavit will be exempt from disclosure, unless the report is found to have been intentionally false. Responding to a question from **Rep. Henbest**, **Rep. Nielsen** said that requiring more than one corroborating medical authority in the event of bodily injury was intended to protect medical practitioners.
- MOTION:** **Rep. Shepherd** moved that the committee send RS16893 to print. The motion carried by voice vote.
- RS16870:** **Rep. Henbest** presented RS16870, to permit families of minor children and adults with developmental disabilities to direct their own care by creating and implementing a family-directed plan for services.
- MOTION:** **Rep. Nielsen** moved that the committee send RS16870 to print. The motion carried by voice vote.
- RS16776:** **Rep. Henbest** presented RS16776, from the Board of Nursing, and explained this bill would allow certified medication assistants to administer medications under the supervision of a licensed nurse in nursing homes or long-term care facilities, and establishes criteria, and education and certification requirements for medication assistants; this is both a measure to address nursing shortages and reduce medication errors.
- MOTION:** **Rep. Rusche** moved that the committee send RS16776 to print. The motion carried by voice vote.
- RS16722C2:** **Rep. Henbest** presented RS16722C2, which, subject to appropriation, would create a Community Health Center Grant Fund to assist qualified community health centers—such as Terry Riley Health Services in Nampa—with startup and expansion costs, in order to improve health care access in their communities.
- MOTION:** **Rep. Bilbao** moved that the committee send RS16722C2 to print. The motion carried by voice vote.
- RS16640C1:** **Rep. Henbest** presented RS16640C1, to add doctoral level nursing to the professional studies program in Idaho Code § 33-3720, which assists Idaho citizens to pursue medical and health studies not available in Idaho; this bill will not create seats for students out-of-state but will assist with the development of a state strategic plan to address the nursing shortage. **Rep. Henbest** requested the Statement of Purpose be amended to include Rep. Block as a co-sponsor.
- MOTION:** **Rep. Loertscher** moved that the committee send RS16640C1 to print. The motion carried by voice vote.

- RS16944:** **Rep. Henbest** introduced RS16944, to establish a Nursing Workforce Council and Nursing Workforce Center in the Department of Commerce and Labor, as recommended by Governor Risch's Task Force on Nursing. **Rep. Rusche** noted many health care fields are experiencing shortages that may only worsen as the workforce ages. **Rep. Henbest** requested the Statement of Purpose be amended to include a fiscal impact of \$300,000.
- MOTION:** **Rep. Rusche** moved that the committee send RS16944 to print. The motion carried by voice vote.
- RS16982:** **Chair Block** invited **Kelly Buckland** to present RS16982. **Mr. Buckland** explained this legislation was intended to simplify the administration of the Personal Assistance Services program, to clarify a Personal Assistance Services Agency and a Fiscal Intermediary Agency, and to grant more control to the individual participant.
- MOTION:** **Rep. Bilbao** moved that the committee send RS16982 to print. The motion carried by voice vote.
- RS16945:** **Rep. Nonini** presented RS16945, to make it a criminal act to coerce or attempt to coerce a woman to obtain an abortion; violations would be punishable by imprisonment and a fine.
- MOTION:** **Rep. Shepherd** moved that the committee send RS16945 to print. The motion carried by voice vote.
- RS16764:** **Rep. Saylor** presented RS16764, which would amend Idaho's licensing requirements for child care providers, and reflect current administrative practices and rules by extending licensing requirements to all providers who provide care for compensation to two or more children and establishing new basic requirements and staff-child ratios.
- MOTION:** **Rep. Rusche** moved that the committee send RS16764 to print. The motion carried by voice vote.
- RS16471:** **Chair Block** invited **Mick Markuson** to present RS16471. **Mr. Markuson** explained the proposed legislation would change the work week for mail-services pharmacies' toll-free telephone services from six days to five days per week; most such pharmacies are out-of-state (with backup pharmacies) and specialize in home-health or assisted living.
- MOTION:** **Rep. Rusche** moved that the committee send RS16471 to print. The motion carried by voice vote.
- RS16470:** **Mr. Markuson** presented **RS16470**, to correct an inadvertent omission and allow law enforcement access to patient prescription information.
- MOTION:** **Rep. McGeachin** moved that the committee send RS16470 to print. The motion carried by voice vote.

**Chair Block** announced the budget subcommittee would meet following adjournment; the next meeting of the full committee will be February 12, 2007.

**ADJOURN:** The meeting adjourned at 2:40 p.m.

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Representative Sharon Block  
Chairman

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Mary Lou Moon  
Ass't Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE BUDGET SUBCOMMITTEE

**DATE:** February 8, 2007

**TIME:** 3:15 p.m.

**PLACE:** Room 406

**MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives Shepherd, Luker, Henbest, Rusche

**GUESTS:** Amy Castro, Legislative Budget and Policy Analysis.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair invited **Amy Castro** to address the subcommittee.

**Ms. Castro** guided the subcommittee through the comparative summary of decision units in the FY 2008 Legislative Budget Book, including:

#### **FY2008 Line Items**

- EMS Poison Control Inflation: This request has been resolved by recent approval from the federal government to use federal bioterrorism monies.
- Clinicians for County Juvenile Clients: These 14 staff would be housed in county offices to coordinate support services for children leaving county custody (on probation); children typically do not receive mental health services in juvenile detention.
- QA of MH Clinics & Partial Care: This request comes with a federal match and will allow the department to audit every Medicaid mental health provider every three years; this addresses the findings of a federal audit.
- Substance Abuse Funding: This request would replace the federal Access To Recovery grant (ending August 2007), and hire staff to conduct eligibility assessments (payments for providers and data management would remain contracted services); because treatment services are often subject to a waiting list, participants must be re-assessed by the treatment provider.
- Electronic Death Certificate System *and* Real ID: The Federal REAL ID Act of 2005 will require states (by July 2008) to match birth and death certificates in an electronic database and check identity before issuing an identification card; state-issued cards that do not comply will not be considered sufficient to get on an airplane or enter a federal building; the rulemaking and budget requests for these matters have been postponed pending the outcome of state-federal negotiations.
- EMS Physician Commission: The commission is seeking authority for disciplinary actions; this request accompanies legislation.

- **Increase Treatment Funding:** This request would expand assessment and treatment services to populations not targeted by the federal Access to Recovery grant (e.g., adult white males); this request is still being reviewed by the Office of the Drug Czar.
- **Intensive Behavioral Intervention Program:** The department has seen a dramatic increase in demand for these Medicaid services for children, which are limited to a period of three years, but have a higher reimbursement rate than school-based services; this request seeks staff to manage and control the growth of demand.

**Chair Block** announced the budget subcommittee would reconvene on February 12, 2007, upon adjournment of the full committee.

**ADJOURN:** The meeting adjourned at 4:30 p.m.

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Representative Sharon Block  
Chair

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 12, 2007

**TIME:** 1:30 p.m.

**PLACE:** Room 404

**MEMBERS:** Chair Block, Vice Chairman Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, and Chew.

**GUESTS:** Dale Higer, Commission on Uniform State Laws; Leslie Clement, Administrator, Division of Medicaid, Department of Health and Welfare; Roger Hales, Bureau of Occupational Licenses; Eric Nēgaard, Chair, Idaho Board of Cosmetology; David Butler, Deputy Director, Department of Health and Welfare; Kathleen Allyn, Administrator, Division of Behavioral Health; Russ Barron, Administrator, Division of Welfare; Michelle Britton, Administrator, Division of Family and Community Services; Leslie Clement, Administrator, Division of Medicaid; Bruce Dunham, Administrator, Division of Information and Technology; Jane Smith, Administrator, Division of Health.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the members and guests.

**MOTION:** **Rep. Rusche** moved to accept the minutes of February 2, as written. The motion carried by voice vote.

**MOTION:** **Rep. Rusche** moved to accept the minutes of February 6, as written. The motion carried by voice vote.

**S1017a:** **Chair Block** invited **Dale Higer** to present S1017a, for Senator Bart Davis. **Mr. Higer** explained this bill, promulgated by the National Conference of Commissioners on Uniform State Laws in conjunction with professional associations, coroners, prosecutors, and legislators, revises the 1968 statutes which are the basis of organ donation, but does not alter the basic concept of an anatomic gift. **Mr. Higer** stated the bill preserves the ability of young people to make organ donations with the consent of an adult guardian, defines informed consent, and prohibits coroners from deriving any economic benefit from a donation.

Responding to questions from **Rep. Luker** and **Rep. Marriott**, **Mr. Higer** stated that an individual may give verbal consent under certain circumstances in §§ 39-3405(1)(c) and 39-3402(5); after death, relatives of the deceased may make a gift under § 39-3409. Responding to a question from **Rep. Thayn**, **Mr. Higer** explained the definition of "decedent" includes a stillborn infant and fetus (with other statutory restrictions), but does not include an embryo. Responding to a question from **Rep. Nielsen**, **Mr. Higer** said negotiations with coroners resulted in changes that would not adversely affect the goals of the legislation. **Chair Block** thanked Mr. Higer.

- MOTION:** Noting the need to encourage organ donations and guard against profiteering from those donations, **Rep. Henbest** moved that the committee send S1017a to the House floor with a do pass recommendation. **Rep. Henbest** noted that the federal government has not fully addressed the issue for profiteering in tissue (bone and flesh) procurement; some foreign governments do allow individuals to sell organs or profit from organ donations, which has profound ethical implications for the poor; while it is illegal in the United States to profit from the donation of an organ, individuals may ask for compensation of their real costs (i.e., hospitalization, etc.). The motion carried by voice vote. Rep. Henbest will carry S1017a to the floor.
- HJM001:** **Rep. McGeachin** circulated handouts and introduced HJM001, directed to the US Congress and the federal Secretary of Health and Human Services. **Rep. McGeachin** explained that the phase-down state contribution, also known as the “clawback” of the Medicaid Modernization Act (MMA) of 2003, causes Idaho to spend more (\$4.7 million more in fiscal year 2006) in Medicaid than without the MMA; the federal government makes determinations based on Idaho’s 2003 rebate percentage, plus inflation; this practice does not consider the effect of the state’s efforts to contain Medicaid drug costs; as the clawback payment is expected to grow exponentially, this memorial itemizes the reforms Idaho has made and asks the Secretary of Health and Human Services to eliminate or amend the clawback provision. **Rep. McGeachin** asked the committee to support HJM001, with attached amendments. **Chair Block** invited **Leslie Clement** to address a question from **Rep. Nielsen**. **Ms. Clement** stated Idaho has not joined a lawsuit filed by the state of Texas.
- MOTION:** **Rep. Rusche** moved that HJM001 be reported back to the House with amendments attached to be placed on General Orders for consideration. **Rep. Nielsen** seconded the motion. **Rep. Rusche** considered the rising costs of Medicaid and relative state responsibility for addressing the Medicare Part D shortfall. The motion carried by voice vote.
- H0005:** **Chair Block** invited **Roger Hales** to present H0005. **Mr. Hales** explained this legislation defines “esthetician” and the practice of “esthetics” as distinctly non-medical and non-invasive. **Chair Block** invited **Eric Nēgaard** to address questions from the committee. **Mr. Nēgaard** explained that both cosmetology and esthetics utilize non-invasive treatments; cosmetology applies to skin, hair, and nails, and requires a greater number of training hours; esthetics relates only to skin treatments—the Board of Cosmetology was concerned about invasive skin care practices and designed this legislation to specify non-invasive versus medical practices and to clearly define the scope of esthetics practice.
- MOTION:** **Rep. Rusche** moved that the committee send H0005 to the House floor with a do pass recommendation. The motion carried by voice vote. Rep. Luker will carry H0005 to the floor.
- H0006:** **Mr. Hales** introduced H0006, also from the Board of Cosmetology, and circulated handouts to the committee. **Mr. Hales** explained this legislation would eliminate the apprenticeship path to obtaining a license; currently, a student may obtain education through either a school or an apprenticeship program—both apprentice and school students are required to pass the same examination; the board is concerned by the



apprenticeship program's low test scores and high drop out rates, and feels the program is no longer needed due to the wide distribution of cosmetology schools (24 in number) around the state.

Responding to a question from **Rep. Rusche**, **Mr. Hales** stated current apprentices will be allowed to complete their courses of study, and that he was not aware of any opposition to the legislation. Responding to questions from **Rep. Nielsen** and **Rep. Luker**, **Mr. Nēgaard** stated that costs for attending various courses in cosmetology schools range from \$3,000 to \$13,000 and from 15 weeks to 13 months; a cosmetology student must spend 2,000 hours in supervised training; an apprentice must accrue 4,000 hours; board concerns were raised by cases of unsupervised or improperly supervised apprentices. **Rep. Shepherd** asked how the legislation would impact individuals in rural areas, for whom travel may be a hardship. **Mr. Hales** stated his belief that a cosmetology school was available within an hour's drive of any community in the state. **Chair Block** thanked Mr. Hales and Nēgaard.

**MOTION:**

**Rep. Rusche** moved that the committee send H0006 to the House floor with a do pass recommendation. **Rep. Loertscher** led a discussion about the impact of this legislation on individuals seeking occupational education and standard licensure while maintaining work and living in remote or rural areas. Citing board statistics, **Rep. Nielsen** called attention to the proportionately greater rate of apprenticeship participation in rural communities. **Rep. Rusche** called for consideration of the professional and public safety leadership role of the board.

A roll call vote was taken:

- Reps. Henbest, Rusche, and Chew voted aye.
- Chair Block, Vice Chair Nielsen, and Reps. McGeachin, Loertscher, Shepherd, Luker, Marriott, and Thayne voted nay.

The motion failed.

**Chair Block** invited **David Butler** to address the committee regarding the Department of Health and Welfare's fiscal year 2008 budget requests. **Mr. Butler** reviewed the department's divisional structure and programs; overall, the department spends 82% of its resources in services, 10.5% for personnel, and 7% for operating costs. **Mr. Butler** stated the department's requests reflect the level of public demand for services, which is inversely proportionate to the health of the economy. **Mr. Butler** explained funding for replacement of the aging Medicaid Information Management (MMI) and Eligibility Programs Integrated Computer (EPIC) systems were the department largest line items; EPICS is one of the primary causes of error in the department's data management. Responding to a question from **Rep. Nielsen**, **Mr. Butler** explained the Governor's recommendation reflected the department's initial request for MMIS, based on its projections for a federal match; the department's request published in the legislative budget book was a revised figure later superseded and revised a third time by additional information from the federal government; because this new information increased the projected need to an amount close to the department's initial request, the Governor recommended that initial, higher amount. **Mr. Butler** also highlighted the request for funds to offset the citizenship verifications required by the federal Deficit Reduction Act (DRA) of 2005.

**Chair Block** invited **Kathleen Allyn** to present for the Division of Behavioral Health. **Ms. Allyn** stated this new division is in the midst of an organizational effort; in line with its goal of facilitating transition between services for children and adults and between institutions and the community, the division is cross-training in co-occurring disorders and cooperating with other entities (e.g., drug courts) in prevention, early and crisis intervention, and treatment. **Ms. Allyn** explained the division was also working to consolidate its documentation and data management. Responding to questions from **Rep. McGeachin** and **Rep. Luker**, **Ms. Allyn** reviewed the division's fiscal year 2007 budget: \$42 million for mental health services for children and adults, \$24.7 million for substance abuse services, \$18 million for State Hospital South, \$7.3 million for State Hospital North, and \$2.2 million for community mental health programs.

**Chair Block** invited **Russ Barron** to present for the Division of Welfare. **Mr. Barron** noted the division's greatest challenge was to improve the timeliness and accuracy in its programs, and update business processes and technology to meet federal mandates; replacing EPICS is the division's most critical funding priority. Responding to a question from **Rep. Rusche**, **Mr. Barron** explained that if the division's request for "Child Support DRA Federal Funding Loss" is not funded, the child support program would be underfunded by \$2.2 million (including the lost federal match). Responding to a question from **Rep. McGeachin**, **Mr. Barron** stated that caseloads in the child support program continue to grow 7% annually; less than adequate funding would entail cuts to services, including audits, collections, and establishment of court orders and paternity, leading to a wider impact on families who rely on support payments. Responding to a question from **Rep. Luker**, **Mr. Barron** explained that two line item requests for the Idaho Child Care Program (ICCP) were made prior to this committee's rejection of related administrative rules.

**Chair Block** invited **Michelle Britton** to present for the Division of Family and Community Services. **Ms. Britton** explained the division has been challenged by staff turnover in the child protection program, and methamphetamine use. While additional staff granted during the last session have helped reduce turnover from 22% to 16%, **Ms. Britton** explained that methamphetamine use was contributing to increased caseloads in foster care and greater difficulty finding permanent homes; methamphetamine addiction requires specialized and long-term levels of treatment for parents—this complicates the division's ability to meet the federal mandate to permanently place children within 15 months. Responding to questions from **Rep. Henbest** and **Rep. McGeachin**, **Ms. Britton** stated the division's request for 14 "Family Services Technicians for Regions"—to be distributed roughly according to workload—was an effort to enhance the efficient delivery of services.

**Chair Block** invited **Leslie Clement** to present for the Division of Medicaid. **Ms. Clement** stated that, as its primary means for Medicaid claims processing, the MMIS project is the division's greatest priority; the department requests timely appropriation for this project to ensure 90% federal funding; the federally-required Health Insurance Portability and Accountability Act (HIPAA) National Provider ID system is the division's

second priority.

**Chair Block** invited **Bruce Dunham** to present for the Division of Information and Technology. **Mr. Dunham** explained that upgrades to MMIS and replacement of EPICS was the division's priority as part of an effort to improve processes and service delivery. **Mr. Dunham** acknowledged the department's new direction for MMIS—using commercial software system integration and best practices similar to those in private industry—has met with resistance from the industry and lobbyists. Responding to a question from **Rep. Henbest**, **Mr. Dunham** explained the department has undergone an extensive approval process to obtain 90% federal funding, granted with cautious approval.

**Chair Block** invited **Jane Smith** to present for the Division of Health. **Ms. Smith** noted the challenge posed by West Nile virus; Idaho lost 21 individuals to the virus this year; because the division does not expect West Nile incidence to decrease in the coming year, it is working with other agencies—including counties and mosquito abatement districts—to anticipate and prepare. Regarding immunization, **Ms. Smith** stated that as a “universal” state, Idaho will provide vaccines for everyone 0-18 years of age (the state pays 17% of costs); this year, the division has opted for a vaccine which combines varicella with the MMR (measles, mumps, rubella) vaccine; the MMRV costs slightly more (67 cents), but saves 20 dollars per dose in administrative costs. **Ms. Smith** explained the division is also cooperatively planning for pandemic flu (a.k.a., H5N1, avian flu).

Responding to a question from **Rep. Nielsen**, **Ms. Smith** explained that requests to fund the “Electronic Death Certificate System” and “Real ID” followed mandates from the federal Intelligence Reform Act; the act aims to prevent fraudulent use of birth and death certificates and requires an electronically-validated birth certificate to obtain a driver's license; licenses not obtained this way cannot be used to board a plane or enter a federal building; because these systems are expected to require substantial development time and expenditure, timelines for implementation are being negotiated with the federal government.

**Chair Block** thanked the presenters, and commended the department and its divisions for working toward this year's modest 4.7% budget increase (compared to 15% increases in the past). The Chair announced the budget subcommittee would meet upon adjournment; the next meeting of the full committee would be Wednesday, February 14, 2007.

**ADJOURN:** The committee adjourned at 4:00 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE BUDGET SUBCOMMITTEE

**DATE:** February 12, 2007

**TIME:** 4:30 p.m.

**PLACE:** Room 404

**MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives Shepherd, Luker, Henbest, Rusche

**GUESTS:** Amy Castro, Legislative Budget and Policy Analysis; Bill Walker, Deputy Director, Department of Health and Welfare; Kris Ellis, Idaho Association of Developmental Disabilities Attorneys; Michael Wilson, President, Idaho Residential Supported Living Association.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair invited **Amy Castro** to address the subcommittee.

**Ms. Castro** guided the subcommittee through the comparative summary of decision units in the FY 2008 Legislative Budget Book, including:

#### **FY2008 Line Items**

- **EPICS Replacement:** This request is to continue legislative funding for the Division of Welfare's system for managing Temporary Assistance for Needy Families (TANF), food stamps, and child support (in addition, EPICS manages Medicaid eligibility).
- **Child Sup. DRA Federal Funding Loss:** Under the Deficit Reduction Act (DRA) of 2005 the department is no longer allowed to use its performance-based incentive payments to gain an additional federal match; this means a potential budget cut for the Child Support program.
- **Medicaid DRA Citizenship Verification:** The DRA requires the department to document the citizenship of Medicaid applicants, in addition to verifying identity.
- **Medicaid Quality Assurance:** The department has requested but not received this item in prior budgets; this Medicaid eligibility determination program has not been able to maintain staff, in part due to issues of pay and stress.
- **ICCP Rate & Caseload Increases; Child Care Rule Change Savings:** These requests have been nullified by this committee's rejection of the corresponding rule change.
- **Child Support Caseload Increases:** Whereas "Child Sup. DRA Federal Funding Loss" would maintain current levels of funding for the child support program, this expansion item will address rising caseloads and increased contract costs and incentives.

**Ms. Castro** led further discussion of other fiscal year 2008 line items:

- Substance Abuse Funding: This item replaces federal grant monies that were contracted through Business Psychology Associates (BPA) for assessment, treatment, and data management; this year, the department requests 33 FTPs (32 FTPs in regional offices) to replace BPA's telephone eligibility determinations and assessments with in-person interviews (treatment payments and data management would remain contracted services); the department estimates this new arrangement will make more funding available for treatment. The committee discussed concerns about the telephone process, duplicate assessments, the lengthy treatment waiting list, and the pros and cons of private- and public-sector management, including regional access. **Ms. Castro** noted that BPA data indicates half of those (1100 individuals) on the waiting list were dropped because they could not be found, were incarcerated, or had died.
- Peer Review & Curriculum Credentialing; Staff for Communications Center; EMS Wristbands; EMS Dedicated Personnel Funds: In these cases, although ongoing funds are less than current expenditures, the EMS program has requested spending authority; the request for wristbands was recommended due to availability of a one-time balance. The committee discussed possible legislative steps to ensure this program is made sustainable in future.
- Intensive Behavioral Intervention Fund: This request would fund a process to preauthorize services in an effort to manage increased utilization of IBI services; currently such services may be accessed for three years from the start of participation.

**Chair Block** asked **Bill Walker** to address department priorities beyond those already discussed in this and previous subcommittee meetings. **Mr. Walker** noted two areas:

- Additional Hospitalization Funding: This request reflects the increased cost of community hospitalization for individuals who are court-committed to state care, but who cannot be accommodated in the state hospitals due to a lack of beds. **Ms. Castro** noted this includes persons who are determined not competent to stand trial; although required by statute, Idaho does not have a secure mental health facility; the Department of Correction has 12 beds, State Hospital South has 16 beds—individuals who cannot be housed there must be housed in the community.
- JCAHO Accreditation Analysis for SHN: This study would allow State Hospital North to efficiently move toward essential accreditation.

**Rep. Nielsen** led a discussion of the relative appropriations for health and welfare services and for education, proportionate to state resources, population increases, the consumer price index, and inflation.

**Chair Block** invited **Kris Ellis** to testify. **Ms. Ellis** circulated a letter from the Division and Medicaid and explained that, as part of implementing H0190 (2005), the division was to establish a method for rate

reimbursement; this work has not been completed, in part due to errors and omissions in the analysis conducted by the department's contractor, Johnson, Villegas-Grubbs & Associates (JVGA); the Idaho Association of Developmental Disabilities Agencies requests the department be given carry-over authority to use the remaining study funds (about half of the original appropriation, according to Budget and Policy Analysis), so that the contract may be extended and the study corrected; this requires specific legislative authorization through JFAC. **Chair Block** thanked Ms. Ellis for her testimony.

**Chair Block** invited **Michael Wilson** to testify. **Mr. Wilson** explained the Idaho Residential Supported Living Association had been involved in the analysis process and met with JVGA regarding their proposal to implement the "Arizona Model" for rate reimbursement; because inaccuracies in the JVGA report have impacted the chart of reimbursement rates, the association does not support a change in reimbursement until the report is confirmed and corrected; the association requests the department be granted carry-over spending authority to address the study.

**Chair Block** announced the budget subcommittee would reconvene on February 13, 2007, upon adjournment of the full committee.

**ADJOURN:** The meeting adjourned at 5:15 p.m.

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Representative Sharon Block  
Chair

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE BUDGET SUBCOMMITTEE

**DATE:** February 13, 2007

**TIME:** 3:30 p.m.

**PLACE:** Room 408

**MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives Shepherd, Luker, Henbest, Rusche

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call.

**MOTION:** **Rep. Rusche** moved to accept the minutes of February 7 and 8, as written. The motion carried by voice vote.

**Chair Block** reviewed the process for making recommendations to the Joint Finance-Appropriations Committee (JFAC), and asked for recommendations from the subcommittee. **Rep. Nielsen** noted the importance of funding "MMIS Reprocurement," the "HIPAA National Provider ID," the "Medicaid DRA Citizenship Verification," and the "Child Sup. DRA Federal Funding Loss," and discussed concerns regarding proportional funding for health and welfare services and for education. There were no objections to the recommendation of these items. **Rep. Luker** noted that investment in the child support program translates into decreased demand for other public services. The committee had no objections to also recommending "Child Support Caseload Increases." There was also no objection to a recommendation to fund the second year of the three-year "EPICS Replacement." **Rep. Henbest** noted the department should have reasonable expectations of what can be accomplished with EPICS development in one year.

**Rep. Rusche** noted the committee should accept the recession of Medicaid dollars graciously, recognizing that the health of the economy helps decrease demand for services, but noting that the effect of bad economic circumstances in future should also be considered. The committee agreed to formally recognize this point in its report to JFAC.

**Rep. Nielsen** led a discussion of the preventative value of poison control activities ("IRIS, Poison Control & Ed Outreach"; "EMS Poison Control Inflation"). **Rep. Rusche** noted "Rotavirus, Varicella, Pandemic Flu" was another important preventive item, and that such services save dollars in other areas; it is important to have a fully staffed poison control center; the state is in a unique position to provide that service. There were no objections to the recommendation of "IRIS, Poison Control & Ed Outreach" and "Rotavirus, Varicella, Pandemic Flu."

**Rep. Luker** noted that the "Medicaid Fraud" line item would help ensure accountability and increase the state's ability to serve those most in need. The committee agreed to recommend a more robust effort in this area, on the basis that it was in principle a good investment, wherever these personnel were to be housed in state government. The committee

discussed the value of and need for detailed information about the expansion item "Medicaid Quality Assurance." **Rep. Henbest** suggested that it be recommended only in the absence of the division's ability to absorb this eligibility function with current FTPs, especially considering other funded improvements to EPICS and management. The committee had no objections to this suggestion.

**Rep. Rusche** noted the importance of investing in "Adult Mental Health Core Services" and "Clinicians for County Juvenile Clients." **Rep. Henbest** explained the latter would house clinicians in county detention centers, to help discharged juveniles access services from other public agencies; in 2006, the Legislature (S1455) funded \$700,000 for Juvenile Mental Health through the Department of Juvenile Corrections to enable counties to provide these services; the committee should recommend refunding that successful program, as an alternative to the Department of Health and Welfare's request. The committee had no objections.

**Rep. Luker** noted "JCAHO Accreditation Analysis for SHN" was a critical investment. **Rep. Rusche** observed the costs of recruiting staff for an unaccredited hospital would be much greater. The committee had no objections to recommending this item. The committee discussed the need for more information about the "Avatar Electronic Information System" and projections for "Additional Hospitalization Funding."

**Rep. Nielsen** led a discussion of H0106 (to create an Office of Drug Policy), heard that afternoon in the House Judiciary, Rules & Administration committee. **Rep. Henbest** suggested the committee recommend the line item "Substance Abuse Funding" to ensure maintenance of effort, but do not recommend FTPs, because the implementing agency is not yet identified. As a member of the Interagency Committee on Substance Abuse Prevention and Treatment, **Chair Block** noted that committee had recommended maintenance funding ("Substance Abuse Funding") rather than expansion funding ("Increase Treatment Funding"), until program and funding control are determined. **Rep. Nielsen** concurred, suggesting the committee recognize the need for maintenance funding for treatment, but do not direct where that funding should be placed. The committee agreed.

**Rep. Rusche** led a discussion of the line item "Increase Treatment Funding." **Rep. Henbest** noted that expansion appropriations should be balanced by realistic expectations of provider capacity. **Rep. Rusche** suggested the committee emphasize in its report to JFAC that substance abuse is fundamental to many other problems facing the state, and that efforts to address substance abuse deserve priority funding and support. The committee had no objections to this suggestion.

**MOTION:** **Rep. Rusche** moved that the chair draft a document for presentation to JFAC outlining the priorities recognized by this committee. The motion carried by voice vote.

**ADJOURN:** The meeting adjourned at 4:30 p.m.

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Representative Sharon Block  
Chair

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Rachel Johnstone  
Secretary



## MINUTES

### HOUSE HEALTH & WELFARE COMMITTEE

**DATE:** February 14, 2007

**TIME:** 1:30 p.m.

**PLACE:** Room 404

**MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Bilbao, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew

**GUESTS:** Quane Kenyon, Chair, Board of Health and Welfare; Former Rep. Kathie Garrett, Governor's Council on Suicide Prevention; Kim Kane, Executive Director, SPAN (Suicide Prevention Action Network) Idaho; Teresa Molitor, Idaho Pathology Society; Ken McClure, Idaho Medical Association; Ryan Cole, Cole Diagnostics; Mark Kieckbusch, President, Idaho Pathology Society; Jim Weiss, Primary Health Medical Group; Russ Newcomb, Idaho Medical Association; Roger Hales, Idaho Bureau of Occupation Licenses.

With a quorum present **Vice Chair Nielsen** called the meeting to order and requested a silent roll call. The Vice Chair welcomed the members and guests and invited **Quane Kenyon** to address the committee.

**Mr. Kenyon** distributed copies of the Board of Health and Welfare's 2006 annual report and explained that H0832a (2006) had initiated progressive changes and more oversight authority for the board, and appointed the chairs of the Senate and House germane committees as board members; three member positions are due for reappointment this year. **Mr. Kenyon** explained the board has four subcommittees: (1) Health Services, (2) Support Services, (3) Welfare and Family Community Services, and (4) Community and Legislation Services. Responding to a question from **Rep. Nielsen**, **Mr. Kenyon** stated that board membership represents various professions and geographic regions, and is a good example of what part-time citizen boards can accomplish. Responding to a question from **Rep. Rusche**, **Mr. Kenyon** stated that public funding and methamphetamine were among Idaho's most immediate health issues. **Rep. Rusche** and **Vice Chair Nielsen** thanked Mr. Kenyon and the board for their service.

**Vice Chair Nielsen** invited former **Rep. Kathie Garrett** to address the committee. **Ms. Garrett** circulated handouts and said that in 2005, 225 Idaho people died by suicide, at a rate 37% higher than the national average; suicide is the second leading cause of death for people between the ages of 16 and 24; each suicide creates some 20 survivors. **Ms. Garrett** explained that the establishment of the Governor's Council on Suicide Prevention in 2003 recognized a suicide crisis in Idaho; HCR031 (2006) further supported the Suicide Prevention Plan, which was developed by a diverse planning group, with Patricia Kempthorne and Rep. Henbest. **Ms. Garrett** explained that Governors Kempthorne and Risch had directed the council to (1) oversee the implementation of the plan, (2) ensure its continued relevance, (3) be a proponent for suicide

prevention, and (4) report annually to the Governor and Legislature; the council's first step was to identify current efforts and build on those efforts; the council is collecting data for a report due next year.

**Vice Chair Nielsen** invited **Kim Kane** to address a question from **Rep. Thayne**. **Ms. Kane** stated that Idaho's rate of suicide has been in the top 10% of the nation since the 1950s. **Ms. Garrett** explained that the Suicide Prevention Plan targets especially vulnerable groups—such as elderly and young men and Native Americans—and risk factors such as mental illness and substance abuse; suicides may be under-reported because they are often classified as accidents. **Vice Chair Nielsen** thanked Ms. Garrett and Ms. Kane.

**H0122:**

**Rep. McGeachin** presented H0122, to provide for direct billing of certain anatomic pathological services. **Rep. McGeachin** explained this legislation is in line with guidelines of the American Medical Association (AMA) and with federal practice, and is intended to protect Idaho patients from unethical “markup” charges which may occur when a physician bills patients for pathology services performed by another physician; this does not preclude the physician from billing for related evaluation and management services; amendments to this legislation clarify the definition and applicability of a pap smear, strike the word ‘clinic’ in two places, and correct a drafting error; the bill allows dermatologists to read their own slides and allows dermatopathologists to be paid appropriately for their own laboratory services. **Rep. McGeachin** asked that H0122 be sent to general orders with amendments attached.

**Vice Chair Nielsen** invited the public to testify on the bill. **Teresa Molitor** spoke in favor of the bill, explaining technical details of the bill, including language clarifications and definitions. **Ms. Molitor** explained the bill included flexibility for lab-to-lab consultations and to ensure doctors may engage the pathologist of their choice; Section 4 allows reimbursement only by direct billing between the service provider and the patient or other payer. **Ms. Molitor** stated the Idaho Pathology Society has actively communicated with the Idaho Medical Association and addressed their questions and concerns. Responding to a question from **Rep. Luker**, **Ms. Molitor** stated that the language of the bill has allowed Idaho insurance companies to remain neutral. Responding to a question from **Rep. Thayne**, **Ms. Molitor** stated that 12 states have legislated against in-direct billing markups; Medicaid and Medicare have required direct billing since 1984.

**Vice Chair Nielsen** invited the public to address a question from **Rep. Bilbao**. **Ken McClure** stated that during the December meeting of the board of the Idaho Medical Association, none of the 15-20 physicians in attendance said they applied markups, and no one knew of any other physician who engaged in the practice; since that meeting, however, the board has heard of a few instances. **Ryan Cole** stated the practice is common in Idaho and other states; all laboratories (foreign or national) that test slides from Idaho, must be licensed in Idaho.

**Rep. Luker** asked how the bill addresses privity of contract, regarding the relationship between the physician and laboratory, and why the bill did not just prohibit markups, instead of requiring direct billing. **Ms. Molitor** was

unable to address the question. Responding to another question from **Rep. Luker, Ms. Molitor** stated that by requiring direct billing of patients, the bill did not intend to discourage out-of-state laboratories from providing services. **Mark Kieckbusch** spoke in favor of the bill, citing studies indicating that health care costs are 9.6% higher in areas allowing markups, and 28% more tests are ordered; the AMA considers this practice unethical.

**Jim Weiss** spoke in opposition, stating that this bill reduces competition and the ability to improve services; Primary Health Medical Group does have a markup for pathology services as a means of compensation for follow-up with patients regarding laboratory results. Responding to a question from **Rep. Chew, Dr. Weiss** explained that in exchange for guaranteed, regular payments and volume, pathology labs offer competitive discounted charges; this arrangement allows laboratories to avoid the risks of billing and collections, and the discount helps physicians keep their doors open as Medicare and Medicaid reimbursements continue to decline. Responding to a question from **Rep. Marriott, Dr. Weiss** said markups may be 5-10%, or may raise the charge to the maximum amount allowed by the insurance company. Responding to a question from **Rep. Marriott, Dr. Weiss** stated physicians cannot add a second charge for follow-up services (rather than markup the laboratory fee), because there is no medical code for telephone consultations.

**Russ Newcomb** spoke in opposition, stating that while the Idaho Medical Association does not support fee-splitting or inappropriate markups, it does support reimbursement for legitimate expenses, such as physicians' efforts to interpret and communicate laboratory results to patients. **Dr. Newcomb** said the association would work with the Idaho Pathology Society to develop language that would guarantee patient rights.

**Dr. Cole** spoke in favor of the bill, stating that direct billing is an honest and ethical way to provide services and does not inhibit physicians or pathologists from consulting with other experts; studies have shown that the cost of testing decreases where direct billing is allowed. Responding to a question from **Rep. Rusche, Dr. Cole** expressed his view that it was the Legislature's role to define ethical standards for the profession and ensure patients are not treated as commodities. Responding to a question from **Rep. Henbest, Dr. Cole** acknowledged that direct billing does present added burden for pathology laboratories but that the ethical issue takes precedence over inconvenience.

**Rep. McGeachin** reminded the committee that H0122 is about transparency and patient protection, and would help to drive down the cost of health care in Idaho. **Chair Block** accepted the gavel from **Vice Chair Nielsen**.

**MOTION:**

**Rep. Shepherd** moved that H0122 be reported back to the House with amendments attached to be placed on General Orders for consideration.

**SUBSTITUTE MOTION:**

**Rep. Marriott** offered a substitute motion that the committee hold H0122 to a time certain, so that the parties involved may present a compromise. **Rep. Rusche** led a discussion of the role of the Legislature in the financial management of clinics, compared to its role in the management of greater

issues of health care costs.

**AMENDED  
SUBSTITUTE  
MOTION:**

**Rep. Loertscher** offered an amended substitute motion that the committee hold H0122 to a time certain, at the discretion of the chair. **Rep. Loertscher** said it was important to ensure a resolution that protects patients while guarding against an additional layer of costs. **Rep. Luker** noted the need to address wider issues impacting billing practices, such as the lack of an AMA Current Procedural Technology (CPT) code for telephone consultations. **Rep. Nielsen** noted a certain date would encourage the parties to return with a timely resolution that meets the needs of the public and the professions involved.

A roll call vote was taken:

- Chair Block, Vice Chair Nielsen, and Reps. Bilbao, Loertscher, Luker, Marriott, Thayn, Henbest, Rusche, and Chew voted aye.
- Reps. McGeachin and Shepherd voted nay.

The motion carried. **Chair Block** announced H0122 would be re-heard in committee on February 22, 2007.

**H0034:**

**Chair Block** invited **Roger Hales** to present H0034. **Mr. Hales** stated this Board of Acupuncture bill would revise license and certification requirements, and include engaging in conduct violating this chapter or the rules of the board as cause for discipline. Responding to a question from **Rep. Luker**, **Mr. Hales** explained this legislation applies primarily to the medical profession, excluding doctors of medicine (MDs) and doctors of osteopathy (DOs), and does not at this time apply to nurses.

**MOTION:**

**Rep. Rusche** moved that the committee send H0034 to the House floor with a do pass recommendation. The motion carried by a voice vote. Rep. Rusche will carry H0034 to the floor.

**H0004:**

**Mr. Hales** explained that H0004 does not increase the fee for applications for residential care administrator licenses (which is addressed by an administrative rule), but increases the allowable cap for those fees (from \$100 to \$200); the Board of Examiners of Residential Care Facility Administrators is facing a deficit situation.

**MOTION:**

**Rep. Nielsen** moved that the committee send H0004 to the House floor with a do pass recommendation. The motion carried by a voice vote. Rep. Bilbao will carry H0034 to the floor.

**Chair Block** asked the committee to review the budget subcommittee's draft recommendations for the Joint Finance-Appropriations Committee (JFAC). **Rep. Henbest** debated the cost-effectiveness of purchasing additional Tamiflu (*oseltamivir*, manufactured by Roche Group) for a pandemic flu (H5N1) that may be Tamiflu-resistant, and led a discussion regarding local, private, and alternative public stocks. There was no objection to recommending the supplemental "Rotavirus, Varicella, Pandemic Flu," as written.

The committee discussed the draft recommendation to *not* fund FTPs under the line item "Substance Abuse Funding." **Chair Block** noted the subcommittee's intent to provide flexibility for funding. **Rep. Loertscher** observed this recommendation would indicate clearly an intent that

funding be reserved for treatment, rather than administration. The committee expressed no objection to this recommendation.

**Rep. Henbest** explained that recent information on the line item "Medicaid Quality Assurance" suggested this function may be accomplished with existing staff, and recommended this committee's report reflect that possibility.

**MOTION:**

**Rep. Nielsen** moved that the committee accept the budget recommendations document, as amended, for presentation to JFAC. The motion carried by voice vote.

**Chair Block** thanked the members for their work, and the guests for their testimony, and announced the next meeting would take place on February 20, 2007.

**ADJOURN:**

The meeting adjourned at 5:00 p.m.

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Representative Pete Nielsen  
Vice Chair

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Mary Lou Moon  
Secretary

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Representative Sharon Block  
Chair

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 20, 2007

**TIME:** 1:30 p.m.

**PLACE:** Room 404

**MEMBERS:** Vice Chair Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Henbest, Rusche, Chew

**ABSENT/  
EXCUSED:** Chair Block

**GUESTS:** Congressman Bill Sali; Representative Russ Mathews; Linda Hatzenbuehler, Chair, State Planning Council on Mental Health; Kathleen Allyn, Administrator, Division of Behavioral Health, Department of Health and Welfare; Sarah Scott, Program Operations Manager, Idaho Commission on Aging; Ken McClure, Idaho Medical Association; Justin Whatcott, Deputy Attorney General, Office of the Attorney General; Tracy Warren, Idaho Council on Developmental Disabilities; David Simnitt, Division of Medicaid, Department of Health and Welfare; Jim Baugh, Executive Director, Comprehensive Advocacy Inc.; Sheri Rogers, Vice President, Western Health Care Corporation; Robert Vande Merwe, Idaho Health Care Association; Breda Wilson, R.N.; Sandy Evans, Executive Director, Idaho State Board of Nursing; Mick Marksuon, Executive Director, Idaho State Board of Pharmacy.

With a quorum present, **Vice Chair Nielsen** called the meeting to order and requested a silent roll. The Vice Chair announced the second hearing for H0122 is rescheduled from February 22 to February 26.

**MOTION:** **Rep. Shepherd** moved to accept the rules subcommittee 1 minutes of January 16, 22, and 24, as written. The motion carried by voice vote.

**MOTION:** **Rep. Henbest** moved to accept the full committee minutes of February 8, as written. The motion carried by voice vote.

**MOTION:** **Rep. Henbest** moved to accept the full committee minutes of February 12, as written. The motion carried by voice vote.

**MOTION:** **Rep. Henbest** moved to accept the budget subcommittee minutes of February 12, as written. The motion carried by voice vote.

**Vice Chair Nielsen** welcomed the guests and invited **Linda Hatzenbuehler** to present. **Dr. Hatzenbuehler** explained the State Planning Council on Mental Health, established by a 1988 Executive Order, has a federal mandate to provide advocacy and monitoring, and to annually plan for utilization of federal block grants and other public mental health funding; 50% of council members are citizens affected by mental illness or who have family members affected by mental illness. **Dr. Hatzenbuehler** requested committee members volunteer to sit on the council—expanded by S1389 (2006) to include judicial and legislative

representation--and circulated a summary of the accomplishments and challenges of the last year. Responding to a question from **Rep. Thayne, Dr. Hatzenbuehler** explained families helped the council write this report.

**Vice Chair Nielsen** invited **Kathleen Allyn** to respond to a question from **Rep. Bilbao. Ms. Allyn** stated the majority of public respite beds, and transitional and crisis housing in the regions were provided through \$2 million from the 2006 Legislature. Responding to a question from **Rep. Luker, Dr. Hatzenbuehler** explained that some council priorities would require legislative action (e.g., transportation for individuals being reviewed for involuntary commitment, and establishment of a secure mental health facility). Responding to a question from **Rep. Rusche, Dr. Hatzenbuehler** stated Idaho needed to better address the medical and correctional challenges of co-occurring disorders (mental health-substance abuse); the council opposes placing individuals with co-occurring disorders in non-medical detainment facilities, which some counties are forced to do. Responding to questions from **Vice Chair Nielsen, Dr. Hatzenbuehler** explained that a secure mental health facility is needed to house and treat convicted felons with serious mental illnesses; although individuals who are charged but not competent to stand trial may be placed in state hospitals under Title 66 (Idaho Code), these open-campus are not equipped to deal with assaultive behaviors; the insufficiency of resources for crisis and emergency needs inhibits the council's ability to direct resources to options for early intervention and prevention (e.g., parent training and education in schools). **Vice Chair Nielsen** thanked Dr. Hatzenbuehler.

**H0166:**

**Rep. Mathews** presented H0166, to resolve the state's currently limited ability to address Medicaid fraud investigations. **Rep. Mathews** explained this legislation will assist legitimate prosecutions by defining and providing for a certified Medicaid fraud program (as outlined and required in United States Code) in the Office of the Attorney General that is outside the scope and purview of the Department of Health and Welfare Medicaid Fraud Control Unit; because of its proven record of firm but fair prosecutions and public service, the Attorney General's office is a logical choice; recognizing Idaho as one of two states without a certified unit, the federal government will provide the majority of funding. **Rep. Mathews** explained that H0166 defines fraud as a knowing or intentional deception or misrepresentation with an intent to gain unauthorized benefit; the unit would act as a deterrent and promote accountability, and may increase financial recoveries and resolve the current lack of elder abuse investigations and prosecutions. Responding to a question from **Rep. Luker, Rep. Mathews** said federal law defines a pattern for this unit, e.g. staffing; highly-qualified, specialized staff will ensure evenhanded prosecutions, and exoneration when needed.

**Vice Chair Nielsen** invited the public to testify. **Sarah Scott** spoke in favor, stating that cases of fraud and misappropriation of Medicaid resources often accompany abuse and neglect of vulnerable adults. **Ms. Scott** pointed out that elder abuse deprives individuals of their personal resources and health, compounding burdens on public medical assistance programs; of 225 adult protection cases with probable cause handled by law enforcement in 2006, only 31 were prosecuted, and 23 resulted in conviction. **Ms. Scott** stated that a specialized unit will be able

to handle the unique complications and circumstances of elder abuse, and share expertise with local prosecutors, law enforcement, and regional adult protection units.

**Ken McClure** spoke against the bill as written, and circulated an proposed amendment to clarify intent. **Mr. McClure** explained the Idaho Medical Association objected to Section 3(2), whereby discarding relevant records before five years is a misdemeanor, and a felony if those records relate to care valued in excess of \$1000; while destruction of records by flood or fire is exempt, innocently but intentionally directing documents or electronic records to be destroyed is a crime under the definition in Section 2(1)(d), regardless of whether the intent is to (a) evade the law or (b) destroy documents. Responding to questions from **Rep. Marriott** and **Vice Chair Nielsen**, **Mr. McClure** stated that records requests will entail time, cost, and anxiety for providers; the association does not object to housing investigators and prosecutors together; although this bill does not require probable cause to subpoena records, the association trusts the judgement of the Attorney General. Responding to a question from **Rep. Luker**, **Mr. McClure** indicated the courts would deal with abuse of powers in this bill, and cited *Marshall v. Barlow's, Inc.*, 436 US 307, 313 (1978).

**Vice Chair Nielsen** invited **Rep. Mathews** to respond. **Rep. Mathews** noted that the provisions of H0166 ensure greater independence to investigations and prosecutions; because clerical and administrative mistakes do not rise to the level of criminality, the bill also establishes cooperative case referrals between the department and the Attorney General. **Rep. Mathews** also reminded the committee that the definition of fraud is clearly linked to knowing action with fraudulent intent, and that all subpoenas are subject to the checks and balances of judicial review.

**Vice Chair Nielsen** invited **Justin Whatcott** to speak for the Attorney General's office. **Mr. Whatcott** noted that probable cause applies to obtaining search warrants and filing criminal charges; the subpoena power granted in this bill is a procedural mechanism to obtain from providers specific information that is already subject to disclosure. Regarding Section 3(2), **Mr. Whatcott** explained that Idaho Code [§18-114] requires that all crimes be associated with criminal intent; as written, this bill stipulates intent (i.e., a physician who destroyed records for non-criminal purposes would not be prosecuted); the proposed amendment more specifically defines that intent, but is not strictly necessary. **Mr. Whatcott** explained the proposed unit mirrors federal requirements and would have concurrent jurisdiction with local prosecutors; housing investigations and prosecutions together is required by law and provides for specialized personnel; currently, prosecutors do not often prosecute fraud and abuse cases because, as generalists, they lack the necessary specialization. **Rep. Mathews** concluded that H0166 was important enough to warrant moving forward without further delay, and asked the committee for their support of the bill, as amended.

**MOTION:**

**Rep. Rusche** moved that the committee report back H0166 with amendments attached to be placed on general orders for consideration. **Rep. Rusche** observed that the bill mirrored best practice in commercial firms—when an audit uncovers cases that rise to the level of fraud, they are referred to a separate unit—and would allow the Attorney General to



cooperate with the Federal Bureau of Investigations (FBI) and other agencies in broader investigations. **Rep. Marriott** and **Rep. Bilbao** concurred that the amendment was a necessary clarification. **Rep. Henbest** discussed the merits of the legislation in respect to elder abuse and debated the impact of 1995 legislation which separated the Idaho Commission on Aging from the Department of Health and Welfare. The motion carried by voice vote.

**HCR015:**

**Rep. Henbest** presented HCR015, advancing a proposal to extend a client-directed service model (currently available for adults with developmental disabilities) to families of children with developmental disabilities; this would allow families to purchase the services they need, rather than opt for provider packages that include unnecessary services; the Department of Health and Welfare's Council on Developmental Disabilities conducted a feasibility study through the help of a stakeholder group; recognizing the uniqueness of families in terms of their strengths and weaknesses, and resources and supports, this resolution would allow the stakeholder group to continue working.

**Vice Chair Nielsen** invited the public to testify. **Tracy Warren** spoke in favor of the bill, stating the council's stakeholder group has worked effectively to design a model for implementation and to identify solutions. **Ms. Warren** circulated a report and said the resolution sought to provide flexibility and choice for families. **David Simnitt** spoke in favor, citing the Division of Medicaid's efforts to convene stakeholders and develop recommendations for family-directed services (e.g., that family-directed options are available for children living at home; transitional services continue as an option; services will support families and family and community settings). **Jim Baugh** spoke in favor, commending the department for its forward-thinking and observing that consumer-directed services has been modeled by Medicaid and allowed by the federal Deficit Reduction Act (2005), and will allow parents to choose less expensive and more appropriate, family-friendly, and community-based services. Responding to a question from **Rep. Nielsen**, **Mr. Baugh** explained that families of children with developmental disabilities become knowledgeable very quickly; while the family-directed model has risk management safeguards, traditional services would still be available for families who may not have the skills to direct services for their child.

**MOTION:**

**Rep. Bilbao** moved that the committee send HCR015 to the House floor with a do pass recommendation. **Rep. Thayne** commended the bill for its family-friendly approach. The motion carried by a voice vote.

**H0157:**

**Rep. Henbest** presented H0157, creating a category of licensure for a certified medication assistant (CMA); CMAs will help address workforce shortage issues in long-term care facilities by freeing registered nurses to perform the high-level functions for which they are uniquely prepared. **Rep. Henbest** noted that safety concerns have been satisfactorily addressed in this legislation.

**Vice Chair Nielsen** invited the public to testify on H0157. **Sheri Rogers** spoke in favor, stating that CMAs would be a stable, safe, and supervised practice, overseen by the Board of Nursing. **Robert Vande Merwe** spoke in favor of the bill, stating that it would grant necessary authority to the

board, and alleviate interruptions and demands on nurses' time that can lead to inconsistency or error. **Breda Wilson** spoke in favor, stating that nurses may be required to juggle medication carts and urgent care, leaving little time for parent care or timely medications; CMA positions also offer a path for certified nursing assistants who cannot afford college to seek additional skills and an increased wage. **Vice Chair Nielsen** noted that **Barnard Buffard**, not present, had indicated his support.

**Sandy Evans** spoke in favor, explaining that the National Council of State Boards of Nursing approved a preliminary curriculum and model act and rules for CMAs; by allowing the board to establish parameters and authorize appropriate settings, this bill provides "for the right thing always to be done," as Florence Nightingale put it; CMAs will be qualified to administer routine medications, but will not replace nurses in assessments, evaluations, teaching, or in the administration of medications that carry substantial risk. Responding to a question from **Rep. Marriott**, **Ms. Evans** explained that CMA training could be offered under the public professional-technical system, usually non-degree-granting outreach in high schools and adult education settings. Responding to questions from **Rep. Bilbao**, **Ms. Evans** said rules could authorize CMAs to administer over-the-counter drugs (with written orders), legend medication, and in some cases, controlled substances—all would be routine (not those requiring a pre- or post-assessment or having an unpredictable outcome); the board would look to accreditation bodies and the department to determine what is appropriate for hospitals. **Rep. Henbest** noted the committee could expect rules next session.

**MOTION:** **Rep. Rusche** moved that the committee send H0157 to the House floor with a do pass recommendation. The motion carried by a voice vote. **Vice Chair Nielsen** commended the parties involved for their willingness to work together without reference to professional territory.

**H0164:** **Vice Chair Nielsen** invited **Mick Markuson** to present H0164. **Mr. Markuson** said he was in full agreement with a letter from the Idaho Retail Pharmacy Council regarding the impact of policy on local versus out-of-state pharmacies; insurers direct participants to utilize mail-order firms as an efficiency measure; as a result, community pharmacies are losing ground to automated out-of-state suppliers. **Rep. Rusche** discussed how these efficiencies and economy of scale allows health plans to lower consumer costs. Responding to questions from **Reps. Bilbao, Marriott**, and **Luker**, **Mr. Markuson** explained Idaho law does not restrict the number of days for which a prescription may be written; however, because of cost considerations, insurers encourage consumers to go out of state by limiting local pharmacies to a 30-day supply; there has not been an attempt (through legislation) to equalize limits for local and out-of-state pharmacies; such an effort would likely be controversial.

**MOTION:** **Rep. Bilbao** moved that the committee send H0164 to the House floor with a do pass recommendation. The motion carried by a voice vote. **Rep. Rusche** and **Rep. Chew** will carry H0164 to the floor.

**H0158:** **Mr. Markuson** explained that H0158 was a housekeeping bill correcting an omission and providing law enforcement access to patient information through the exercise of court orders, search warrants, subpoenas.

**MOTION:** **Rep. Bilbao** moved that the committee send H0158 to the House floor with a do pass recommendation. The motion carried by a voice vote. Rep. Marriott will carry H0158 to the floor.

**ADJOURN:** **Vice Chair Nielsen** invited **Congressman Bill Sali** to address the committee. **Rep. Sali** commended the committee for their work and provided an update on progress in the US Congress.

The meeting adjourned at 3:50 p.m.

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Representative Pete Nielsen  
Vice Chair

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 22, 2007

**TIME:** 1:30 p.m.

**PLACE:** Room 404

**MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Luker, Marriott, Thayne, Henbest, Rusche, Chew

**GUESTS:** Representatives Liz Chavez and George Sayler; Bill von Tagen, Deputy Attorney General, Office of the Attorney General; Dia Gainor, EMS Bureau, Department of Health and Welfare; Bob Seehusen, Chief Executive Officer, Idaho Medical Association; Bob Aldridge, Attorney, HCR 40 Task Force; Leslie Clement, Administrator, Division of Medicaid, Department of Health and Welfare; Jason Herring, Right to Life of Idaho; Terry Pappin, Department of Health and Welfare; Pam Eaton, Idaho Retailers Association and Idaho Lodging and Restaurant Association.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call.

**MOTION:** **Rep. Nielsen** moved to accept the full committee minutes of February 14, as written. The motion carried by voice vote.

**MOTION:** **Rep. Rusche** moved to accept the budget subcommittee minutes of February 13, as written. The motion carried by voice vote.

**MOTION:** **Rep. Bilbao** moved to accept the minutes of January 18 and 22, as written, for rules subcommittee 3. The motion carried by voice vote.

**Chair Block** announced that **Rep. Nielsen** is appointed to represent the committee on a stakeholders committee convened to negotiate rules for the Idaho Child Care Program. The Chair also announced, at the request of parties involved, H0138 is referred to a subcommittee for deliberation on February 27, at 3:30; consensus legislation will be returned to this committee on February 28. The subcommittee members are:

Rep. Carlos Bilbao, Chair  
Rep. Tom Loertscher  
Rep. Jim Marriott  
Rep. Lynn Luker  
Rep. John Rusche

The Chair announced February 28 as the final day for hearing House bills in committee, with a target to complete session work by mid-March.

**H0119:** **Chair Block** invited **Bill von Tagen** to present H0119. **Mr. von Tagen** explained that the Attorney General's office and Department of Health and Welfare convened a multi-disciplinary task force to address HCR040 (2006); that resolution called for a universal form for physician orders for health care decisions at the end of life; this form would replace Do Not

Resuscitate (DNR) orders and work with living wills. **Mr. von Tagen** stated that the larger issue is personal autonomy, the ability to consent to or decline medical treatment, and the provision of a mechanism by which a person who cannot speak for themselves can make their consent known. **Mr. von Tagen** thanked the committee, the task force, and Robert Vande Merwe for their contributions to this legislation, and discussed the organization, consolidated sections, added definitions, few changes, and objectives of the legislation.

**Mr. von Tagen** explained that the Physical Orders for Scope of Treatment (POST) form is simple to use, on a single page, and avoids technical terms; whereas DNRs were not transferable between institutions, POSTs stay with the patient, encourage patient confidence, and protect medical personnel who must make decisions quickly (an amendment addresses an omission in the related section 16, page 13, line 9). Regarding living wills, **Mr. von Tagen** stated that, in line with current practice, the bill reduces the number of physicians (from 2 to 1) required to pronounce a permanent vegetative state; a small hospital or nursing home may not have a second doctor on staff, and some decisions must be made quickly. Responding to a question from **Rep. Nielsen**, **Mr. von Tagen** explained these are minimal requirements; existing or future living wills that require more than one physician, will remain effective. **Mr. von Tagen** explained that further sections clarify language related to common law rights: e.g., antiquated language relating to a person's state of mind is replaced by language to ensure physicians do not attach meaning to unconscious acts; other changes ensure living wills and POSTs work together and do not supercede one another; new sections define when a POST is appropriate (e.g., in the case of an incurable disease) and when it is effective (i.e., on execution, as with living wills), and provide for a physician review if conditions change.

Responding to a question from **Rep. Nielsen**, **Mr. von Tagen** explained that POST forms may be signed by the patient or by the durable power of attorney representative or surrogate; the living will reflects your desires, and a durable power of attorney representative speaks for you to effectively carry out those desires; without a POST, and because living wills are often informally drafted, hospitals would look first to the durable power of attorney representative for decisions; the POST form is designed to fill that gap, and encourage the physician and the individual to address treatment choices together; if the patient cannot speak for his or herself and there is any conflict between the living will, power of attorney, or POST, the POST is the final authority.

Responding to a question from **Rep. Henbest**, **Mr. von Tagen** explained H0119 allows a physician to issue a superceding POST form—signed by the patient or the durable power of attorney representative—so that if conditions change (such as an improved prognosis) the patient is not locked into a position. **Rep. Henbest** pointed out that this had a practical benefit, ensuring the individual's consent to treatment is properly respected. Responding to a question from **Rep. Luker**, **Mr. von Tagen** stated that because the POST form, or a superceding POST form, must be signed by the physician and the patient [see sample POST form attached to minutes of February 6, 2007], it ensures the patient or the patient's representative is consulted; aside from a physician moving

forward without consent or improperly entering orders, when in doubt, the option is life.

Responding to a question from **Rep. McGeachin**, **Mr. von Tagen** stated that H0119 does not change current practice—if an individual who is unable to speak for his or herself has a living will but does not have a POST, the physician may issue a DNR order (if in line with the living will) or will follow the direction of the durable power of attorney representative (required to consent to treatment)—the POST form gives more enforceable voice to the patient or his or her representative. Responding to a question from **Rep. Marriott**, **Mr. von Tagen** explained that medical personnel are not required to continue CPR if or when it falls under the definition of futile care. Responding to a question from **Rep. Thayn**, **Mr. von Tagen** stated that the bill clearly rejects euthanasia, but does provide for the patient's right to refuse medical treatment; the bill also prohibits providers or personnel from requiring patients to draft a living will as a condition of treatment. Responding to a question from **Rep. Marriott**, **Mr. von Tagen** explained the bill provides for registration of healthcare directives with the Secretary of State; with the aid of a healthcare directive card, physicians may be able to quickly access that information.

**Chair Block** invited the public to testify on H0119. **Dia Gainor** spoke in favor of the bill, stating the Department of Health and Welfare had actively participated in the task force; the EMS Bureau affirms its intent to provide easily recognized POST forms and notification bracelets and necklaces; the bureau is responsible for distributing DNR forms and received requests for a record number (7,000) of forms in fiscal year 2006. **Bob Seehusen** spoke in favor, saying the POST was another excellent tool alongside the durable power of attorney. **Chair Block** invited **Bob Aldridge** to address a question from **Rep. Nielsen**. **Mr. Aldridge** stated H0119 carries forward the current statutory immunity for providers and emergency personnel, and directs that if there is a significant dispute, EMTs should avoid confrontation, and should avoid making decisions whenever there is doubt.

**MOTION:** **Rep. Rusche** moved that the committee report back H0119 with amendments attached to be placed on general orders for consideration. The motion carried by voice vote. Rep. Henbest and Rep. Luker will carry H0119 to the House floor.

**H0168:** **Vice Chair Nielsen** led the committee while **Chair Block** presented H0168. **Rep. Block** explained H0168 updates terms and definitions and corrects omissions to be consistent with the federal Deficit Reduction Act (2005)—which has granted Idaho the necessary authority to undertake Medicaid reforms—and clarifies eligibility ages for the Medicare-Medicaid coordinated plan, formally recognizes existing residency programs to reflect their important contributions, and updates references to personal health benefits assistance (meant to provide incentives for good health decisions); this bill does not alter the original intent of Idaho's Medicaid Simplification Act (2006). **Vice Chair Nielsen** invited the public to testify. **Bob Seehusen** spoke in favor of the bill. Responding to a question from **Vice Chair Nielsen**, **Leslie Clement** stated the Medicaid Simplification Act and this bill will help the state control the rate of growth in Medicaid by tailoring benefits to need.

- MOTION:** **Rep. Bilbao** moved that the committee send H0168 to the House floor with a do pass recommendation. The motion carried by voice vote.
- H0165:** **Rep. Chavez** presented H0165 and circulated letters of support and federal statistics on the prevalence of fetal alcohol syndrome and other alcohol related birth disorders; she noted the tragic ways fetal alcohol syndrome has impacted individuals and their families and explained this bill would place warning signs where alcohol is sold, regarding the health effects of alcohol consumption immediately before or during pregnancy. **Rep. Block** noted the serious but preventable behavioral and mental impairments that accompany fetal alcohol syndrome—the primary cause of birth defects and a significant source of suffering and expense.
- Vice Chair Nielsen** invited the public to testify. **Jason Herring** spoke in favor of the bill, for helping to inform mothers and improve the quality of life for unborn children; he argued that if signs are posted for wet floors and other routine hazards, signs warning of the effects of alcohol consumption are only appropriate. **Terry Pappin** noted the Department of Health and Welfare supports the bill as a cost-effective first step towards prevention. **Pam Eaton** expressed concern that the bill further regulated retailers, who have difficulty finding space for the signs already required; she suggested that shelf tags would be appropriate in stores, and signs could be placed in the restrooms of restaurants, and that retailers would be happy to comply with a voluntary program.
- Responding to questions from **Rep. Luker**, **Rep. Chavez** explained that the reference to “distributing stations” was taken from a definition in the rules of the state liquor dispensary [IDAPA 15.10.01.011]; while placing signs where alcohol is purchased is optimum, the sponsors of the bill are happy to work with retailers to find locations that will be regularly noticed; to encourage voluntary participation, the bill does not include an enforcement mechanism. Responding to questions from **Rep. Henbest**, **Ms. Pappin** explained that the prototype sign developed by the department is a standard self-adhesive and all-weather bumper sticker; the department will work with retailers to create signs for a variety of settings; the legislation provides flexibility regarding where signs are posted, recognizing that it is more important to be seen regularly (e.g., a restroom) than in a particular area. Responding to a question from **Rep. Shepherd**, **Rep. Chavez** said no kind or amount of alcohol is safe for a pregnancy. Responding to questions from **Rep. Thayn**, **Rep. Chavez** said about 1 child in 100 is affected by alcohol consumption during pregnancy, and that no geographic area is more or less at risk.
- MOTION:** **Rep. Marriott** moved that the committee send H0165 to the House floor with a do pass recommendation. **Rep. Rusche** noted this legislation was a good step, addressing fetal alcohol syndrome as a devastating, expensive, and preventable cause of birth defects. **Rep. Loertscher** led a discussion of the responsibility of the individual and the role of the family in preventing fetal alcohol syndrome. **Rep. Henbest** noted the importance of speaking for children through education for both mothers and fathers. The motion passed by voice vote. **Vice Chair Nielsen** returned the gavel to **Chair Block**.
- H0163:** **Rep. Saylor** presented H0163 and explained that amendments have

been provided as a result of negotiations with providers, parents, and others; this bill calls for more oversight and accountability for child care, through health and safety reviews and other basic assurances; current statute dates back to 1987, while, due to socioeconomic factors, the number of traditional families have declined: in two-thirds of families, both parents work, increasing the need for safe child care; the bill, as amended, allows for local, voluntary licensing, while leaving room for small (less than five children not related to the provider) and rural providers; in addition, sections regarding sex offenders will be amended to clarify that a daycare may not operate where a sex offender resides; a fee increase will cover the cost of criminal history/background checks.

Finding typographical discrepancies between the proposed amendments and the bill, **Chair Block** requested that **Rep. Saylor** return, at the next committee meeting, with a corrected and simplified list of amendments. Members of the public wishing to testify indicated they would give their testimony at that time.

**Chair Block** thanked the guests and Rep. Saylor for accommodating the needs of the committee, and announced the next meeting would take place on Monday, February 26, 2007.

**ADJOURN:** The meeting adjourned at 4:20 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary



## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** February 26, 2007
- TIME:** 2:45 p.m.
- PLACE:** Room 404
- MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Marriott, Luker, Thayne, Henbest, Rusche, Chew
- ABSENT/  
EXCUSED:** Representative Bilbao
- GUESTS:** Representatives Bob Nonini and JoAn Wood; Linda Hatzenbuehler, Chair, State Planning Council on Mental Health; Bonnie Lind, Director of Research, Idaho Nursing Workforce Center; Steve Millard, President, Idaho Hospital Association; Buffie Main, Executive Director, The Idaho Connection; Carissa Miller, Boise State University Health Sciences; Kent Kunz, Idaho State University; Susan Ault, Executive Director, Idaho Alliance of Leaders in Nursing; Denise Chuckovich, Executive Director, Idaho Primary Care Providers; James Schroeder, CEO, Family Health Services; Steven Weeg, Executive Director, Health West; Karen Mason, Executive Director, Idaho Association for the Education of Young Children; Sylvia Charriton, American Association of University Women; Fairy Hitchcock; Elena Rodriguez, Idaho Voices for Children; Bill Ziegert, President, Smoke Guard Corporation; Cathy Kowalski, North Idaho Association for the Education of Young Children; Larry Tisdale, Bureau Chief, Financial Operations, Division of Medicaid, Department of Health and Welfare; John Villegas-Grubbs, Johnston, Villegas-Grubbs & Associates; Leslie Clement, Administrator, Division of Medicaid.
- With a quorum present, **Chair Block** called the meeting to order and requested a silent roll. The Chair welcomed the guests and thanked them for their interest and dedication.
- HCR020:** **Vice Chair Nielsen** led the committee while **Chair Block** presented HCR020. **Rep. Block** reminded the committee that it had voted to reject §100.12 from the Board of Nursing docket 23-0101-0601, which specified that failure to supply information to board investigators was grounds for discipline; the committee felt protections and definitions were vague and the section may infringe on an individuals 5th amendment rights. **Rep. Luker** noted the rejected section did not define what type of information would be subject to investigatory procedures (and thus, discipline); when an information request is disputed in civil proceedings, it is subject to court rule and there is no discipline without judicial review.
- MOTION:** **Rep. Thayne** moved that the committee send HCR020 to the House floor with a do pass recommendation. The motion carried by voice vote. Reps. Henbest, Rusche, and Chew voted nay.
- HCR021:** **Rep. Block** presented HCR021; the committee had voted to reject in whole the proposed rule changes for the Idaho Child Care Program;

because the docket lacked a long-term rationale and reduced eligibility for students to two years (less than the time needed to gain a bachelor's degree), the committee recommended the department and stakeholders devise a solution to update the poverty guidelines for working families without decreasing college student coverage to less than four years.

**MOTION:** **Rep. Rusche** moved that the committee send HCR021 to the House floor with a do pass recommendation. The motion carried by voice vote.

**H0160:** **Rep. Henbest** presented H0160, which reflects a recommendation of the Governor Risch's Task Force on Nursing that doctoral nursing studies be offered through the professional studies program, which supports the pursuit of professional education not available in Idaho; the Board of Education will decide how to move forward; this bill does not preclude creating an in-state doctoral program. **Rep. Block** noted that Idaho's nursing shortage will become critical by 2020, and existing nursing programs need additional faculty.

**Vice Chair Nielsen** invited the public to testify. **Linda Hatzenbuehler** spoke in favor of H0160 and H0155, but expressed concern that a program enabling Idaho citizens to gain education out of state would distract from the need to support existing Idaho programs and create an in-state doctoral program. **Bonnie Lind** spoke in favor of H0160, noting that Idaho lost 20% of its full time nursing faculty in past school year, and the average age of nursing faculty is 53; Idaho has difficulty recruiting new faculty because of low salaries, and struggles with lack of capacity for students. **Steve Millard** spoke in favor of H0160, to ensure education for nurses in the absence of a state program. **Buffie Main** spoke in favor of H0160 and H0155, stating that rural critical access hospitals rely on nursing staff, who can take from 16 weeks to 6 months to recruit, compounding the shortage statewide; H0160 is a comprehensive, long-term solution for an immediate need; H0155 builds support, through data collection, for a strategic plan to address the shortage.

**Carissa Miller** read a statement from **Pam Springer** in support of H0160, saying it would enable current nursing faculty to access further education, offsetting the difficulty of recruiting new faculty. **Kent Kunz** spoke against H0160, stating that Idaho State University (ISU) has programs to train bachelors- and masters-level nursing students, and plans to implement a doctoral program in the next 3-5 years (pending state funding and Board of Education leadership; the program is currently on ISU's 8-year plan). **Rep. Henbest** asked how it would benefit the state to put off addressing the shortage now, in the hopes that an in-state program would be developed in future. **Mr. Kunz** stated funding has not been identified for either H0160 or ISU's doctoral program plan, but he preferred funding to stay within the state. Responding to a question from **Rep. Marriott, Dr. Hatzenbuehler** explained that ISU's planned program would take less than three years to establish, at an estimated cost of \$250,000 for three faculty and 10-12 students; it would take students 5-7 years to complete the program while working (or 4 years full time). Responding to a question from **Rep. Rusche, Dr. Hatzenbuehler** stated there was no guarantee that graduates of the program would stay in Idaho; the difference between academic and clinical wages contributes to the nursing faculty shortage. Responding to a question from **Rep. Luker,**

**Rep. Henbest** explained that while the board is able under the current statute (i.e., referring to "other health-related areas of study") to add doctoral-level nursing to the professional studies program, H0160 highlights the absence of and need for nursing studies; Idaho Code and H0160 are specific to "areas of study which are not available within the state"; as a result, this bill would provide a stopgap now, until ISU planning goes forward. Responding to a question from **Vice Chair Nielsen, Mr. Kunz** expressed his concern that H0160 would complicate the creation of a doctoral program in the future. **Dr. Hatzenbuehler** said that if the state becomes satisfied with the stopgap, it may not move forward to implement an in-state program.

**MOTION:** **Rep. Marriott** moved to hold H0160 in committee. **Rep. McGeachin** spoke as a member of the Joint Millennium Fund Committee, that \$300,000 was planned to fund a feasibility study for a medical school in Idaho, and suggested it would be appropriate to wait for the study results before proceeding. **Rep. Henbest** noted that the nursing was not in the scope of the Millennium Fund medical school feasibility study. **Rep. Rusche** noted that academic salaries would have to be addressed to retain nursing graduates, regardless of whether they are trained through the professional studies program or in-state; this bill highlights that if Idaho is to have more nurses, Idaho needs more nursing instructors. **Rep. Luker** noted concern about diverting attention from a state program that is in the planning stage. The motion carried by voice vote, 6-4.

**HCR019:** **Rep. Nonini** presented HCR019, to reject sections of proposed rules from the Division of Vocational Rehabilitation, regarding extended employment standards: section 100.02 required new service agencies to document unmet need, but did not define "unmet need"; 100.04.c included subjective criteria for division evaluations; 100.04.d specified that sufficient funding must be available, although there will never be sufficient funding; the House Education Committee was generally concerned that these sections abandoned the client-choice model; the Senate has also rejected these sections, and the division has met with stakeholders to seek a resolution.

**MOTION:** **Rep. Rusche** moved that the committee send HCR019 to the House floor with a do pass recommendation. The motion carried by voice vote.

**H0155:** **Rep. Henbest** introduced H0155, following a recommendation from the Governor Risch's Task Force on Nursing, to establish the Idaho Nursing Workforce Advisory Council within the Department of Commerce and Labor (as it stands, or its successor), and to provide funding for the Idaho Nursing Workforce Center, which has begun its final year of temporary federal funding; the center aids policymakers with planning advice and progress monitoring related to the nursing workforce shortage. **Rep. Henbest** submitted an amendment, adding Eastern Idaho Technical College to Section 1, subsection (2)(b), line 29. **Rep. Block** explained H0155 would support collaboration and provide a statewide structure to continue planning for long-term needs.

**Vice Chair Nielsen** invited the public to testify. **Dr. Lind** distributed a report from the workforce center and spoke in favor of H0155, stating that with the aid of high-quality data from the center, the council established

by this bill could address changing regional and statewide needs, and ensure funds are spent where most needed and cost-effective. **Mr. Millard** spoke in favor of the bill, commending the work of the center and noting that a survey of Idaho Hospital Association members found 300 vacancies for registered nurses; a strategic plan on how to handle the shortage is imperative. **Susan Ault** read testimony from **Rachel Gonzales** (Chief Nursing Officer, Teton Valley Hospital, Driggs), who wrote in favor of H0155, stating that data from workforce center has helped Teton Valley Hospital accurately plan to recruit and retain nurses and effectively use its nursing budget (rural hospitals have a 50% higher vacancy rate than urban hospitals, and require an average 16 weeks to fill a position, compared to 4 weeks in urban areas of our state).

Responding to questions from **Rep. Luker**, **Rep. Henbest** said the fiscal impact was an estimate of ongoing funds, allowing for additional funding from grants and license fees; the task force recommended ongoing funding to inform a statewide direction, rather than funding single programs without a comprehensive plan; the greatest proportion of funding would be assigned to the workforce center, with the council receiving funds for mileage, per diem, etc; the Idaho Alliance of Leaders in Nursing has administered funding and provided primary leadership for the workforce center— H0155 expands leadership by expanding representation on the council. Responding to a question from **Rep. Thayne**, **Rep. Henbest** said this bill is one part of a strategy to effectively and efficiently resolve Idaho's nursing shortage. Considering the difference of viewpoints on H0160, **Rep. Rusche** noted a council representing universities and hospitals statewide, and achieving a statewide direction, was a good idea.

**MOTION:**

**Rep. Rusche** moved that the committee report back H0155 with amendments attached to be placed on general orders for consideration. Responding to a question from **Rep. Marriott**, **Rep. Henbest** explained that private hospitals and the Idaho Hospital Association have supported extra faculty and contributed to research efforts; reciprocal state effort is appropriate. Responding to a question from **Vice Chair Nielsen**, **Mr. Millard** stated it was not the function of the hospitals to fund higher education; it is the appropriate role of the state to determine how it will solve its workforce shortage. Responding to a question from **Rep. Chew**, **Dr. Lind** explained that Idaho needed a coherent needs assessment and a coherent plan to address those needs, so that the Legislature can appropriate funds based on good information; the workforce center is surveying nurses to identify reasons they leave work and factors which would encourage them to return (e.g., part-time schedules with benefits), and has obtained software from the federal Health Resources and Services Administration to use Idaho data to accurately project workforce needs. Responding to a question from **Rep. Marriott**, **Dr. Lind** stated according to the Board of Nursing, there are 17,000 registered nurses in the state, 11,000 of whom are employed. **Vice Chair Nielsen** acknowledged written testimony from Pat Kubicki.

**Rep. Luker** suggested the committee add a two-year sunset clause to H0155. **Rep. Henbest** and **Rep. Block** concurred. The motion carried by voice vote. **Vice Chair Nielsen** returned the gavel to **Chair Block**.

**H0159:**

**Rep. Henbest** presented H0159, explaining that in 2006, H0868 appropriated a grant for Terry Reilly Health Services to expand services in a donated building; H0159 responds to legislators' interest in similar funding for community health centers— an important safety net for the uninsured and under-insured— in their own districts, by creating a board-governed grant structure to which centers may apply for one-time infrastructure projects and expansions to needy populations; board representation includes the Idaho Association of Counties, in recognition of the funding counties provide for indigent health care. **Rep. Henbest** said this structure was based on the successful program created in 2006 for mental health-substance abuse transitional housing, and will distribute grants when and if the legislature appropriates funding; the bill establishes a schedule and criteria, including geographic distribution.

**Chair Block** invited the public to testify. **Denise Chuckovich** distributed a report and spoke in favor of H0159, stating that community health centers assist counties and improve access for the uninsured; funding comes primarily from federal sources and from individuals who pay a portion; community health centers provided nearly 320,000 medical, dental, and mental health visits in 2005, and to a higher proportion of uninsured than other states; 55% of clients have incomes below the federal poverty level, and 49% are uninsured. **James Schroeder** spoke for the bill, stating that community health centers serve 20% of Idaho's 200,000 mostly-working uninsured (51% of Idaho businesses do not offer health insurance), and serve the under-insured (i.e., those with catastrophic health plans and \$5000 deductibles); these centers have a preventative approach to health care— encouraging patients to control their chronic care needs by providing education, translation, and transportation and requiring patient participation— and a cost-controlled view of prescriptions; the centers require co-pays from patients on sliding scale and are working to improve measurable outcomes; as a result of these community-based efforts, patients are less likely to use the emergency room inappropriately or access county catastrophic funds.

**Chair Block** acknowledged **Steven Weeg** as a member of the Board of Health and Welfare. **Mr. Weeg** said, in favor of H0159, that whereas most private clinics will limit uninsured patients for economic reasons, community health centers have no such limits, and leverage resources and use older, discounted, and donated equipment; this bill creates the opportunity for major purchases, such as data management systems. Responding to questions from **Rep. Marriott**, **Mr. Weeg** explained that community health centers are mandated by the federal government to remain open beyond normal working hours, e.g., evenings, Saturday, and Sunday; Health West in eastern Idaho has clinics and bi-lingual staff in small and rural communities, and is the only medical facility on the west side of Pocatello. **Mr. Schroeder** explained that Family Health Services has facilities in urban and farming communities in south-central Idaho, including Fairfield. **Rep. Marriott** led a discussion on the relative cost-effectiveness of community health centers versus universal coverage. **Mr. Schroeder** pointed out that the state spends millions for catastrophic and indigent care, and estimated community health centers spend \$300 per year to serve one uninsured patient. Responding to questions from **Rep. Rusche**, **Mr. Weeg** stated that Lewiston citizens were working toward a grant and federal funding to provide services to uninsured

citizens, and Medicaid and Medicare participants. **Rep. Henbest** noted the state currently does not provide funding to these centers, and that funds not directed to them would in any case be consumed by Medicaid. **Chair Block** thanked the guests for their testimony.

**MOTION:**

**Rep. Luker** moved that the committee send H0159 to the House floor with a do pass recommendation. **Rep. Luker** commented that community health centers were bright spot in an otherwise bleak health care system, and serve a population with few options and in a cost effective manner; H0159 establishes a mechanism to allow centers to apply for and justify funding, when made available by the Legislature. **Rep. Henbest** noted this framework will allow JFAC to act appropriately according to economic conditions. **Rep. Nielsen** pointed out that revenues compared to visits in community health centers showed a cost per visit of \$112– an economical alternative to universal health coverage; these centers also lower future public costs through prevention and early intervention. The motion carried by voice vote.

**H0163:**

**Rep. Saylor** presented H0163 with amendments. **Rep. Saylor** explained that current statute dates to 1987; Idaho has a patchwork system of regulation and lack of regulation of child care providers; this bill maintains the intent of statute, but applies higher standards while recognizing parental responsibilities. **Rep. Saylor** explained amendments strike the term “family daycare home” where appropriate and revises definitions to address the needs of rural and in-home providers (e.g., babysitters), by allowing a person to care for up to 5 children (not related to them) without a license; the bill requires those having unsupervised contact with children to have a criminal history/background check (and increases license fees to cover those), and amendments specify a facility may not operate where a registered sex offender resides; further sections establish a grace period, child-staff ratios, and safety standards for alcohol, smoking, firearms, and water bodies. **Rep. Saylor** cited cases of child care facilities operated by individuals with criminal convictions, and explained that H0163 provides for the safety of children by balancing government involvement with family responsibility, and the concerns of both rural and urban Idaho. **Rep. McGeachin** drew attention to additional occasions of “family daycare home” needing deletion. **Rep. Marriott** pointed out that the amendment to the title removes the criminal sanction for family daycare homes that do not obtain licenses, and adds a criminal sanction for a family daycare homes that do not post licenses.

**Chair Block** invited the public to testify. **Karen Mason** spoke in favor of H0163, and distributed letters of support from Noreen Womack and Jeff Currie. **Ms. Mason** said the Idaho Association for the Education of Young Children supports providers but is powerless to address complaints and quality concerns; some parents would prefer smaller settings, but choose larger programs because there are no restrictions on small providers. **Sylvia Charriton** spoke in favor and distributed national and local statistics on child care usage; she noted that public disclosure of information and equal standards ensure quality and allow parents to make good choices. **Fairy Hitchcock** spoke in favor of the bill, citing the current lack of oversight and basic regulations. **Elena Rodriguez** spoke in favor, stating that H0163 will improve the health and safety of the 70,000 Idaho children in daycare; child care providers are an important

part of the economy, but the current lack of standards puts Idaho at risk; without a statewide standard, providers who violate the regulations of a city or county may continue to operate outside of those local boundaries. **Bill Ziegert** spoke in favor of the bill, citing the increase of single parents and families where both spouses work; it is now acceptable to miss work for child care problems— businesses try to provide flexibility for that, but cannot address concerns about quality; this bill will relieve some of those concerns, and so help to increase productivity.

**Rep. JoAn Wood** spoke against the bill, noting that a similar bill was debated 25 years ago, when it was determined that problems in some areas were not common to all; regulation of facilities is a local issue, and should consider the increased cost of licensing, and the number of small, rural day cares. **Cathy Kowalski** spoke in favor of H0163, stating that child care is central to the daily lives of working families; while current statute allows local governments to regulate child care, only 9 municipalities have been able to afford regulation; local communities rely on the state to provide minimum health and safety measures.

**Rep. Saylor** noted that changes in society call for changes to statute; H0163 provides minimal regulations and economical licensure. Responding to a question from **Rep. Marriott**, **Rep. Saylor** said that individuals who care for up to five children (including adopted or foster children) cared in the children's home are exempted from licensure. Responding to a question from **Rep. Marriott**, **Ms. Kowalski** explained the bill's language in this regard mirrors rules for the Idaho Child Care Program, a federal block grant fund for low income working families. Responding to a question from **Rep. Luker**, **Rep. Saylor** said that inexpensive training, to meet the additional four hours required by the bill, is available through the IdahoSTARS program and online; with the exception of first aid and CPR, courses cover child development. **Ms. Mason** stated that IdahoSTARS offers scholarships, and courses are made available Saturdays and evenings and at locations and child care facilities throughout state as a program goal. Responding to a question from **Rep. Thayn**, **Rep. Saylor** said that H0163 will not eliminate abuses, but can make a difference. **Rep. Nielsen** wondered if regulation for the entire state was needed.

**MOTION:**

Noting that amendments should include additional deletions of "family daycare home" (section 13, page 4, line 9; section 17, page 10, line 25), **Rep. Rusche** moved that the committee report back H0163 with amendments attached to be placed on general orders for consideration. **Rep. Rusche** commended the legislation for addressing the safety of children in daycare, and the needs of parents and providers around the state. **Rep. Thayn** debated the efficacy of issuing licenses that do not, according to Section 15, constitute a stamp of approval from the state, and suggested that posted warnings of the risks of daycare may be more effective. **Rep. Luker** seconded the motion, noting that the amendments resolve his concerns and address the nature of society as it has changed in the last decade; many families do not have the ability to keep their children at home and Idaho needs to ensure a secure environment for those families while being sensitive to rural issues and providing appropriate flexibility. **Rep. Henbest** pointed out this legislation represents at least two years of collaborative work and was worth of

moving forward. **Rep. Loertscher** expressed concern with the devaluation of the family in society and with those policies that have made it necessary for both parents to work, and debated whether increasing the licensing regulations of the current statute was an effective solution. **Rep. Shepherd** debated whether rural areas and small communities should shoulder regulations to address the problems of larger and urban communities. **Rep. Nielsen** expressed concern that additional regulations might discourage small businesses.

A roll call vote was taken:

- Chair Block, and Reps. Luker, Henbest, Rusche, and Chew voted aye.
- Vice Chair Nielsen, and Reps. McGeachin, Loertscher, Shepherd, Marriott, and Thayn voted nay.

The motion failed; H0163 will be held in committee.

**Chair Block** invited **Larry Tisdale** to present on the Division of Medicaid's progress implementing H0190 (2005). **Mr. Tisdale** explained that for home- and community-based services, the Department of Health and Welfare engaged Johnston, Villegas-Grubbs & Associates to develop a reimbursement method, which the department has agreed to reexamine. **Chair Block** invited **John Villegas-Grubbs** to address the committee further. **Mr. Villegas-Grubbs** circulated a handout and explained the rate structure used by the study and how it is populated using state data to produce a series of proposed standardized rates; the study gathered financial data from the provider community and asked their help to interpret that information. Reflecting the subtle differences between agencies, **Mr. Villegas-Grubbs** acknowledged areas needing fine tuning, where providers have expressed concerns that program-related cost components were oversimplified and merit further investigation. Responding to a question from **Rep. Loertscher**, **Mr. Villegas-Grubbs** explained the study did not look at state institutions. **Chair Block** invited **Leslie Clement** to address a question from **Rep. McGeachin**. **Ms. Clement** stated that it appears that the department has been given carry-over authority to utilize funds remaining from the study to re-engage the consultant to refine and tune the methodology.

**Chair Block** thanked the members and guests and announced the next meeting would be held on February 28, 2007.

**ADJOURN:** The meeting adjourned at 6:45 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary



## MINUTES

### HOUSE HEALTH & WELFARE COMMITTEE H 138 SUBCOMMITTEE

**DATE:** February 27, 2007

**TIME:** 3:30 P.M.

**PLACE:** Room 406

**MEMBERS:** Chairman Bilbao, Representatives Loertscher, Luker, Marriott, Rusche

**GUESTS:** Lee Binnion, Idaho Emergency Physicians; Tom Peterson, Executive Director, Idaho Emergency Physicians; David Kim, Idaho American College of Emergency Physicians; Ron Hodge, Executive Director, Idaho Medical Association/Idaho American College of Emergency Physicians; Steve Millard, President, Idaho Hospital Association; Ken McClure, Idaho Medical Association; Steve Tobiason, Idaho Association of Health Plans; Lyn Darrington, Regence Blue Shield of Idaho; Julie Taylor, Director, Blue Cross of Idaho.

With a quorum present **Chairman Bilbao** called the meeting to order and welcomed the committee members and guests. He said this is a subcommittee hearing on H 138 and will hear testimony from all interested parties. He said each speaker would be given five minutes to speak. He said their opinions will be recognized and recorded and he expected them to reach the best joint agreement.

**Lee Binnion** said she is a provider in the emergency care unit and is opposed to the bill as it would allow the insurance industry to determine how she provides service and dictate how she gets paid. She said it will take away the power of physicians to negotiate for their fees. **Dr. Binnion** replied to questions from **Rep. Marriott**, saying that they would not refuse to treat a patient in the emergency room if they are not the provider, but if the patient wanted a provider from their insurance, they would have to go to a different hospital. **Rep. Luker** reasoned that the patient may have no idea they are not being cared for by one of their providers. She said they try to work it out with the patient's insurance and negotiate in good faith. **Rep. Rusche** asked **Dr. Binnion** to explain the contract Idaho Emergency Physicians have with the hospital. **Dr. Binnion** said they are the only group to maintain the emergency room and the hospital pays them nothing. They generate all their funds by billing the patients. **Rep. Bilbao** asked about their payment recovery rate. **Dr. Binnion** stated they write off about 20% of business and with the adjustment rate insurance pay, they recover 44 to 46 cents on every dollar.

**Tom Peterson** said the relationship with the hospital is much more than a agreement. They treat patients regardless of their ability to pay. They bill the patient for those services and sometimes they discount payments and work out arraignments, as well as negotiate with insurances companies. They try to protect the interests of the physicians.

**Ken McClure** expressed a desire to work with the sponsors of the bill and come to an agreement. However, if the insurance companies and the hospitals reach an agreement, the physicians will be without a bargaining

market and must take what is decided for them. He handed out a substitute bill with some changes and reviewed it briefly. In response to **Rep. Marriott's** comment about the patient's responsibility, **Mr. McClure** said patients should know the insurance they purchase and the physicians they can use. He said physicians have some responsibility to fix the problem, but by law physicians cannot join together, as a group, to negotiate.

**David Kim** said emergency care is different from regular health care, which is based on insurance and the two shouldn't be treated the same. He said physicians become burned out and may elect not to be on call. Another problem he said was the exclusive provider contracts that make the patient the victim and provide an advantage for the insurance companies. He suggested insurance companies pay the full price for the patient's care but said they would need to find a fair solution. It was pointed out that Dr. Kim's solution would result in higher insurance premiums. **Mr. Kim** said that the advertising **Rep. Rusche** asked about is a marketing strategy not an emergency service.

**Steve Millard** said the concern the Idaho Hospital Association has for the hospitals is providing physicians for on call duties; this bill could increase that difficulty. He said when the Boise hospitals agreed to use the PPO (Preferred Provider Organization), it saved them money and helped the patients. **Rep. Luker** asked if the balance bill could go to the hospitals and they work it out with the insurance company. **Mr. Millard** said the physicians don't want the hospitals negotiating for them. In reply to a question from **Rep. Rusche**, he said the advantages the hospitals would receive by accepting the balance bills would be the insurance carrier would pay the hospital direct and they could pass on better rates to the patient.

**Julie Taylor** said she would like a plan that would hold the patient harmless. Blue Cross covers many patients in this area and this bill would allow the hospitals to be paid more for their emergency room services. She said they are paying higher rates to the non contracting physicians in the emergency rooms and they have demonstrated their willingness to come together with the physicians. **Rep. Loertscher** and **Rep. Marriott** inquired about the payment for non-contract providers and she said this bill would allow Blue Cross to pay the non-contracted providers and the contracted providers the same. **Rep. Luker** asked for the reasons for paying the lower amounts to non-contracting physicians now and **Ms. Taylor** answered, to encourage them to join their program. To **Rep. Rusche's** question **Ms. Taylor** said the advantages to the hospitals are direct payments, higher volume and better cash flow.

**Lyn Darrington** said this bill is about the patient, who has no control in an emergency situation; this bill obligates the insurers to pay contracted rates even when no contract is in place and it is more than the insurers would normally pay. But it also requires the physicians to hold the patient harmless from a balance bill. She said the difference overall between what Regence BlueShield of Idaho pays today to contracting versus non-contracting physicians in emergency room situations is only 10%. To a comment by **Rep. Rusche** about this type of legislation in other states, **Ms. Darrington** was not aware of any other states with this legislation but

said Massachusetts ad a similar provision, but did not know whether it protects patients from balance bills; she also stated Medicare prohibits balance billing.

**Ron Hodge** said he would have been happy to help with this bill if he would have had more time. He said this affects physicians as well as other back-up groups. He called it an extreme bill that takes away the contracting rights of physicians. **Rep. Marriott** asked if he was saying that an agreement could be reached and **Mr. Hodge** said yes, with some deliberation.

**Steve Tobiason** said he supports this bill, that its focus is on the patient and is not a benefit for the insurance companies, they will pay more. He suggested the insurance companies have given a solution, now it's time for the physicians to give one also. He said if some of the language in the amendment to the bill was applied it would hurt the bill and asked that the original bill be sent to the full committee.

**Chairman Bilbao** asked Tom Peterson, Steve Tobiason, Ron Hodge, Steve Millard and Ken McClure to come forward and asked each one if they would work together to come to a consensus on this bill by Friday, March 2. All agreed.

**Rep. Loertscher** said he will seek to send this bill to full committee for a hearing to proceed as written and added that this is a serious matter as the patient has no power.

**MOTION**

**Rep. Marriott** made a motion to recommend to the full committee H 138 for a full hearing of the consensus reached.

**ADJOURN:**

Meeting was adjourned at 5:30 P.M.

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Representative Carlos Bilbao  
Chairman

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Mary Lou Moon  
Ass't Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** February 28, 2007

**TIME:** 2:15 p.m.

**PLACE:** Room 404

**MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew

**GUESTS:** Senator Joe Stegner; Russell Duke, Director, Central District Health (District 4); Kelly Buckland, Executive Director, Idaho State Independent Living Council; Jim Baugh, Comprehensive Advocacy, Inc.; Roger Howard, Living Independence Network Corporation; Larry Dewey, Chief of Psychiatry, Veterans Administration Hospital; Teresa Molitor, Idaho Pathology Society; Ken McClure, Idaho Medical Association.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll.

**Chair Block** invited **Russell Duke** to present for the seven Idaho public health districts. **Mr. Duke** explained the public health districts were created by the Legislature in 1970 and are governed by county-approved local boards of health; the vision of public health is healthy people in healthy communities— to this end the health districts offer many of the same programs offered by the Department of Health and Welfare (DHW): vaccinations, prevention, food stamps, Women-Infants-Children (WIC) nutrition, family planning services for low income women, and health screenings for refugees; in 2006, the WIC program served 67,000 individuals with education and vouchers and contributed federal funds to local economy. **Mr. Duke** explained the health districts employ professional and skilled staff, and have contractual relationships with DHW and the Department of Environmental Quality, but are primarily accountable to the counties; contracts account for greatest proportion of district budgets, and most programs operate on sliding fee schedules. **Mr. Duke** stated that West Nile virus and substance abuse-mental health have presented significant challenges: Idaho led the nation this past summer with 984 West Nile cases and 21 deaths; local public health will continue to promote prevention as the only effective way to combat West Nile; districts are also seeking a role in a statewide plan to address the unmet needs of substance abuse-mental health. **Mr. Duke** stated that public health is about prevention— success is in contamination that does not occur from sewage, or teenagers who choose not to use tobacco.

Responding to a question from **Rep. Marriott**, **Mr. Duke** said the health districts were happy to participate in prevention activities with mosquito abatement districts. Responding to a question from **Rep. Bilbao**, **Mr. Duke** explained the most frequently observed sexually-transmitted disease is chlamydia; the districts see the patient, conduct tests, and identify partners for medication. Responding to a question from **Rep. Henbest**, **Mr. Duke** discussed alternatives to aerial spraying for mosquito abatement; the districts support cooperation and efforts to make West

Nile prevention more efficient. **Chair Block** thanked Mr. Duke.

**H0167:** **Rep. Rusche** presented H0167 with amendments, to clarify technical differences between fiscal intermediaries and personal assistant services agencies for individuals needing in-home assistance. **Chair Block** invited **Kelly Buckland** to address the committee. **Mr. Buckland** explained fiscal intermediaries handle payroll and tax issues for the individual, who hires and trains his or her own personal assistant; the bill also includes housekeeping, e.g. an updated definition of personal attendant, etc. **Mr. Buckland** explained amendments to H0167 put forward by the Department of Health and Welfare strike duplicative information, require the agency to clearly document its role (i.e., personal assistance services or fiscal intermediary) for each participant, clarify the role of the department, and clarify the empowerment of the individual to control their own hiring and firing and take responsibility for the risks of managing their own personal assistance services. Responding to a question from **Rep. Luker**, **Mr. Buckland** explained that an agency may operate as a personal assistance services agency and as a fiscal intermediary, but not both for the same individual.

**Chair Block** invited the public to testify on H0167. **Jim Baugh** spoke in support of the bill. **Roger Howard** spoke in favor, stating that allowing service agencies to acting as fiscal intermediaries is a good arrangement; this bill simply clarifies the roles, so that better service is provided.

**MOTION:** **Rep. Loertscher** moved that the committee send H0167 to the House floor with a do pass recommendation. **Rep. Rusche** seconded the motion. The motion carried by voice vote.

**SCR108:** **Rep. Henbest** presented SCR108, 109, and 110 for **Sen. Stegner**, who was called away. **Rep. Henbest** explained these bills are the result of the work of the Mental Health and Substance Abuse Treatment Delivery Systems Interim Committee; SCR108 recommends that Legislative Council establish a contract to assess Idaho's current delivery system for children's and adults' mental health and substance abuse services; this would enable an expert to draft a plan to best implement change; the fiscal note is \$250,000. Responding to a question from **Rep. Thayn**, **Rep. Henbest** explained that professional understanding of co-occurring mental illness and substance abuse is improving; environmental factorsacerbate illness and purely chemical aetiology, and chemicals can cause mental illness; an expert can help the state address, through prevention and treatment, the entire, complex issue. **Chair Block** pointed out the interim committee discussed early intervention with young children as a means to alleviate or correct problems before they develop. Responding to a question from **Rep. Nielsen**, **Rep. Henbest** said there was cooperation between this effort and the Interagency Committee on Substance Abuse Prevention and Treatment. Responding to a question from **Rep. Luker**, **Rep. Henbest** said the Office of Performance Evaluations does not have the expertise or resources needed to address this issue, and would in any event act as an intermediary for a contract.

**MOTION:** **Rep. Bilbao** moved that the committee send SCR108 to the House floor with a do pass recommendation. **Rep. Thayn** called for attention to prevention activities. **Chair Block** and **Rep. Henbest** concurred,

especially concerning high-risk children and early intervention. **Rep. Rusche** discussed primary and secondary prevention, noting an excellent system would address the needs of high-risk groups and mitigate those risks through mental health services. **Chair Block** reminded the committee that H0165 seeks to mitigate the causes of mental illnesses through substance abuse prevention. The motion carried by voice vote.

**SCR109:** **Rep. Henbest** presented SCR109.

**MOTION:** Observing that this bill was a collaborative effort, **Rep. Nielsen** moved that the committee send SCR109 to the House floor with a do pass recommendation. **Rep. Henbest** explained SCR109 was also an interim committee recommendation and reflects the Office of Performance Evaluations' finding that state agencies were using multiple substance abuse-mental health assessments; based on one assessment, the courts would determine that treatment was needed and that release would be contingent on completion of treatment; based on another assessment, the Department of Correction would determine that treatment was not necessary and would not provide services; as a result, prisoners would not be able to get out of prison. **Rep. Henbest** said that work to coordinate assessments is almost complete. The motion carried by voice vote.

**SCR110:** **Rep. Henbest** presented SCR110, which represents a joint effort by St. Luke's, St. Alphonsus', the Veterans Administration (VA) Hospital, and the Idaho Medical Association to solve the lack of psychiatrists in the state by creating a psychiatric residency at the VA; Idaho's lack of psychiatrists is a chronic problem; the state would be responsible for only 10% of the fiscal impact, the remainder being supplied by the VA, St. Luke's, and St. Alphonsus'; the program will ramp up for the first few years and then remain steady.

**Chair Block** invited **Larry Dewey** to address a question from **Rep. Marriott**. **Dr. Dewey** explained the residency would be located at the Boise VA, but may expand to eastern Idaho (Pocatello), to the state hospitals, or to Idaho State University; in 2006, the federal government increased funds for graduate medical education and will provide one-third of the costs; another one-third each is provided by St. Luke's and St. Alphonsus'; this bill hopes the state will supply the remaining 10%. **Rep. Bilbao** commended the organizations involved for the willingness to contribute. Responding to questions from **Rep. Bilbao**, **Dr. Dewey** said the program could take three residents per year, and will have active residents in July 2008; to encourage interest, the program does not require a contract following completion of the program; however, data from a similar program in Spokane shows that more than 50% stayed in the area. Responding to a question from **Rep. Thayn**, **Dr. Dewey** stated that residents will come into the program with substantial debt from their medical education; while psychiatrists make more than family and pediatric physicians, psychiatric patients often do not have the ability to pay; the fiscal impact includes residency salaries (around \$40,000, plus benefits, and administrative and part-time faculty, although most of the training is voluntary). **Rep. Rusche** noted that the value for the state is in a lowered incarceration rate and the ability to care for people in the community. Responding to a question from **Rep. Nielsen**, **Dr. Dewey** explained that in 2013 state funding would be \$113,000 ongoing; the

federal government, St. Luke's, and St. Alphonsus' would continue to contribute 90%; Idaho is last among the 50 states for the number of psychiatrists, but in the top ten for serious mental illness.

**MOTION:** **Rep. Bilbao** moved that the committee send SCR110 to the House floor with a do pass recommendation. **Rep. Nielsen** commended the parties for their partnership and contributions. The motion carried by voice vote.

**H0122:** **Rep. McGeachin** presented H0122, with amendments. **Rep. McGeachin** noted that supporters of this bill have worked for two weeks to accommodate the Idaho Medical Association (IMA), which expressed concern that the bill might interfere with doctors' ability to contract and be compensated. **Rep. McGeachin** reminded the committee that H0122 is to provide for transparency and to control the costs of health care by providing Idahoans with the "fundamental right to make individual marketplace decisions," as put in the Idaho Republican Party Platform; as a result, amendments to H0122 transform this bill into full disclosure legislation, which is in line with the ethics policies of the American Medical Association (AMA).

**Chair Block** directed the members and guests to adhere to the committee rules on decorum, specially rule number three, and invited **Teresa Molitor** to address the committee. **Ms. Molitor** acknowledged this committee had directed the Idaho Pathology Society to meet with representatives of the IMA, and explained that to reach consensus, the parties met and exchanged drafts; the IMA's proposal would have legalized markups, which ran contrary to the intent of this bill to prohibit markups; the society's anti-markup draft was unacceptable to the IMA; in response, the attached amendments replace language requiring direct billing with language requiring full disclosure. Responding to a question from **Rep. Bilbao**, **Ms. Molitor** said the society has not reached an agreement with the IMA. **Ms. Molitor** explained that new language requires physicians to disclose the name of the laboratory used, and the net amount of the charge for those services; it specifies when disclosure is not required (i.e., when practitioners, such as dermatopathologists, directly perform the pathology service) and defines grounds for medical discipline, with a code reference as a concession to the IMA; the society also agreed to contact other states to determine any negative effects of disclosure for physicians, relating to fraud or consumer protection, and have found no cause for concern.

Responding to a question from **Rep. Henbest**, **Ms. Molitor** said the bill does not apply to nurse practitioners (only to physicians and physicians assistants licenced under Title 54 of Idaho Code) because it is meant to be a specific remedy for a specific abuse. Responding to a question from **Rep. Rusche**, **Ms. Molitor** said simple disclosure is not complicated by physicians and nurses practicing in the same office; disclosure laws exist in 13 states, and AMA policy recognizes that transparency is necessary—the payer should be aware of the actual charge and the patient may need to know which laboratory maintains the test record and sample.

Responding to a question from **Rep. Rusche**, **Ms. Molitor** stated the amended bill only requires physicians to disclose the name and location of the laboratory and the actual cost of the test, and so would not prevent a physician sending tests to a laboratory that will not direct bill the payer.

**Chair Block** invited **Ken McClure** to address the committee. **Mr. McClure** circulated a second amendment and stated the pathology society's amendment is unacceptable to the IMA, because billing software packages do not accommodate that disclosure, a separate statement outlining charges may expose their members to allegations of insurance fraud for paying one amount and sending another on to the payer, and itemizing the costs of testing, postage, and office staff would be burdensome and cause insurers to balk at an amount they would otherwise pay. **Mr. McClure** stated the IMA would prefer this issue not be solved here, but be addressed by the "House of Medicine." Responding to questions from **Rep. Bilbao** and **Rep. Marriott**, **Mr. McClure** said there were no billing codes for administration; while there is an evaluation and management code, physicians are subject to audit if their documentation does not support that code. Responding to questions from **Rep. Rusche**, **Mr. McClure** explained the IMA has not yet consulted with the payer community regarding the IMA amendment, nor with the Board of Medicine regarding the code citation included by the pathology society, at the request of the IMA.

**Rep. McGeachin** commended the bill's supporters for their efforts to achieve consensus with the IMA, and expressed concern that Idaho's medical association officially opposed providing transparency to consumers, when the same kind of disclosure is provided for packaged foods and alcoholic beverages. **Chair Block** thanked **Rep. McGeachin** for her hard work and dedication.

**ACTION:**

**Chair Block** observed that H0122 represents a complex medical issue; recognizing that, it was the will of this committee that the issue be negotiated and a consensus reached; without consensus, it is the decision of the Chair that H0122 be referred to a subcommittee (on March 1 at 3:30) that will return with a recommendation; members of the public wishing to testify are referred to the subcommittee. As requested, the Chair agreed that Rep. Henbest should replace Rep. Rusche on the subcommittee (with Rep. Bilbao, chair; Reps. Loertscher, Luker, Marriott).

**Rep. Nielsen** advised the subcommittee to consider the difference between overhead charged evenly across revenue sources and excessive markups for certain services. **Rep. Rusche** suggested that a representative of the payer community be invited to attend the subcommittee. **Chair Block** concurred and announced the next meeting of the full committee would be held on March 2, 2007.

**ADJOURN:**

The meeting adjourned at 4:20 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary



## MINUTES

### HOUSE HEALTH & WELFARE COMMITTEE H 122 SUBCOMMITTEE

**DATE:** March 1, 2007

**TIME:** 3:30 P.M.

**PLACE:** Room 406

**MEMBERS:** Chairman Bilbao, Representatives Loertscher, Marriott, Luker, Henbest.

**ABSENT/  
EXCUSED:** None

**GUESTS:** Ken McClure, Idaho Medical Association; Steve Tobiason, Idaho Hospital Association; Lyn Darrington, Regence Blue Shield of Idaho; Nancy Kerr, Executive Director, Idaho Board of Medicine; Teresa Molitor, College of American Pathologists; Mary Leonard, Associate Director, Idaho Board of Medicine; Scott Pugrud, Connolly & Smyser; Ryan Cole, College of American Pathology; Skip Smyser, Connolly & Smyser; Nolan Sundrud, COO, Cole Diagnostics; Nancy Kois, Idaho Pathology Society; Ron Slaughter, Idaho Pathology Society; Mark Kieckbusch, Idaho Pathology Society; Tim S. Olson, Regence Blue Shield; David Peterman, Primary Health Medical Group; Bill Savage, CEO, Saltzer Medical Group; Bob Seehusen, CEO, Idaho Medical Association.

With a quorum present **Chairman Bilbao** called the meeting to order and welcomed the committee members and guests. He said this is a consensus legislation hearing and testimonies will be restricted to five minutes. The subcommittee was to determine if there is consensus on H 122. He stated the legislation should be morally correct and legal and asked **Nancy Kerr**, **Ken McClure**, and **Teresa Molitor** to come forward. He asked them if they had reached a consensus. All answered no. **Rep. Luker** said he had reviewed the amendment from both parties and it appeared both sides are comparable; he proposed that both amendments be accepted, with the exception, in the Idaho Medical Association's version, to change the word "shall" to "may" in "an insurer shall pay the claim for the combined services."

Chairman asked for comments. **Ms. Molitor** said she had no issue with changing the word "shall" to "may" and suggested in the first sentence also changing the word "include" to "identify."

**Ken McClure** said they would agree to changing the word "shall" to "may," but this legislation would force them to split their bill for service in parts and they may or may not be payed for the service, with no guarantee the reimbursement will put the bill back to whole.

**Chairman Bilbao** asked **Ms. Kerr** if there has been a complaint to the Board of Medicine about this subject. **Ms. Kerr** replied they have had one. The Chairman called a recess at 3:50 P.M. and asked the parties to

meet and make a decision.

The committee was called back to order at 4:10 P.M. and **Chairman Bilbao** asked for more testimony. **David Peterman** said this legislation will impact the patient and family doctors. He said it will add more paperwork and may cause confusion. He stated that this should apply to every physician with no exemptions.

**Bill Savage** testified saying the transparencies are an important part and have an impact on this legislation. He said the legislation is best for the patient and told of his billing practices. He said patients do not like to receive a second bill. **Rep. Luker** asked if all of his charges to a patient were on one page and if there was a billing code for the pathologist charges. **Mr. Savage** answered yes to the billing question, and added he doesn't send out a bill for pathologist charges until the results are back from the pathologist.

**Bob Cole** said he and three other doctors worked to introduced this legislation; the "markup" charges are a national trend and this legislation calls for simple disclosure. It is truth in billing and advertising. He stated that pathology tests can be sent to any company and the charges should be for only the work done. He said disclosure protects the citizens of Idaho and the bill is simple and clear. In response to a question from **Rep. Marriott**, **Dr. Cole** said a test can be sent to any laboratory in or out of the country.

**Ms. Molitor** spoke about amending the second section of the bill to redefine licensed practitioner. **Rep. Henbest** said she understands they all want to prohibit the practice by the hospitals or a hospital employee, to markup, which has becoming a big problem in the area. **Ron Slaughter** suggested there might be a misunderstanding between balance bill and markup and that no physician should buy another physician's service. **Nancy Kois** supported the bill and expressed her concerns about the practice of markups.

**Chairman Bilbao** set the committee at ease a 4:40. P.M. and called the meeting to order at 4:45 P.M.

**Ms. Kerr** said a practical concern the Board of Medicine has with this legislation is it controls one specially group of physicians. She said they have no problem with the intent of the legislation, however, they do not set billing rates, as that is the job of the insurance companies. She said they have no problem with the transparencies of the bill. She said they have policies to deal with fee-splitting and abusive billing now.

**Chairman Bilbao** asked the parties involved if they had reach a consensus. **Mr. McClure** and **Ms. Molitor** reported they had not.

**MOTION:** **Rep. Luker** made a motion to recommend to the full committee to adopt both suggested amendments and change the word “shall” to “may” in the medical association’s amendment. He said it appears both parties are one word apart. The Chairman called for the question.

**Rep. Henbest** said she has a concern with the issues discussed and said she cannot support the legislation.

**SUBSTITUTE:  
MOTION:** **Rep. Loertscher** made a substitute motion to hold H 122 in the full committee. He added that he knows a lot of work has gone into this legislation and said that caution is needed since this is a medical issue and it may do harm.

**Chairman Bilbao** called for a vote. The substitute motion carried by voice vote. The bill will be sent back to the full committee with a recommendation to hold in committee.

**ADJOURN:** The meeting adjourned at 5:00 P.M.

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Representative Carlo Bilbao  
Chairman

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Mary Lou Moon  
Ass't Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 2, 2007

**TIME:** 2:00 p.m.

**PLACE:** Gold Room

**MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew

**GUESTS:** Steve Tobiason, Idaho Association of Health Plans; Kerry Uhlenkott, Right to Life of Idaho; Burke Hays, Planned Parenthood of Idaho; Brian Johnson; Fairy Hitchcock; Marilyn Scott; Hannah Saona, American Civil Liberties Union; Brenda Saltzer, CEO, CareNet of the Palouse; Marty Durand, Executive Director, Idaho Women's Network; Brandi Swendell, Executive Director, Stanton Health; Megan Drayton; Bryan Fischer, Executive Director, Idaho Values Alliance; David Ripley, Executive Director, Idaho Chooses Life.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll. The Chair welcomed the guests and requested the committee first hear the subcommittee's report on H0138.

**H0138:** **Rep. Bilbao** announced the subcommittee reviewed H0138 to determine if mutual agreement could be found; the bill was designed to protect patients in relation to insurers in the event of a serious medical emergency; the subcommittee recommended that the bill be returned to the full committee without recommendation. **Chair Block** invited the parties involved to address the committee. **Steve Tobiason** reported that the Idaho Association of Health Plans has not reached agreement with the Idaho Medical Association (IMA), but has additional language to share with the IMA, and requested until March 6 to seek a resolution. **Ken McClure** reported that the IMA's members are not comfortable with the bill or the current compromise. **Chair Block** referred H0138 to the subcommittee (on March 6, following adjournment of the full committee); the full committee will await the subcommittee's report.

**H0248:** **Rep. McGeachin** presented H0248, to require physicians who use ultrasound equipment in the performance of abortions to inform the patient that she has the right to view the ultrasound before proceeding, and to provide the patient with an ultrasound image; the Attorney General's office believes this bill will withstand constitutional challenge, and US Supreme Court cases support state's responsibilities to ensure the health and safety of the woman and the unborn child; pregnancy crisis centers that provide this service, with counseling, have reported 77% of those who viewed the ultrasound decided not to proceed with an abortion. **Rep. Luker** pointed out that that H0248 does not place an unreasonable burden on either the physician or the patient, and is modeled after successful statutes in Arkansas and Michigan. Responding to a question from **Rep. Henbest**, **Rep. Luker** explained that Idaho Code §18-604 uses the terms "fetus" and "unborn child" interchangeably. Responding to a question from **Rep. Rusche**, **Rep. Luker** explained the bill only applies to

those physicians who already use ultrasound.

**Chair Block** invited the public to testify on H0248. **Kerry Uhlenkott** spoke in favor of the bill, stating that it allows women to make informed choices; without this bill, clinics make it a practice to turn the ultrasound monitor away from the patient; seven other states have ultrasound provisions. **Burke Hays** spoke in opposition to the bill, stating that it is unnecessary and cruel, considering that women often have abortions out of necessity; current law already mandates that women be shown an ultrasound image from the same gestational period. **Brian Johnson** spoke in favor of the bill, stating that women deserve to have information to make an informed decision, and that to not have access to this information betrays the trust between the patient and physician. **Fairy Hitchcock** spoke against bill, stating that it unnecessarily added to informed consent legislation passed during the 2006 session, particularly for minors whose cases have already been handled by the courts, and would have a financial impact. **Marilyn Scott** spoke in favor, citing examples of women who felt they were not fully informed and of families who decided to carry the pregnancy to term after viewing an ultrasound. **Hannah Saona** spoke in opposition, stating that the bill unnecessarily substituted a physician's judgement for the judgement of the Legislature, when there were greater needs for access to health care for women and "abstinence plus" education for youth.

**Brenda Saltzer** spoke in favor, to support the free dissemination of information, comparable to other laws for consumer protection and real estate; an ultrasound is a medical procedure and women should have unpatronizing access to medical information. **Marty Durand** spoke against the bill, stating that women can be trusted to ask for information they are entitled to under informed consent laws; this bill makes no exceptions for women who are terminating a pregnancy because of severe abnormalities, rape, or incest. **Brandi Swendell** spoke in favor of the bill, stating that the majority of abortion-minded women decide to carry their pregnancies to term after viewing their ultrasound. **Megan Drayton** spoke in favor, citing personal experience of viewing her ultrasound image, which led her to carry her pregnancy to term. **Bryan Fischer** spoke in favor, citing studies showing that viewing ultrasound images persuade women to carry a pregnancy to term, and stating that the judgement of neither the physician or the Legislature should be substituted for the judgement of the woman herself. **David Ripley** spoke in favor of the bill, reading from a personal email expressing concerns with the current informed consent process, and stating that information was crucial for women to make decisions they can live with.

**Rep. McGeachin** noted that modifications to Idaho Code in 2006 have not been challenged in court and were modeled after Pennsylvania language, and pointed out that to not provide a woman with the opportunity to exercise her right to information is contrary to what a woman's choice means; the goal H0248 is to help reduce the incidence of abortion. **Rep. Marriott** commended **Ms. Drayton** for her testimony.

**MOTION:**

**Rep. Luker** moved that the committee send H0248 to the House floor with a do pass recommendation. **Rep. Bilbao** shared his personal experience viewing ultrasound images and emphasized that the

ultrasound was a valuable tool and source of information to which every women and man should have access; it would make a difference in the lives of Idahoans. Responding to question from **Rep. Rusche, Mr. Ripley** said he has heard complaints about failure to comply with current informed consent laws and noted that women in such situations have difficulty obtaining accurate information; this bill aims to empower women to protect themselves. **Rep. Henbest** discussed the importance of providing information to prevent unwanted pregnancies in the first place. **Mr. Ripley** replied that providing such information or contraceptives was not the role of the government, but was for parents to decide.

The motion carried by voice vote.

**Chair Block** thanked the members and guests and announced the next meeting would take place on March 6, 2007.

**ADJOURN:** The meeting adjourned at 3:05 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 6, 2007

**TIME:** 1:50 p.m.

**PLACE:** Room 404

**MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Marriott, Luker, Thayne, Henbest, Rusche, Chew

**GUESTS:** Senator Joyce Broadsword; Brent Reinke, Director, Department of Correction; Mary Perrien, Chief, Division of Education and Treatment, Department of Correction; Richard Horne, Director, Eastern Idaho Public Health District; Bill Brown, Chair, Southwest District Health Board; Gene Gudderson, Director, Southwest District Health; Ken McClure, Idaho Medical Association; Teresa Moliar, Idaho Pathology Society; Steve Tobiason, Idaho Association of Health Plans; Tim Olson, Regence BlueShield of Idaho; Mike Sheeley, Executive Director, Idaho State Board of Dentistry.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll. The Chair welcomed the guests and invited **Brent Reinke** to address the committee. **Mr. Reinke** opened by discussing some recent tragedies in the Department of Correction, and circulated informational materials; he explained that prison populations are expected to grow by 39 inmates per month over the next year; under Vaughn Killeen's leadership 292 beds were developed and are now occupied; the department has been working since 1987 to address overcrowding by finding new beds and seeking to increase planned releases with the Pardons and Parole Commission. **Mr. Reinke** said the department would publish one-page briefings for legislators on a more frequent basis.

**Chair Block** invited **Mary Perrien** to address the committee further. **Dr. Perrien** discussed how inmates with mental illness end up in department custody: (a) a spiral downward precipitated by lack of resources in the community, especially for children, (b) mental illness precipitated by incarceration, e.g., a major depression, and (c) falsified mental illness when incarceration interferes with criminal activities. **Dr. Perrien** explained the department recognizes and understands its treatment obligations; with an aim to decrease crisis episodes and ensure inmates' mental health does not deteriorate, the department is implementing an objective classification system, providing more training, requiring staff to be licensed and engage in treatment planning, and establishing clinical supervision. **Dr. Perrien** stated that future needs are for sheltered living for vulnerable inmates, additional licensed staff, increased recognition amongst staff of constitutional obligations regarding mental health, improved assessment capabilities, integrated mental health and substance abuse treatment, and appropriate housing and treatment for individuals committed to department custody under civil (non-criminal) proceedings. **Chair Block** thanked **Mr. Reinke** and **Dr. Perrien**.

**S1096:** **Sen. Broadsword** presented S1096; this bill will amend the Food Safety

Act to remove the sunset of fees which support licensing and inspection of food establishments in Idaho; this bill is supported by the public health districts, the Department of Health and Welfare, and the Food Safety Advisory Committee; following recommendations from Legislative Audits and the Idaho Food Protection Task Force to eliminate unnecessary bookkeeping procedures, S1096 also seeks to remove the Food Safety Fund— a cumbersome fee collection, deposit, and redistribution process.

**Chair Block** invited **Richard Horne** to address the committee. **Mr. Horne** explained that the current Food Safety Fund process requires public health districts to collect annual \$65 fees, which the state places in a district account pending the district's inspection of the establishment; finally, the state reimburses the original fee to the district. **Mr. Horne** stated that oversight will still be provided by Legislative Audits and through a memorandum of understanding with the department; state and local agencies— including local boards of health and the Idaho Association of Counties— and the food industry also support removing the fee sunset. Responding to a question from **Rep. Chew**, **Mr. Horne** explained that one fee is charged for each establishment, regardless of size or complexity. Responding to questions from **Rep. Bilbao**, **Mr. Horne** explained the number of inspectors per district varies (from 2-5); although costs and inflation have risen, fees have not increased and do not cover the total cost (about \$2.4 million) of inspections for the approximately 8,000 food establishments in Idaho; the parties involved will work to address these issues in future.

**Chair Block** invited the public to testify. **Bill Brown** spoke in support, stating that S1096 streamlines the licensing process; the health districts work with food establishments to suggest ways to protect the consumer; these inspections are the best insurance an establishment can have. Responding to a question from **Rep. Shepherd**, **Mr. Brown** said that considering the cost of inspections is around \$200, the \$65 fee was very reasonable, and suggested tiered fees for small, independent establishments and large, corporate establishments might be more fair. Responding to a question from **Rep. Marriott**, **Mr. Brown** said, speaking as a county commissioner and a convenience store owner, that the industry would be willing to pay the cost of inspections. **Chair Block** invited **Gene Gudderson** to address a question from **Rep. Rusche**. **Mr. Gudderson** explained that the Governor's recommendations for the public health districts' fiscal year 2008 budget included a 5% personnel increase but imposed other limitations, upon which the districts based their combined budget; this has resulted in an overall maintenance shortfall of \$1.09 million (a requested fund shift is not forthcoming).

**MOTION:**

**Rep. Nielsen** moved that the committee send S1096 to the House floor with a do pass recommendation. **Rep. Loertscher** debated the reasonableness of the original Food Safety Fund legislation. **Rep. Bilbao** discussed the importance of investing in food safety and the work of Idaho's public health districts. The motion carried by voice vote. **Rep. Chew** will carry S1096 to the House floor.

**S1081:**

**Rep. Bradford** presented S1081, which provides the first pay increase (from \$50 to \$75 per day) in 13 years for the members of local boards of health; these board members work hard to fill a vital role in protecting



public health. Responding to questions from **Rep. Henbest** and **Rep. Thayne, Rep. Bradford** said local boards meet at various frequencies (e.g., monthly, bimonthly, quarterly, sporadically, etc.), for 3-5 hours each meeting; funding for the increase will not come from the state or counties, but will be provided from health district resources.

**MOTION:** **Rep. Loertscher** moved that the committee send S1081 to the House floor with a do pass recommendation. The motion carried by voice vote.

**H0122:** **Chair Block** reminded the committee that H0122 was referred to a subcommittee for consensus, and asked for a report. **Rep. Bilbao** thanked the subcommittee members for their diligence, and reported that after soliciting comments from all parties involved, the subcommittee had moved to send H0122 back to the full committee, with a recommendation that the bill be held in committee. **Chair Block** thanked the subcommittee and announced that as there have been two hearings on this bill, no further hearings or testimony would be entertained.

**MOTION:** As chair of the subcommittee, **Rep. Bilbao** moved that the full committee hold H0122 in committee.

**SUBSTITUTE MOTION:** **Rep. McGeachin** offered a substitute motion that the full committee report back H0122 with amendments (RS16840A4) attached to be placed on general orders for consideration. **Rep. McGeachin** explained that amendments to H0122 transform original language about direct billing to language about full disclosure, and address a concern raised by the Board of Medicine (that placing the legislation in Title 54, Chapter 18, and referring to “licensed practitioner,” would subject chiropractors, dentists, and naturopaths to the Board of Medicine, where they do not have jurisdiction); on the board’s recommendation, the legislation is moved in its entirety to the Consumer Protection Act (Title 48, Chapter 6). Responding to a question from **Rep. Thayne, Rep. McGeachin** explained that the Attorney General’s office is responsible for enforcing the Consumer Protection Act and would under that statute investigate and assess penalties.

**Rep. McGeachin** explained the amendments combine suggestions from the Idaho Pathology Society and the Idaho Medical Association (IMA), with some changes (substituting “identified” for includes” on page 1, line 39 of the amendment, and a replacing the definition of “physician” with a definition of “licensed practitioner”– being any person whose license authorizes them to order anatomic pathology services). **Rep. McGeachin** explained the amendments also provide guidance for the Attorney General’s office by referencing American Medical Association (AMA) ethics and guidelines; to accommodate concerns expressed by insurers, the word “may” replaces “shall” on page 2, line 2 of the amendment. **Rep. McGeachin** reminded the committee that the intent of H0122 is to better inform consumers about their health care. Responding to a question from **Rep. Bilbao, Rep. McGeachin** said the pathology society has agreed to the proposed amendments, which were also provided to the IMA as soon as a draft was available. **Chair Block** invited **Ken McClure** to speak for the IMA. **Mr. McClure** said the IMA had recently received a copy of the amendments; the IMA does not support the amendments and requests a hearing.

Responding to a question from **Rep. Chew**, **Rep. McGeachin** suggested that hospitals— which are exempted from H0122— might be included by legislation for the next session. **Chair Block** invited **Teresa Molitor** to address a question from **Rep. Marriott**. **Ms. Molitor** explained that H0122 amendments require physicians to disclose to the consumer the name and address of the pathology laboratory, and the amount charged for the pathology service, regardless of whether the physician’s charge is equal to or greater than actual cost. **Chair Block** invited **Steve Tobiason** to address a question from **Rep. Henbest**. **Mr. Tobiason** expressed his belief that the legislation will not interfere with the execution of contracts between the insurer and either the pathologist or physician. At **Chair Block’s** invitation, **Tim Olson** concurred, stating that Regence BlueShield of Idaho has examined the bill and concluded that insurers would be paid in accordance with contract. Responding to a question from **Rep. Luker**, **Mr. Tobiason** said the Idaho Association of Health Plans preferred the amended language (“may”) on page 2, line 2, which asserts the provisions of contract.

**Rep. Rusche** complemented Rep. McGeachin for her work to move H0122 to the Consumer Protection Act, and debated the practical operation of the bill, as it related to physicians in hospitals and private outpatient centers, and to billing practices. Responding to a question from **Rep. Thayn**, **Rep. McGeachin** said the amendments reference AMA ethics and guidelines to provide the Attorney General guidance for handling disclosure complaints; AMA guidelines relate to a number of issues, including markups, fee splitting, and disclosure.

**AMENDED  
SUBSTITUTE  
MOTION:**

**Rep. Henbest** offered a substitute motion that the full committee report back H0122 with amendments (RS16840A4) attached to be placed on general orders for consideration, including on page 1, line 42 of RS16840A4, inserting a period after patient and deleting the rest of line 42 and the entire line 1 of page 2, and, on page 2, line 11, deleting “hospital or”. **Rep. Henbest** noted that it was unusual to reference a professional organization in statute, and recognizing that professional relationships do exist between some physicians and hospitals, the bill should create a level playing field by including hospitals. **Rep. Loertscher** concurred, and noted the need to understand how the amendments will affect markups and the licensing requirements of medical practitioners. **Rep. Luker** concurred, noting that full disclosure should be full disclosure; AMA guidelines should be excluded for the same reason that the legislation was moved to the Consumer Protection Act (namely, conflicts with the jurisdiction of the Board of Medicine). **Rep. McGeachin** concurred with amended substitute motion.

**Rep. Bilbao** led a discussion of parliamentary procedure regarding votes cast by the chair of the subcommittee. Being in doubt, the Chair put the committee at ease. **Chair Block** reconvened the committee, with a quorum, and announced that when representative changes his or her vote, it is simply a courtesy, but not strictly necessary, to inform the chair beforehand; no one is bound by their previous vote. **Rep. Henbest** requested that her motion be withdrawn. By unanimous consent, the committee agreed.

**Rep. McGeachin** restated the substitute motion. **Rep. Loertscher**

discussed the necessity for testimony on the amendments, including from the Attorney General's office regarding the decision to move the bill to the Consumer Protection Act.

A roll call vote was taken on the substitute motion:

- Vice Chair Nielsen, and Reps. McGeachin, Shepherd, and Luker voted aye.
- Chair Block, and Reps. Bilbao, Loertscher, Marriott, Thayn, Henbest, Rusche, and Chew voted nay.

The motion failed.

A roll call vote was taken on the original motion:

- Chair Block, Vice Chair Nielsen, and Reps. Bilbao, Loertscher, Shepherd, Luker, Marriott, Thayn, Henbest, Rusche, and Chew voted aye.
- Rep. McGeachin voted nay.

The motion passed; H0122 will be held in committee. **Rep. Nielsen** discussed the need for agreement between the parties involved. **Chair Block** commended the committee members for their work on the issue.

**S1090:** **Chair Block** announced that on request of the sponsors, S1090 will be held pending consensus negotiations. On behalf of the Board of Dentistry, **Mr. Tobiason** said he would provide an update at a later time. The Chair thanked the parties involved for seeking resolution.

**S1091:** **Mr. Tobiason** presented S1091, which, he explained, provides a definition for the term "convicted" in the Dental Practice Act; in the past year the board attempted to discipline a dentist who was guilty of child enticement, but lacked authority concerning withheld judgements; this language will allow the board to take appropriate disciplinary action, and is currently found in statutes governing the departments of Fish and Game and statutes for numerous other professions. Responding to questions from **Rep. Nielsen**, **Mr. Tobiason** explained S1091 will allow the board to weigh the seriousness of the offense, but will not restrict disciplinary action based on just one of the many sentencing tools used by judges. **Mr. Tobiason** said he did not believe the board had the ability to suspend a license while a serious offense (presenting a serious risk to public safety) is investigated, but would study this and other statutes and provide further information to Rep. Nielsen. At **Chair Block's** invitation **Mike Sheeley** addressed a question from **Rep. Chew**, stating that the board has heard of no opposition to the bill; to **Rep. Nielsen's** question, **Mr. Sheeley** noted that civil injunctive relief may be an alternative tool available to the board.

**MOTION:** **Rep. Nielsen** moved that the committee send S1091 to the House floor with a do pass recommendation. The motion carried by voice vote. Rep. Nielsen will carry S1091 to the House floor.

**S1092:** **Mr. Sheeley** presented S1092, explaining that in 2004 the Legislature (S1288 and S1289) allowed the board to issue volunteer licenses to enable retired dentists to volunteer their services in the extended access oral health care program; dental hygienists would now like to contribute to the program, and in line with this, S1092 adds dental hygienists to the existing volunteer licence statute. **Rep. Bilbao** commended these efforts

and noted their positive impact on Idaho's community health centers.

**MOTION:** **Rep. Loertscher** moved that the committee send S1092 to the House floor with a do pass recommendation. The motion carried by voice vote. Rep. Loertscher will carry S1092 to the House floor.

**Chair Block** thanked the members and guests for upholding the decorum of the committee, and announced the next meeting would be held on March 8, 2007. **Rep. Bilbao** announced that H0138 has not yet come before the subcommittee.

**ADJOURN:** The meeting adjourned at 4:10 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** March 8, 2007
- TIME:** 2:20 p.m.
- PLACE:** Gold Room
- MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew
- GUESTS:** Paige Parker, Senior Legislative Analyst, Legislative Services Office; James Aydelotte, Bureau Chief, Health Policy and Statistics, Department of Health and Welfare; Davalee Leavitt, Department of Health and Welfare; Julie Lynde, Cornerstone Institute of Idaho; Julie Lyons, MD; Bryan Fischer, Executive Director, Idaho Values Alliance; Burke Hays, Planned Parenthood of Idaho; David Ripley, Executive Director, Idaho Chooses Life; Marty Durand, Executive Director, Idaho Women's Network; Jason Herring, Right to Life of Idaho; Katie Hagadone; Hannah Saona, American Civil Liberties Union.
- With a quorum present, **Chair Block** called the meeting to order. The Chair requested a silent roll call and welcomed the guests.
- MOTION:** **Rep. Loertscher** moved to accept the full committee minutes of February 20, as written. The motion carried by voice vote.
- MOTION:** **Rep. Nielsen** moved to accept the full committee minutes of February 22, as corrected. The motion carried by voice vote.
- Chair Block** announced that the Speaker has informed the chairmen that *sine die* will be earlier than expected; this committee is directed to finish all bills by the end of the day on Monday.
- MOTION:** **Rep. Loertscher** moved that the committee refer S1102, S1103, S1170, S1175, and S1047 to the House State Affairs committee. The motion carried by voice vote. **Chair Block** thanked the State Affairs chair.
- SCR112:** **Vice Chair Nielsen** led the committee while **Chair Block** presented SCR112. **Rep. Block** explained this resolution reflects this committee's decision to reject sections 112.02.d and 112.03.a from docket 16-0310-0602 (Medicaid Enhanced Plan benefits); these sections were more restrictive than Idaho's Children's Mental Health Act and the Legislature's Medicaid reforms of 2006 (HB 776 and HCR 48), specifically for children and adults with mental health concerns. Responding to a question from **Rep. Rusche**, **Rep. Block** confirmed these sections related to assessment and diagnosis processes for eligibility.
- MOTION:** **Rep. Loertscher** moved that the committee send SCR112 to the House floor with a do pass recommendation. The motion carried by voice vote. Rep. Rusche will carry SCR112 to the House floor.
- SCR113:** **Rep. Block** presented SCR113, which reflected this committee's decision

to reject docket 27-0101-0602 from the Board of Pharmacy; this rule— to require pharmacies to maintain records of positive identifications taken from persons obtaining controlled substances— received opposition from retail and professional organizations and individuals, and lacked a defined plan for implementation.

**MOTION:** **Rep. Rusche** moved that the committee send SCR113 to the House floor with a do pass recommendation. The motion carried by voice vote. Rep. Thayne will carry SCR113 to the House floor. **Vice Chair Nielsen** returned the gavel to **Chair Block**.

**SCR117:** **Chair Block** invited **Paige Parker** to present SCR117. **Mr. Parker** explained that SCR117 is the omnibus pending fee rule approval and rejection; in order to go into effect, pending fee rules must be affirmatively approved; prepared based upon the action of this committee, this integral resolution approves all fee rules except for the docket (16-0612-0602, Idaho Child Care Program) rejected by this committee. **Chair Block** reminded the committee that without this resolution all fee structures for all state agencies would be eliminated.

**MOTION:** **Rep. Henbest** moved that the committee send SCR117 to the House floor with a do pass recommendation. The motion carried by voice vote. Rep. Block will carry SCR117 to the House floor.

**S1069:** **Chair Block** invited **James Aydelotte** to present S1069. **Mr. Aydelotte** explained this bill allows advanced practice professional nurses to sign death and stillbirth certificates and authorize the final disposition of dead bodies and stillborn fetuses; the bill also allows coroners to certify cause of death in the absence of a physician, physician assistant, or advanced practice nurse. **Mr. Aydelotte** explained that these changes will make the Vital Statistics Act consistent with other sections of Idaho Code (specifically, 54-1402) and alleviate the delays that can result from rural staffing challenges, and which cause hardship for families or violation of statutorily-imposed deadlines.

Responding to a question from **Rep. Rusche**, **Mr. Aydelotte** explained this bill was not brought before the professional licensing boards, but merely seeks consistency with Idaho Code. Responding to a question from **Rep. Luker**, **Mr. Aydelotte** stated Vital Statistics has had to turn back death certificates certified by advanced practice nurses; this was another factor leading to the bill. Responding to a question from **Rep. Marriott**, **Mr. Aydelotte** said he was unaware of any impact on nurses' liability. Responding to a question from **Rep. Henbest**, **Mr. Aydelotte** explained the definition of advanced practice professional nurse included certain midwives. Responding to a question from **Rep. Nielsen**, **Rep. Henbest** discussed how national certification bodies establish scopes of practice for advanced practice professional nurses, pediatric nurse practitioners, and certified nurse midwives.

**MOTION:** **Rep. Bilbao** moved that the committee send S1069 to the House floor with a do pass recommendation. **Rep. Rusche** noted the utility of this change, but expressed concern that the Board of Medicine had not reviewed this bill. **Rep. Henbest** discussed the role of the boards of medicine and nursing, and reminded the committee that coroners do not

have education requirements to declare cause of death. The motion carried by voice vote. Rep. Bilbao will carry S1069 to the House floor.

**S1068:** **Mr. Aydelotte** presented S1068 as a largely housekeeping bill (Legislative Services has reordered sections alphabetically) with several changes to definitions: update “physician” to be consistent with other code sections; remove “recently” from the definition of “dead body”, because it does not recognize that a body may be discovered some time after death; to clarify “live birth” to distinguish it from “fetal death”; define “physician assistant” and “advanced practice professional nurse,” as referenced in S1069. **Chair Block** invited **Davalee Leavitt** to address a question from **Rep. Marriott**. **Ms. Leavitt** explained that the definition of “qualified adult adoptee” pertained to the voluntary adoption registry that facilitates reunification of adult adoptees and their biological parents; other states have their own registries. **Chair Block** thanked Mr. Aydelotte and Ms. Leavitt.

**MOTION:** **Rep. Henbest** moved that the committee send S1068 to the House floor with a do pass recommendation. The motion carried by voice vote. Rep. Marriott will carry S1068 to the House floor.

**S1093:** **Rep. Henbest** presented S1093, explaining this bill corrects an oversight in H0832 (2006). **Rep. Henbest** explained H0832 (2006) increased the influence and oversight authority of the Board of Health and Welfare; the legislation also added the chairs of the House and Senate germane committees to the voting membership of the board– in the case of executive rulemaking, this does not comply with the separation of powers. **Rep. Henbest** explained that S1093 gives legislative germane chairs *ad hoc* non-voting membership on the board, assures that geographic areas of the state are appropriately and evenly represented in the Governor’s appointments to voting membership, and provides an emergency clause because of the ongoing nature of rulemaking.

**MOTION:** Noting that non-voting germane chairs will still have a voice on the board, **Rep. Nielsen** moved that the committee send S1093 to the House floor with a do pass recommendation. The motion carried by voice vote. Rep. Henbest will carry S1093 to the House floor.

**S1082a:** **Chair Block** directed the members and guests to maintain the decorum of the Legislature during testimony and debate, by addressing questions and comments in a courteous manner, requesting permission of the Chair before reading from a document, and avoiding condemnation of persons and organizations, or their motives.

**Rep. Loertscher** presented S1082a, to provide for parental consent for a minor seeking an abortion; the bill repeals the section of code this bill replaces, addresses which records are to be kept, provides privacy by declaring that all court proceedings for judicial bypass for un-emancipated minors are exempt from disclosure (redacted statistical reports are provided to the Bureau of Vital Statistics), and ensures that penalty is applied only to knowingly unlawful acts. **Rep. Loertscher** explained that sections outlining parental consent include changes from Idaho’s Attorney General and are patterned after Arizona law (which passed constitutional muster), and specify that an abortion cannot proceed without written

consent by at least one parent or guardian, or without judicial bypass. **Rep. Loertscher** explained that S1082a sets standards for judges to determine whether a minor is mature and capable, or if the performance of the abortion would be in her best interests; it also ensures minors are provided with counsel, and requires courts to act on petitions within 48 hours (if not, the consent requirement is waived); if a minor is unsatisfied with the judgement, she may pursue an expedited confidential appeal (within five days), upon which the court has another 48 hours to act. **Rep. Loertscher** explained that parental consent is waived if the minor certifies that the pregnancy resulted from rape or incest, or if a medical emergency exists.

Responding to a question from **Rep. Rusche**, **Rep. Loertscher** discussed how a minor might access representation at any courthouse. Responding to a question from **Rep. Henbest**, **Rep. Loertscher** noted that "closed" records are more secure than previous references to "confidential" records. Responding to a question from **Rep. Chew**, **Rep. Loertscher** said a minor could access any court (not restricted by place of residence) to file a petition; the process is not complicated and would be assisted by counsel.

**Chair Block** invited the public to testify. **Julie Lynde** spoke in support of S1082a, stating that most children are not prepared for abortion and need the involvement of their parents; this bill affirms the parental relationship and the rights of parents to know about any major surgical procedures their children undergo; the Cornerstone Institute and school counselors are available to assist minors with the judicial bypass process. **Julie Lyons** spoke in opposition, stating that it is more dangerous for a minor to carry a pregnancy to term than to abort during the first trimester; the state should recognize a minor's right to abortion, as it recognizes her right to prenatal care without parental consent; parental consent laws reduce neither teen pregnancies nor abortions, but block access to treatment and education for minors from abusive families and in unsafe circumstances. **Bryan Fischer** spoke in favor of the bill, citing a recent report from the Heritage Foundation Center for Data Analysis showing that the number of reported legal abortions declined in part due to parental consent laws, and predicting an average decrease of 16%; the Idaho Values Alliance supports this bill as an effective means to the common goal of reducing the overall number of abortions.

**Burke Hays** spoke in opposition, stating the bill was unnecessary for teens from healthy families and dangerous for those in broken or abusive homes; it is onerous for a vulnerable teen to navigate the judicial system to obtain a bypass that offers insufficient protection; Planned Parenthood seeks to prevent teen abortion through education and access to affordable contraceptives. **David Ripley** spoke in support of the bill, stating that parental consent laws are honorable and that during the years Idaho had parental consent laws, the state saw a dramatic decrease in abortions; without these laws teen abortions in Idaho continue to rise disproportionately while the national average declines. **Marty Durand** spoke against the bill, stating that while most young women can and do turn to their parents, these risk health by causing delays that increase the chance of complications; Idaho statistics from the *New York Times* show the percentage of pregnant minors who had abortions rose slightly after



parental consent laws went into effect.

**Jason Herring** spoke in favor, stating S1082s would protect minors from having to make decisions alone or with strangers, by allowing them the benefit of their parents' council; the bill also protects parents from liability for complications from an abortion; without consent, victims of rape or incest will continue to be victimized. **Katie Hagadone** spoke against the bill, stating there are situations when a parent will not consent; combined with a complex and potentially embarrassing judicial process, this bill is an inconvenience. **Hannah Saona** spoke against S1082a, stating that emotional abuse and neglect are realities for teens, who may be afraid of telling their parents, especially in the case of rape; judicial waivers are an insurmountable hurdle for minors who do not have supportive families. **Kathy Haley** spoke in opposition to the bill, stating that minors in less than supportive families need protection; women who are forced to relinquish infants to adoption suffer as much trauma as women who have had abortions; focusing efforts on education, prevention, and the economic and social needs of less-than-perfect families would address the core problem.

Responding to questions from **Rep. Henbest** and **Rep. Chew**, **Rep. Loertscher** explained that Section 5, subsection 7(a), is the definition of incest, and includes stepparents as well as parents, siblings, legal guardian, etc.; the definition of rape is referenced to Idaho Code §18-6101; the requirement for parental consent is waived in these instances. Responding to a question from **Rep. Chew**, **Mr. Hays** stated that the first hurdle a minor would have to face was accessing the legal system and determining her first point of contact; once she finds a lawyer it would be easier to navigate. **Rep. Chew** pointed out there was a conflict between various statistics cited during testimony, regarding the effect of parental consent laws on the decrease or increase of abortions. Responding to a question from **Rep. Chew**, **Rep. Luker** explained that the definition of incest can include forcible sexual contact, whereas the definition of rape would apply only to those not related to the minor. Responding to a question from **Rep. Rusche**, **Rep. Loertscher** said that two sections repealed by this bill did not pass constitutional muster.

**Rep. Loertscher** reminded the committee that S1082a provides specific exemptions in the case of rape or incest; organizations are readily available to provide the needed assistance to obtain a judicial waiver, and a minor may access that process in any courthouse (e.g., if she was concerned about being recognized at a local courthouse); this bill specifically requires that judicial proceedings be closed. **Rep. Loertscher** said the incidence of teen abortions in Idaho increased dramatically before the original parental consent laws were enjoined, and have increased steadily ever since, but emphasized the importance of parental involvement in such life-changing decisions.

**MOTION:**

**Rep. Bilbao** moved that the committee send S1082a to the House floor with a do pass recommendation. **Rep. Chew** expressed concerns about the inaccessibility of the judicial bypass for disenfranchised and vulnerable minors (e.g., runaways), and the potentially poor quality of counsel; she noted that research provided by Legislative Services showed parental consent laws had no effect on the incidence of abortions among

minors.

Responding to a question from **Rep. Henbest** about the possibility of a double standard between this bill and Idaho Code §18-6101, **Rep. Luker** explained that S1082a does not provide an exemption for consensual statutory rape (defined in §18-6101.1); if rape of a minor is forcible under §§18-6101.2-7, then the exemptions of S1082a apply. Responding to questions from **Rep. Chew** and **Rep. Rusche**, **Rep. Luker** explained that a non-emancipated runaway who is raped would not be required to obtain parental consent; a runaway who is not raped and not the victim of incest would be able to access judicial bypass; he noted that Idaho courts have been progressive in making forms simple and available online, and that organizations are available to assist the process. **Rep. Rusche** discussed the need to support health education, including the use of contraceptives, and to increase the availability of health care, so that abortion is safe, legal, and rare.

A roll call vote was taken:

- Chair Block, Vice Chair Nielsen, and Reps. McGeachin, Bilbao, Loertscher, Shepherd, Luker, Marriott, Thayn, Henbest, and Rusche voted aye.
- Rep. Chew voted nay.

The motion passed.

**Chair Block** thanked the members and guests, and announced the next meeting would be held on March 12, 2007.

**ADJOURN:** The meeting adjourned at 4:30 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

**DATE:** March 12, 2007

**TIME:** 2:00 p.m.

**PLACE:** Room 404

**MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew

**GUESTS:** Rep. Fred Wood; Sen. Jim Hammond; Steve Tobiason, Idaho Association of Health Plans; Ken McClure, Center for Behavioral Health; Brant Massman, Center for Behavioral Health; Robert Vande Merwe, Executive Director, Idaho Health Care Association; Dia Gainor, EMS Bureau Chief, Department of Health and Welfare; Steve Millard, Executive Director, Idaho Hospital Association; Jeff Taylor, St. Luke's Health System; Steve Roser, MD; Jeremy Pisca, St. Luke's Health System; Al Stevenson, CEO, St. Benedict's Family Medical Center; Jeff Hessing, Treasure Valley Hospital; Ed Dahlberg, CEO, St. Luke's Health System; Nick Genna, Administrator, Northwest Speciality Hospital; Kirk Miller, Boise Orthopedic and Spine Hospital; Larry Benton, Idaho Progressive Health; Jarred Blankenship, Treasure Valley Hospital; Toni Lawson, Idaho Hospital Association; Larry Tisdale, Bureau Chief, Financial Operations, Division of Medicaid, Department of Health and Welfare.

With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair acknowledged a letter from the Idaho Retail Pharmacy Council, regarding administrative rule docket 27-0101-0602, rejected by this committee (SCR113).

**Chair Block** invited **Steve Tobiason** to report the progress of consensus negotiations regarding H0138. **Mr. Tobiason** discussed the purpose of H0138 and stated that negotiations between the Idaho Association of Health Plans (IAHP) and the Idaho Medical Association (IMA) resulted in some proposed amendments, but without consensus. **Mr. Tobiason** stated that the members of the IAHP are serious about a resolution with the IMA, and will work to return in 2008 with negotiated legislation that provides patients with protection from balance billing. **Rep. Nielsen** discussed the importance of consensus legislation, relative to session deadlines. Responding to a question from **Rep. Luker**, **Mr. Tobiason** said the IAHP would work towards a distinct definition of "exclusive contract." **Chair Block** thanked the IAHP and IMA for their efforts, and announced the committee would look forward to hearing consensus legislation drafted during the interim.

**Chair Block** thanked Rep. Loertscher for addressing five bills from this committee in the State Affairs committee. **Rep. Loertscher** reported that four bills were given do pass recommendations; one was reported to general orders for amendment.

**S1144:** **Chair Block** invited **Ken McClure** to present S1144. **Mr. McClure** explained the bill specifies that a controlled substance can be given to a

patient by a nurse at a narcotic treatment facility, making it practical for methadone-type clinics to operate in Idaho; the current lack of this ability—which is standard in other medical settings—contributes to the absence of opiate treatment in Idaho. **Mr. McClure** circulated a copy of an article from the *Idaho Statesman*, reporting that, after marijuana, abuse of prescription drugs (opiates, e.g., Vicodin, Percodan, Oxycodone, OxyCotin, Hydrocodone) is the most common form of abuse. **Mr. McClure** explained that S1144 was developed in collaboration with the boards of medicine, nursing, and pharmacy, and the Department of Health and Welfare, and has received no opposition in the Senate.

Responding to a question from **Rep. Marriott**, **Mr. McClure** stated that by allowing a nurse to distribute medications in a narcotic treatment facility, this bill will make it practical to open these types of treatment facilities for the first time. Responding to a question from **Rep. Bilbao**, **Mr. McClure** explained that lines 19-20 provide for take-home doses of medications in line with federal regulations: for the first 90 days, the patient must come in to the facility six days per week, and may take home a dose for Sunday; after 90 days, if the patient has met certain conditions (e.g., a urine test, daily attendance, participation in therapy), the patient may take home doses for Saturday and Sunday; after a further 90 days, the patient may take home a third dose; like any other prescription, these doses must be prepared by a pharmacist.

Responding to another question from **Rep. Bilbao**, **Mr. McClure** stated that the federal Substance Abuse and Mental Health Services Administration (SAMHSA) and Commission of Accreditation of Rehabilitation Facilities (CARF) form the regulatory framework designed to prevent abuse and illegal sale of treatment medications. Responding to a question from **Rep. Henbest**, **Mr. McClure** said Section 1(2) would allow nurses to distribute medications without registering as pharmacists, otherwise required under Idaho Code § 37-2716. Responding to a question from **Rep. Chew**, **Mr. McClure** stated this bill would apply to any physician-supervised nurse licensed under Title 54, Chapter 14, of Idaho Code (e.g., registered nurse or licensed practical nurse). Responding to another question from **Rep. Chew**, **Mr. McClure** explained that CARF will examine a facility within the first six months of operation, and again within three years; federal requirements call for patients who have graduated from a facility to continue therapy at least once a month. Responding to a question from **Rep. Rusche**, **Mr. McClure** said treatment medications are reported to the Board of Pharmacy.

**Chair Block** invited **Brant Massman** to address the committee. **Mr. Massman** stated it is most effective to treat opiate addiction with a combination of therapy and medication (e.g., methadone, bupernorphine, etc.), and discussed the types of outpatient services offered by facilities of the Center for Behavioral Health; these facilities employ doctors, nurses, therapists, and pharmacists according to Department of Health and Welfare requirements and American Society of Addiction Medicine guidelines, and are CARF accredited, regulated by the federal Center for Substance Abuse Treatment (CSAT), and licensed by the Drug Enforcement Agency and the Idaho State Board of Pharmacy. **Chair Block** thanked Mr. McClure and Mr. Massman, and recessed the committee. The committee reconvened at 3:45 p.m.

- MOTION:** **Rep. Loertscher** moved that the committee send S1144 to the House floor with a do pass recommendation. **Rep. Nielsen** said Mr. McClure assured him that medication treatment had a success rate close to 80%. The motion carried by voice vote. Rep. Loertscher will carry S1144.
- S1077:** **Chair Block** invited **Robert Vande Merwe** to present S1077. **Mr. Vande Merwe** explained this bill amended statute passed in 2006 to allow nurses to take physicians' orders over the phone (especially during night shifts) and fax those orders to a pharmacy; this bill simplifies the process by not requiring nurses to list on the fax their license numbers— which is public information. **Chair Block** thanked Mr. Vande Merwe.
- MOTION:** **Rep. Nielsen** moved that the committee send S1077 to the House floor with a do pass recommendation. The motion carried by voice vote. Rep. Nielsen will carry S1077 to the House floor.
- S1078:** **Chair Block** invited **Dia Gainor** to present S1078. **Ms. Gainor** explained that along with housekeeping, this bill transfers to the Emergency Medical Services (EMS) Physician Commission disciplinary and complaint management authority over the EMS providers and paramedics it certifies; this will allow the commission to appropriately address scenarios of theft, child pornography, or gross negligence, and is supported by the commission and the former EMS Advisory Committee (formed in rule in 1976). **Ms. Gainor** said that 10 years ago the Department of Health and Welfare's EMS Bureau received one complaint per year; now the bureau receives one complaint every month; this bill will help the department and the commission safeguard public confidence and safety. Responding to a question from **Rep. Nielsen**, **Ms. Gainor** explained complaints have increased because (a) a different caliber of individual is entering the profession, (b) providers are less willing to sweep complaints under the carpet, and (c) EMS providers are obligated to report relevant findings during peer review. Responding to questions from **Rep. Rusche**, **Ms. Gainor** stated the bureau may continue to operate under existing rules while preparing new rules; the Idaho Fire Chiefs Association has asked that an emergency clause be added. **Chair Block** thanked Ms. Gainor.
- MOTION:** **Rep. Henbest** moved that the full committee report back S1078 with amendments (an emergency clause) attached to be placed on general orders for consideration. **Rep. Rusche** seconded the motion. The motion carried by voice vote. Rep. Henbest will carry S1078 to the floor. **Chair Block** recessed the committee; the committee reconvened at 4:30.
- S1048:** **Chair Block** invited **Steve Millard** to present S1048. **Mr. Millard** explained that Medicaid provides a 70¢ match for every 30¢ from the state; the amount *Medicare* could potentially reimburse for a particular service is the "upper payment limit" (UPL) for *Medicaid* services; Idaho's Medicaid program provides hospitals with reimbursements below the limit (81.5% of annual costs for hospitals over 40 beds; 96.5% for those under 40 beds); to reimburse a greater amount, the state would need to provide additional funding, which would then gain a federal match. **Mr. Millard** explained that S1048 would create a hospital contribution fund within Medicaid, to which all non-public hospitals would be mandated to contribute .6612% of their "net patient revenue" (found in each hospital's 2003 Medicare cost report); the resulting fund (hospital contributions plus

federal match) would be redistributed to hospitals based upon the number of their Medicaid patients; **Mr. Millard** explained that S1048 includes a sunset clause and would allow hospitals to reduce both losses they incur treating Medicaid patients, and cost-shifts to insurers and private payers. **Mr. Millard** circulated a chart illustrating how funds might be collected and distributed, and stated that hospitals serving more Medicaid patients will receive more funds; as required by federal regulations, hospitals may not get back what they put in; 13 other states have similar legislation; this bill was introduced in the Senate in 2006 and was been circulated and developed in the interim by the Idaho Hospital Association (IHA), in cooperation with the Medicaid Division and federal Centers for Medicare and Medicaid Services (CMS). **Mr. Millard** acknowledged that because of a lack of good data, the IHA did not know which hospitals would benefit or lose by this proposal.

Responding to questions from **Rep. Thayne** and **Rep. Nielsen**, **Mr. Millard** explained that yellow blocked areas on the chart provided are hypothetical amounts for a hypothetical hospital of a relatively small size; an “individual hospital’s Medicaid days” could vary dramatically from the sample; a hospital could have greater inpatient amounts than outpatient.

Responding to questions from **Rep. Henbest**, **Mr. Millard** stated the bill excludes Medicaid disproportionate share hospital (DSH) payments (paid to hospitals that serve a disproportionately high share of Medicaid clients) from the match calculation because this is allowed by federal regulations; net patient revenue comes from 2003 Medicare cost reports because it is the latest reconciled data available; all Medicaid costs for which hospitals are paid are included in calculations of the UPL gap. Responding to a question from **Rep. Thayne**, **Mr. Millard** explained that if 2003 cost reports are not available, other information may be furnished by the hospital.

Responding to a question from **Rep. Marriott**, **Mr. Millard** said CMS has not yet approved this plan; if state rules or federal decisions decrease Medicaid, the program will be automatically invalidated.

**Rep. Marriott** noted that because the contribution was not voluntary, the bill appeared to be a tax. Responding to a question from **Rep.**

**McGeachin**, **Mr. Millard** stated that IHA’s membership is made up of about 43 general acute hospitals (23 public, county, or district; of 16 private, Eastern Idaho Regional, West Valley Regional, and Intermountain Hospital are nonprofit); speciality hospitals are not eligible for IHA membership. Responding to questions from **Rep. Henbest** and **Rep.**

**Luker**, **Mr. Millard** stated the IHA did not yet have data to determine the UPL gap for outpatient services; the computation for net patient revenue—which applies only to inpatient services—is determined by CMS and the state fiscal intermediary in the Medicare cost reports (which cover both Medicare and Medicaid); outpatient care would be computed differently.

**Chair Block** invited **Jeff Taylor** to answer **Rep. Luker** further. **Mr. Taylor** explained that “net patient revenue” is the total of all revenue sources a hospital would use to operate (net expenses), including Medicare. **Mr. Millard** explained that a hospital reporting no Medicaid inpatient or outpatient amounts would contribute \$108,000 to the fund, and receive no distribution back.

Responding to questions from **Rep. Bilbao**, **Mr. Millard** explained the IHA had not negotiated with all stakeholders affected by the bill, but consulted

with its members; speciality hospitals are not IHA members, and usually specialize in surgery or obstetrics; because they do not have emergency rooms, they serve fewer Medicaid clients. Responding to a question from **Rep. McGeachin, Mr. Millard** stated the IHA has a model to determine how the bill would affect its members, but has not distributed this because the data it uses is propriety and subject to change. **Chair Block** thanked Mr. Millard and Mr. Taylor.

**Chair Block** invited the public to testify. **Steve Roser** spoke against S1048, stating that its unanimous passage in the Senate was based on the misinformation that all private hospitals were on board, and pointing out that the Medicaid UPL actually ranges between 81.5% and 96.5%; this bill lacks transparency and financial modeling. **Jeremy Pisca** spoke in favor of the bill. **Al Stevenson** spoke in favor of the bill, stating that St. Benedict's Family Medical Center, a rural critical access hospital, lost \$104,000 annually in 2004 and 2005 on operations; last year, the hospital spent \$272,000 on charity care (\$362,000 this year); bad debt expenses were 8.5% of net income; the hospital's DSH payment is \$100,000. **Jeff Hessing** spoke in opposition to the bill, stating that speciality hospitals have not been consulted; the term "contribution" suggests a voluntary action, but this bill represents a tax that will cost Treasure Valley Hospital \$80,000, about 10% of its annual profit; the hospital has specialized in providing post-surgical care at about half the cost of large hospitals. **Ed Dahlberg** spoke in support of the bill, stating that 12% of St. Luke's clients are Medicaid participants, and 41% of children in neonatal intensive care, and 43% of emergency room clients; in 2006 Medicaid services cost \$56.6 million (\$45.2 million reimbursed); S1048 would reduce losses otherwise shifted to other payers by \$2.3 million. **Nick Genna** spoke in opposition, stating the bill impacts Northwest Speciality Hospital by an estimated \$184,000, 38.6% of its profits; the plan has not been CMS approved, and the outpatient formula is still undeveloped and appears to be impracticable.

**Rep. Fred Wood** disclosed that he is Medical Director of Cassia Medical Center, and spoke in support of the bill. **Rep. Wood** circulated a report and explained that to provide needed access, community hospitals must operate a costly but necessary 24 hours a day, 7 days a week; Cassia Medical Center provides the least expensive services for chronic illness in Idaho, but writes off substantial amounts for charity care, bad debt, and contracts. **Kirk Miller** spoke against the bill, stating it represented an unfair and confusing tax; when Boise Orthopedic and Spine Hospital opens in 2008, it will produce annual Medicare cost reports, but will not receive a benefit until 2011; this reduces the hospital's ability to competitively provide for the health and welfare of Idahoans who need assistance. **Larry Benton** spoke against the bill, stating that specialty hospitals were not consulted; the bill threatens to put some hospitals out of business by taking some 30% of net profits; mandatory contribution is clearly a tax without representation (all taxation bills must originate in the House), yet will not increase access to health care, nor decrease hospital expenses or the cost of insurance. **Jarred Blankenship** spoke against the bill, stating it does not increase access or reduce costs; large hospitals (with revenues in excess of a billion dollars and margins of 7%) stand to gain the most; Treasure Valley Hospital, with 300 beds, would be charged \$79,000 for the first year alone, and an increasing amount in

subsequent years.

**Sen. Jim Hammond** spoke in opposition to S1048, stating that the Senate approved this bill because they had been told all private hospitals were in favor; when legislation affects the bottom lines of businesses, those businesses should be consulted and involved in the drafting process; the program ought to be truly voluntary. **Toni Lawson** spoke in favor of the bill, stating that specialty hospitals do not meet IHA membership requirements (i.e., that they be full service community hospitals); small hospital IHA members voted to move S1048 forward; federal regulations do not allow contributions to be voluntary.

Responding to questions from **Rep. Bilbao, Mr. Dahlberg** explained that St. Luke's does not have a formal relationship with the Idaho Elks Rehabilitation Hospital, but has engaged in a nonprofit joint venture, called SLIERS (St. Luke's • Idaho Elks Rehabilitation Services); Idaho Elks is a IHA member because it is a significant and committed support to St. Luke's, and would be part of this bill's formula and payment structure by virtue of the Medicaid patients it serves. Chair Block invited **Larry Tisdale** to answer a question from **Rep. Henbest**. **Mr. Tisdale** stated he expected other states would also exempt DSH from UPL gap calculations, and he did not know why specialty hospitals would not qualify for DSH payments if some percent of their patient mix was Medicaid. **Dr. Roser** stated his small hospital would not qualify for DSH because of its small volume and the nature of the facility. **Mr. Taylor** pointed out that the measure of disproportion in relation to DSH payments relates to the services an individual hospital devotes to Medicaid. **Rep. Henbest** pointed out that the bill would sunset (2010) before new hospitals see a benefit (2011). **Mr. Millard** explained the sunset was designed to prevent the state taking contributions and using them for some other purpose; new hospitals may have their contributions prorated in a given year and may submit other information for calculating payment if a 2003 Medicare cost report is not available.

Responding to a question from **Rep. Bilbao, Dr. Hessing** stated that Treasure Valley Hospital is owned by physicians who also work at St. Alphonsus Medical Center; Treasure Valley Hospital does not selectively choose patients. **Rep. Nielsen** observed that because some hospitals will not share in the revenue, this bill represents redistribution of wealth. **Mr. Millard** responded that S0148 addresses the social responsibility of hospitals to see Medicaid patients, and rewards those who take up that responsibility; hospitals with emergency rooms do not have a choice. Responding to a question from **Rep. Nielsen, Mr. Millard** stated it was possible to reimburse hospitals that do not benefit (but whose contributions were used to leverage dollars), but federal prohibitions would make it necessary to make such reimbursements privately. **Rep. Nielsen** asked if the IHA would be willing to pursue a reimbursement mechanism. **Mr. Millard** said the IHA would consider it. Responding to a question from **Rep. Chew, Dr. Roser** explained that 40% of clients in his hospital's children's and obstetrics departments receive Medicaid assistance; because the hospital is new, it will not have a cost report completed until after the bill sunsets. **Mr. Millard** pointed out that other data may be submitted in the absence of a cost report.



**MOTION:** **Rep. Bilbao** moved that the committee refer S1048 to the Health Care Task Force to study the issue further and pursue agreement among all parties concerned.

**SUBSTITUTE MOTION:** **Rep. McGeachin** offered a substitute motion the committee hold S1048 in committee. **Rep. McGeachin** noted this bill affects many hospitals and unclearly defines who will gain and who will lose; however, this committee clearly does not have all the information it needs to make policy. **Rep. McGeachin** questioned the justification for using federal money– from Idaho taxpayers– to help certain hospitals become more profitable. **Rep. Luker** concurred, observing that a tax bill should originate in the House and expressed concerns about the bureaucratic and involuntary nature of these contributions. **Rep. Rusche** pointed out that further study was warranted, noting that hospitals in District 7 serve a high proportion of lower income clients and would benefit from a similar program.

**AMENDED SUBSTITUTE MOTION:** **Rep. Nielsen** offered an amended substitute motion that the committee report back S1048 with an amendment to the enforcement clause, to sunset in 2008, to be placed on general orders for consideration. **Rep. Nielsen** noted the importance of optimizing federal monies, and said the intent of the motion was to encourage the two sides to achieve a solution that holds harmless hospitals that do not receive a payment from the fund, although their contribution was used to leverage federal dollars. The motion died for lack of a second.

**Rep. Henbest** spoke to the importance of addressing cost shifting and under-reimbursement, and pointed out that if the committee merely holds the bill, questions that are unanswered now may continue to go unanswered. **Rep. Loertscher** observed that some hospitals will experience a net loss; if that is a federal requirement, and contributors have no guarantee of participating in revenue from the fund they helped create, it is a tax. A roll call vote was taken on the substitute motion:

- Vice Chair Nielsen, and Reps. McGeachin, Loertscher, Shepherd, Luker, Marriott, and Thayn, voted aye.
- Chair Block, and Reps. Bilbao, Henbest, Rusche, and Chew voted nay.

The motion passed.

**Chair Block** thanked the members and guests and announced the next meeting would take place on March 14, 2007.

**ADJOURN:** The meeting adjourned at 6:45 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** March 14, 2007
- TIME:** 2:10 p.m.
- PLACE:** Room 404
- MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew
- GUESTS:** Sen. Tim Corder; Rep. Nicole LaFavour; Patti Tobias, Administrative Director of the Courts; Kathleen Allyn, Administrator, Division of Behavioral Health, Department of Health and Welfare; Chuck Halligan, Program Manager, Children's Mental Health, Department of Health and Welfare; Paul Carroll, Community Services Administrator, Department of Juvenile Corrections; Rob Winslow, Executive Director, Idaho Association of School Administrators; Marilyn Sword, Executive Director, Idaho Council on Developmental Disabilities; Daniel Post; Jim Baugh, Executive Director, Comprehensive Advocacy Inc.; Former Rep. Kathie Garrett.
- With a quorum present, **Chair Block** called the meeting to order and requested a silent roll call. The Chair welcomed the guests.
- MOTION:** **Rep. Henbest** moved to accept the full committee minutes of February 26, as written. The motion carried by voice vote.
- MOTION:** **Rep. Henbest** moved to accept the full committee minutes of February 28, as written. The motion carried by voice vote.
- MOTION:** **Rep. Bilbao** moved to accept the full committee minutes of March 2, as written. The motion carried by voice vote.
- MOTION:** **Rep. Bilbao** moved to accept the H0138 subcommittee minutes of February 27, as written. The motion carried by voice vote.
- MOTION:** **Rep. Bilbao** moved to accept the H0122 subcommittee minutes of March 1, as written. The motion carried by voice vote.
- S1143:** **Rep. Henbest** presented S1143 for Sen. Stegner, explaining that this bill was one of many improvements promoted by the Mental Health and Substance Abuse Treatment Delivery Systems Interim Committee. **Rep. Henbest** explained that in 2006 the Legislature created a mental health development grant program through the Department of Health and Welfare, to allow regions to apply for one-time infrastructure and expansion monies; that \$2 million has been used for a variety of community partnerships that align with legislative intent; this legislation would build on that program and create a development grant advisory group that would work with the department, the courts, and adult and juvenile corrections to ensure all stakeholders are at the table. **Rep. Henbest** explained the interim committee requested JFAC continue \$2 million (one-time) and add an ongoing \$1.4 million; this is Idaho's first collaborative project to address community substance abuse treatment as

an alternative to corrections.

Responding to a question from **Rep. Thayn**, **Rep. Henbest** explained that initial mental health authority development grants were awarded in October 2006, and have funded regional crisis intervention training, crisis and transitional housing, a hospital safe room, tele-health services, a detoxification facility, and expanded respite care for family members; these services will provide continuity before and after hospitalization, a need identified by the Mental Health Transformation Workgroup (created by Governor Kempthorne in 2006); such transitional services are locally-driven and help individuals avoid crisis, integrate into their communities, and obtain and keep employment. Responding to a question from **Rep. Bilbao**, **Rep. Henbest** said Region 3 did submit a grant application but it was scored lower than the successful applicants; specifically, they scored low on budget detail.

**MOTION:**

Noting that these types of projects encourage communities to find and engage solutions, **Rep. McGeachin** moved that the committee send S1143 to the House floor with a do pass recommendation. **Rep. Thayn** said he would like to see data to measure program performance. **Rep. McGeachin** pointed out that Section 1(1) provided for the collection of performance and outcome measures. **Rep. Henbest** said she would convey to the department Rep. Thayn's request for accountability. **Rep. Bilbao** requested data be made available before next session, and expressed concern about Region 3; Gem and Canyon counties faced a significant, unanticipated demand for substance abuse services, but were unable to house individuals apprehended by law enforcement, and were forced to transport inmates to Twin Falls. **Rep. Henbest** noted the strength of the community partnership is part of a successful grant application; this grant program is an incentive for communities to enhance their partnerships. The motion carried by voice vote. Rep. Henbest will carry S1143.

**S1149:**

**Vice Chair Nielsen** led the committee while **Chair Block** presented S1149. **Rep. Block** explained this bill was also the result of recommendations of the interim committee, and gives judges the ability to order mental health and substance abuse assessments and treatment as an alternative to imprisonment; costs for those services will be borne by the Department of Health and Welfare, which is authorized to establish in rule a schedule of fees to charge defendants. **Rep. Block** explained that 16% of adult prison inmates have a serious mental illnesses, 82% have substance abuse problems, and half of those are addicted to methamphetamines; this bill is not expected to have a fiscal impact, but may reduce costly incarceration. **Vice Chair Nielsen** invited **Patti Tobias** to address a question from **Rep. Bilbao**. **Ms. Tobias** explained this legislation provides another cost-effective community alternative that complements the success of drug courts. **Rep. Thayn** observed that willingness to make restitution is a sign of sincerity.

**Vice Chair Nielsen** invited the public to testify. **Kathleen Allyn** stated the department takes no position on S1149, but agreed in principle; the bill aligns with the department's goal of developing community services, but may cause an unknown shift in department service populations toward criminal justice clients. Responding to a question from **Rep. Nielsen**, **Ms.**

**Allyn** stated the department will work with other entities to solve the need for substance abuse treatment. Responding to a question from **Rep. Henbest**, **Ms. Allyn** acknowledged it was important to monitor population shifts or diversions, but noted challenges with the department's adult data system. **Ms. Tobias** stated that the Interagency Committee on Substance Abuse Prevention and Treatment would likely take on the necessary planning, development, and outcome measures to implement S1149, and will return with information to the Legislature.

**Rep. Bilbao** pointed out that Gem County built a new jail in 2002 which included two glassed-in holding facilities adjacent to a medical unit; although these facilities were separated from the regular jail population, the Idaho Sheriffs' Association said the county could not use those facilities for mental hold or suicide watch. **Rep. Bilbao** asked the interagency committee to assist counties to find a compromise with the association that will allow for the use of those facilities. **Ms. Tobias** said she would convey the message to the Department of Correction, encouraging their cooperation with the association. **Ms. Allyn** said Health and Welfare would also consider the matter, because of a critical need for secure facilities. Responding to a question from **Rep. Nielsen**, **Rep. Bilbao** said other counties had either written holding facilities out of building plans or are unable to use the facilities they have. **Rep. Nielsen** commended the interim committee's collaborative efforts.

**MOTION:**

**Rep. Henbest** moved that the committee send S1149 to the House floor with a do pass recommendation. The motion carried by voice vote. **Vice Chair Nielsen** returned the gavel to **Chair Block**.

**S1147:**

**Sen. Corder** presented S1147 and circulated two reports and letters of support from Sen. John Goedde and the Superintendent of Public Instruction, Tom Luna. **Sen. Corder** explained that the purpose of S1147 was to create and implement a solution for teens at risk of substance abuse and mental illness, rather than merely responding to crisis or waiting for an individual to reach out for support; S1147 would create a pilot project to be evaluated by a university; four trained clinicians will identify and provide intervention services to at-risk teens; the contracted university will define what is and is not working, and inform how the program can be better implemented in the future; funding would be administered by the Department of Health and Welfare, which will also have appropriate latitude to qualify and hire the clinicians, determine rural pilot areas, and establish contracts with school districts.

**Sen. Corder** said that S1147 represents a cooperative agreement between the department, schools, drug and mental health courts, juvenile justice, and parents, and encourages parental involvement by providing tools to help parents identify and address risks; schools are often not able to offer these services; preventative services are often too remote for parents to access and if not, too expensive or not covered by insurance. **Sen. Corder** discussed the types of questions the pilot and study might answer, including: how many suicides were prevented, how many children were kept out of jail or diverted from substance abuse, how many graduated that might otherwise have left school, and how the state accomplished these goals effectively and efficiently.

Responding to a question from **Rep. Marriott, Sen. Corder** explained the four clinicians will be disbursed throughout the rural areas of the state, at the discretion of the department. Responding to questions from **Rep. Thayne, Sen. Corder** explained that community resource officers in Idaho schools were at one time federally funded; some 16-18 districts still maintain these resource officers, but S1147 now offers clinicians who are trained to go a step further and provide direct intervention; the foundational assumptions of S1147 are that people are worth saving and can be saved through intervention. **Rep. LaFavour** explained the federal program collected data and reported good performance measures; intervention specialists are currently working in two well-funded districts; this bill will make that expertise available to less well-funded rural districts.

Responding to a question from **Rep. McGeachin, Sen. Corder** said that funding will go first to hire the most qualified people at competitive wages; the balance could be available to evaluate the pilot. **Rep. McGeachin** discussed the importance of collecting data to allow the Legislature to judge the program's effectiveness. Responding to a question from **Rep. McGeachin, Rep. Henbest** explained that specific research questions are not stipulated in the bill because the sponsors do not want to interfere with the objective work of the universities, but give them the opportunity to formulate critical questions as they arise. Responding to a question from **Rep. Luker, Sen. Corder** said that the availability of baseline data would most likely be considered when the department selects schools districts. **Chair Block** invited **Chuck Halligan** to address a further question from **Rep. Luker. Mr. Halligan** explained the department has contractual relationships with Boise State University and the Idaho Child Welfare Research and Training Center (Coeur d'Alene); S1147 intends cooperation with universities to obtain, through contract, cooperative and expertly-researched data.

Responding to questions from **Rep. Luker, Rep. LaFavour** said the bill provides the department rulemaking authority to establish criteria, training, and clinical protocols for clinicians. **Rep. Henbest** said the bill would be followed by a trailer appropriation; the pilot program will be tracked for three fiscal years to determine effectiveness and then cease—this practical sunset is clear in both the fiscal impact and the legislation; baseline data collection and intervention would coincide with each other, followed by a study of outcomes at the end of the first year; a number of data sources are already available (e.g., arrests, incarcerations, caseloads, academic achievement, school disciplinary actions, and to a certain extent, suicides). **Rep. Luker** noted the importance of preparation for both data collection and protocols for clinicians to follow. Responding to a question from **Rep. Henbest, Mr. Halligan** said the department has assigned a staff member to this program, and if enacted, will begin immediately working with the universities to develop job descriptions and protocols for clinicians, and an evaluation method in cooperation with the schools, and could be accepting bids for the start of the school year.

**Chair Block** invited **Paul Carroll** to address further committee questions. **Mr. Carroll** explained the Department of Juvenile Corrections spends about \$25 million to maintain 430 juveniles in custody (\$60,000 each); precursors and risk factors, as well as methods of assessing those risks, are well researched and well known—this sophisticated data will become

the baseline for comparing the effectiveness of intervention. **Mr. Carroll** discussed types of problems experienced by juveniles and how individualized intervention by designated professionals would be effective; Juvenile Corrections pledges to cooperate and share its expertise to implement S1147. **Chair Block** invited **Rob Winslow** to address a question from **Rep. Bilbao**. **Mr. Winslow** stated that both the Idaho Association of School Administrators and the Idaho Rural Schools Association (through its executive director, John Eikum) support the bill's effort to provide intervention in underserved rural areas. Responding to a question from **Rep. Marriott**, **Ms. Tobias** clarified that Section 4(5) is existing language referring to reimbursement for court-ordered assessments and treatment for adjudicated juveniles.

Responding to a question from **Rep. Thayn**, **Mr. Carroll** stated that the health and functioning of the family is the most fundamental factor determining or preventing delinquent behavior; patterns of substance abuse, dropping out of school, under- and un-employment, and domestic violence carry risks for future criminality on part of the child and require direct, personal intervention; not many prevention programs offer this type of professional support. Responding to questions from **Rep. Nielsen**, **Mr. Halligan** said clinicians are required to have at least a masters degree in social work, psychology, or counseling; although Idaho is a professional health shortage area, this program would not have difficulty attracting qualified professionals (e.g., from the ranks of department clinicians) during the pilot or in a possible future expansion. **Rep. Henbest** observed that, at a rate of \$60,000 each to house children in juvenile corrections, diverting five children from the correction system would pay for the program. **Sen. Corder** concurred with **Rep. Nielsen**, that convincing outcomes from S1147 are needed to ensure its continuation. Responding to a question from **Rep. McGeachin**, **Mr. Halligan** explained the clinical aspect of S1147 would require schools to hire a person with a masters degree or better; the department will promulgate rules to reflect that. **Mr. Winslow** confirmed that in any context, all school counselors or social workers must have at least a masters degree. Responding to a question from **Rep. Luker**, **Mr. Halligan** stated the department would be prepared to deliver a progress report to the Legislature during the next session.

**Chair Block** invited the public to testify on S1147. **Mr. Winslow** spoke in favor of the bill, stating that children's mental health significantly impact academic success; school districts expect program accountability and the Idaho Association of School Administrators supports requiring districts to contribute some of their own resources to participate. Responding to a question from **Rep. Nielsen**, **Mr. Winslow** explained these resources may include office space or other non-monetary resources, and were an important reflection of a district's willingness to support an intervention position; this arrangement is anticipated to accommodate the limited resources of rural districts; rural districts often work together to obtain funding and program support, and this kind of partnership would likely increase the favorability of rural applications. **Marilyn Sword** spoke in favor of the bill, and a circulated a letter from Tracy Warren; she stated that schools, students, and families can benefit from additional resources to create a positive school environment; counselors and clinicians are often most needed in rural schools where resources are the most scarce.

**Daniel Post** spoke in favor of the bill, citing his personal experience with a clinically-trained school counselor and stating S1147 would improve the network of support for teens. **Chair Block** acknowledged a letter of support from **Sandra Stange**. **Rep. LaFavour** noted that Ms. Stange is employed by Boise School District in a successful intervention program which provides a model for the program now proposed. **Jim Baugh** spoke in favor of the bill, reminding the committee that the 1995 Idaho Children's Mental Health Services Act did not mandate or provide services or funding, merely a framework for the future; he stated that if funding had been invested earlier in intervention, the state might see fewer children enter the correctional system as adults; early intervention is a cost-effective way to address this cycle. **Former Rep. Kathie Garrett** spoke in favor of the bill, citing a case in northern Idaho— a court found a school district negligent in a teen suicide because a teacher had not known how to read and respond to warning signs; the presence of a trained intervention specialist could have prevented that tragedy.

**MOTION:**

**Rep. Henbest** moved that the committee send S1147 to the House floor with a do pass recommendation. **Rep. Thayne** noted his concern that the program prove effective as a condition of additional funding; he debated the role of government programs in place of the family, and discussed the value of prevention relative to intervention. **Rep. Luker** noted a need for comparative and baseline data to determine fiscal accountability. **Rep. Henbest** discussed the value of responsible adult influence in the absence of positive influence from parents; she noted that part of the judgement of the Jeff D. v. Evans lawsuit (1986) required the Department of Health and Welfare to work with the Department of Juvenile Corrections and schools to provide mental health services in the community; schools and Juvenile Corrections do provide some of those services, but the judge has been clear the state needs to do more; S1147 is an appropriate increased effort. The motion carried by voice vote.

**Rep. Nielsen** expressed concern that Franklin House (Meridian), which provides crisis intervention and transitional support for mentally ill adults, is facing closure by the Health and Welfare. **Rep. Henbest** also expressed concern and noted JFAC has included intent language in the community hospital and mental health budget (H0319) to allow the department to fund Franklin House this year; Franklin House was meant to be a community partnership which needs to be reinvigorated.

**Chair Block** thanked the members and guests, and announced the next meeting will be at the call of the Chair.

**ADJOURN:**

The meeting adjourned at 5:30 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE**

**DATE:** March 20, 2007

**TIME:** 3:45 p.m.

**PLACE:** Room 404

**MEMBERS:** Chair Block, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew

**ABSENT/  
EXCUSED:** Vice Chair Nielsen

**MOTION:** **Rep. Henbest** moved to accept the full committee minutes of March 6, as written. The motion carried by voice vote.

**MOTION:** **Rep. Henbest** moved to accept the full committee minutes of March 8, as written. The motion carried by voice vote.

**MOTION:** **Rep. Henbest** moved to accept the full committee minutes of March 12, as written. The motion carried by voice vote.

**MOTION:** **Rep. Henbest** announced that requested changes have been made to the full committee minutes of March 14, and moved to accept the full committee minutes of March 14, as written. The motion carried by voice vote.

**MOTION:** **Rep. McGeachin** moved to accept the minutes of rules subcommittee 2 for January 18, as written. The motion carried by voice vote.

**MOTION:** **Rep. McGeachin** moved to accept the minutes of rules subcommittee 2 for January 22, as written. The motion carried by voice vote.

**Chair Block** thanked the committee members for conducting discussions with dignity and wisdom. The Chair announced any further meetings would take place at the call of the chair.

**ADJOURN:** The meeting adjourned at 4:00 p.m.

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Representative Sharon Block  
Chairman

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Rachel Johnstone  
Secretary