

House Health & Welfare Committee

Minutes
2008



MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 9, 2008

TIME: 3:00 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Burke Hays, Planned Parenthood; Julia Piercey, Planned Parenthood; Dennis Stevenson, Administrative Rules Coordinator, Department of Administration; Jan Reeves, Idaho Office for Refugees; Tim Davis, Office of the Attorney General

With a quorum present, **Chairman Block** called the meeting to order and requested a silent roll call. The Chairman welcomed the members and guests, and invited each member to give a brief introduction regarding their goals for the committee. The Chairman introduced the secretary, **Laurie Kaden**, and page, **Nancy Smith**.

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

Responding to questions from **Vice Chairman Nielsen**, **Chairman Block** clarified the rule on the use of profanity as well as the rule on the use of humorous remarks in committee.

Chairman 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 rules 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. Marriott** about what generates a proposed rule, **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 Chairman. Responding to a question by **Vice Chairman Nielsen** about rules either being attached to a statute or created by agencies, **Mr. Stevenson** replied that if a federal statute drives rule-making, the rule

would have to state as much. Responding to a question by **Vice Chairman Nielsen**, and to follow-up questions by **Reps. Chew** and **Henbest**, **Mr. Stevenson** responded by explaining that the correction of typographical errors is required by statute and is handled by the Administrative Rules Coordinator. The Chairman thanked **Mr. Stevenson** for his presentation.

Chairman 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 (8)
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

Chairman Block noted that rules review will begin on Thursday, January 10, and noted that the Speaker has requested rules review to be completed by January 18.

There being no new announcements, the Chairman announced the next meeting will be on Thursday, January 10, 2008.

ADJOURN: The meeting adjourned at 4:17 pm.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 10, 2008

TIME: 1:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** Rep. Loertscher

GUESTS: Damaris Borden, Policy Specialist, Department of Health and Welfare; Linda Palmer, Policy Specialist, Department of Health and Welfare; Kathie Garrett, Idaho Academy of Family Physicians; Jared Tatro, Evaluator, OPE; Abbey Stickley, Intern, Governor's Office; Rosie Andueza, Program Manager, Department of Health and Welfare; Kandace Yearsley, Bureau Chief, Department of Health and Welfare; Michael Pearson, Financial Specialist, Department of Health and Welfare; Tammy Perkins, Governor's Office; Jan Reeves, Director, Idaho Office for Refugees; Genie Sue Weppner, Program Manager, Department of Health and Welfare; Taryn Magrini, Policy Director, Idaho Women's Network; Karen Mason, Executive Director, Idaho AEYC; Dennis Stevenson, Rules Coordinator, Department of Administration

Chairman Block called the meeting to order and stated that a quorum was present. She welcomed the committee members and guests.

Docket #: **16-0303-0801** **Chairman Block** invited **Kandace Yearsley**, Child Support Bureau Chief, Department of Health and Welfare, to present docket 16-0303-0801. **Ms. Yearlsey** explained to the committee that the rule implements a federal mandate from the Deficit Reduction Act (DRA) of 2005. Each state is required to set up a process to collect a \$25 annual fee for each enforced child support case that has never participated in a cash assistance program. Collection of this annual fee is to take place once \$500 in support payments has been collected on each case each year. For every \$25 collected, the Federal Government receives \$16.50 and the State receives \$8.50. The State of Idaho is planning to use the \$8.50 collections to help cover the federal share of the fee on cases in arrears where collection of the fee cannot be applied. Idaho must implement this program or face loss of federal TANF funds.

Responding to a question by **Rep. Nielsen** regarding enforcement of collection, **Ms. Yearsley** responded that, if the case is current, wage withholding for the \$25.00 would take place, and if the case is delinquent, the State will pick up the fee. When asked by **Rep. Marriott** if the State is obliged to pay the fee to the Federal Government if the case is current or not, **Ms. Yearsley** responded affirmatively.

Rep. Rusche inquired about how the State goes about collecting child support payments, **Ms. Yearsley** replied that the State can wage withhold

or asset-match if the case is not current. **Rep. Luker** inquired about the amount of non-collection. **Ms. Yearsley** described the amount as \$399,000, and that the total amount owed to the Federal Government is \$567,000. The increased expense for putting this system in effect is the cost to automate the system.

Chairman Block then asked **Michael Pearson** to provide additional information. **Mr. Pearson** described a one-time fee of \$193,000 to be used to set up the computer system, after which there should not be any additional fees or charges incurred. **Rep. Luker** speculated that it may be better to refuse the temporary rule the first year. **Ms. Yearsley** replied that the Department of Health and Welfare would not come out ahead, and that it could be perceived that all taxpayers would then be held responsible for a service provided to only a certain group of individuals.

Rep. Rusche wondered if the State did not make the changes and pay the Federal Government the fee whether or not the State would be in violation of a federal law. **Ms. Yearsley** replied that Child Support Program receives funding from the TANF block grant, and that the revenue would be sent to the Federal Government anyway.

Rep. Luker inquired if there was appropriation for additional money to make up any shortfall. **Ms. Yearsley** replied affirmatively that a request has been made for funding.

Rep. Luker inquired about the current appropriation request. **Ms. Yearsley** replied that a funding request of \$399,000 had been made. **Rep. Luker** inquired if that amount included the set-up cost of \$193,000. **Ms. Yearsley** replied that the \$193,000 would come from the Child Support budget.

Rep. Marriott asked if the money that had been paid as of July 1 collected from the custodial parent would then be returned to the custodial parent. **Ms. Yearsley** replied affirmatively. **Rep. Luker** voiced objection to the rule, indicating that removing \$193,000 from the budget could be better used elsewhere. **Rep. Marriott** asked **Ms. Yearsley** if the rule was refused, is there another rule that is in effect? **Ms. Yearsley** stated that the rule to collect the fee from the custodial parent ended on December 6, and, if there is no approval to collect the fee from the non-custodial parent, there is no way to collect the fee.

Rep. Henbest voiced concern about the need to comply with the mandate, and that resources were being taken away from that which could be used in a more general manner.

If the rule was rejected, inquired **Rep. Nielsen**, was the Department of Health and Welfare planning to return the money paid voluntarily back to those who had paid, and what were the chances of collecting \$567,000? **Ms. Yearsley** replied that they only had authority to collect on current cases, and that non-custodial parents were on the "honor system" to pay the \$25.00 fee.

Rep. Thayn suggested passing the rule, and **Rep. Nielsen** affirmed the need to support the Governor.

MOTION: **Rep. Rusche** moved that the committee accept docket 16-0303-0801 as written. The motion passed unanimously by roll call vote.

Docket no. 16-0306-0702: **Chairman Block** invited **Damaris Borden** to present docket 16-0306-0702. **Ms. Borden** described the Refugee Medical Assistance program as a federally-funded program designed to help refugees transition into employment and self-sufficiency. Medicaid does not fund the program but by the Office of Refugee Resettlement. She described that the rules had been reorganized for clarity since they had not been updated in almost ten years. She also proposed an income increase to 150% of Federal Poverty Limits, increasing the potential to add up to 7 people to the Refugee Medical Assistance per year. She further stated that the Idaho Office for Refugees supports the rule change.

Rep. McGeachin inquired about the fiscal impact. **Ms. Borden** replied that the program is fully federally-funded, and that there is no match that the state agency needs to provide. Responding to questions from **Reps. Nielsen** and **Luker** about the choice to increase the income limit 150% when an increase of 200% was available, Ms. Borden replied that a choice was made to select a median income increase. **Chairman Block** invited **Jan Reeves** to speak. **Ms. Reeves** discussed the need to provide medical coverage to those not often given good medical coverage.

MOTION: **Rep. Rusche** moved that the committee accept docket 16-0306-0702 as written. The motion passed unanimously by voice vote.

Docket no 16-0306-0701: **Chairman Block** invited **Damaris Borden** to continue to present docket 16-0306-0701. **Ms. Borden** explained that 16-0306-0701 was to be repealed.

MOTION: **Rep. Rusche** moved that the committee accept docket 16-0306-0701 as written. The motion passed unanimously by voice vote.

ADJOURN: The meeting adjourned at 2:58 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE
BILBAO SUBCOMMITTEE**

DATE: January 10, 2008

TIME: 3:00 p.m.

PLACE: Room 225

MEMBERS: Chairman Bilbao, Representatives Thayn, Chew

**ABSENT/
EXCUSED:** Rep. Loertscher

GUESTS: Ed Hawley, Department of Administration; Arthur Sacks, Board of Dentistry

Chairman Bilbao called the meeting to order at 3:00pm.

**Docket #
15-0201-0701:** **Nanna Hanchett**, Rehabilitation Chief for the Idaho Commission for the Blind and Visually Impaired, presented docket 15-0201-0701 to the subcommittee (see attachment 1). She went into detail on the docket saying that these chapter rules are based on outdated laws and codes of federal regulations. The laws and regulations no longer reflect the intent of current laws and regulations.

MOTION: **Chairman Bilbao** moved to introduce as written. The motion was carried by voice vote.

**Docket #
15-0202-0701:** **Nanna Hanchett** presented docket 15-0202-0701 (see attachment 1). She went into detail that the docket covers the rules for the Vocational Rehabilitation Program Administered by Commission. The rules are federally mandated by the Rehabilitation Act of 1973 and its 1998 amendments and follows the applicable codes of federal regulations. The rules bring us in line with these current laws and regulations. She went into further detail of what the rule specifically addresses including who may apply for VR services with the Commission; requirements that must be met to be considered an applicant; eligibility criteria; and requirements that must be met to be eligible for vocational rehabilitation services as well as the criteria completion and implementation of an individual plan for employment. The rules also cover the Commission's Payment Policy which allows the Commission the flexibility to take an individual's financial need into consideration for some services.

Chairman Bilbao inquired about financing for this docket.

Ms. Hanchett answered that it was federally funded approximately 80 percent and state funded approximately 20 percent.

Chairman Bilbao inquired about payment change due to the degree of one's disability.

Ms. Hanchett clarified that once someone is determined eligible for services they receive services not based on their degree of disability.

MOTION: **Chairman Bilbao** moved for this bill to be approved as written. The motion carried by voice vote.

Docket #
15-0203-0701: **Nanna Hanchett** introduced docket 15-0203-0701 to the subcommittee (see attachment 1). She expressed that this docket covers the rules for the Independent Living Program Administered by the Commission. These rules are federally mandated by the Rehabilitation Act of 1973 and its 1998 amendments and follows the applicable codes of federal regulations. She went into specifics of what the rules address including who may apply for Independent Living Services with the Commission. Requirements that must be met to be considered an applicant; the eligibility criteria and requirements that must be met to be eligible for independent living services as well as the criteria for completion and implementation of a plan or waiver for independent living services. The Commission reserves the right to expend no more than \$500.0 per case to provide the Commission the ability to serve effectively all eligible Independent Living clients.

Rep. Thayn inquired about the stakeholders' views while making these rules.

Ms. Hanchett commented that when they put these rules into place that they (Idaho Commission for the Blind and Visually Impaired) are made aware to all individuals around the state that they were made available for review. No feedback was received.

Rep. Chew was curious about the context of this rule change.

Ms. Hanchett clarified that these rules clearly state who will and can qualify for those services. She also mentioned that these specifications bring the Commission up to date with federal regulations by being able to demonstrate those rules.

MOTION: **Rep. Thayn** moved to accept this docket and to bring it forward into the main committee. The motion was carried by voice vote.

Docket #
15-0204-0701: **Nanna Hanchett** introduced docket number 15-0204-0701 to the subcommittee (see attachment 1). This docket covers the rules for the Prevention of Blindness and Sight Restoration Program. She went into detail about the rules specifying the eligibility for the Prevention of Blindness and Sign Restoration Program. She mentioned the provision of payment for services needed is based on financial need, availability of funds, and is capped at \$5,000 per lifetime. This program is funded by the State out of the general fund, which did receive an increase last year. This program helped over 100 people (approximately) save their sight before they went completely blind last year.

MOTION: Rep. Chew moved to send bill to main committee with a do pass recommendation. The motion was carried by voice vote.

Docket #
19-0101-0701

Arthur R. Sacks is the Executive Director from the State of Idaho Board of Dentistry. He introduced docket 19-0101-0701 to the subcommittee (see attachment 2). He explained the need for these pending administrative fee rules because of the rapid growth in the last 9 years in the dentistry field. These rules are intended to increase the licensors application fees for dentists and dental hygienists licensed by examination. It will also increase biennial licensing fees for the dental professions. The increases in these fees are necessary to maintain the fiscal solvency of the Board of Dentistry at the present levels. The Board has seen an increase of general cost in the last 9 years and by raising these fees, the Board can keep up with the increased expenses in this field. **Mr. Sacks** went on to say that Idaho has some of the lowest fee cost in the country and after these new quantities are added, Idaho will be in the middle for fee expenses. He also went into detail about where those fee costs are spent within the field, mentioning that some funds go into monitoring professionals for drug abuse or problems. There was some general discussion regarding this, and **Mr. Sacks** explained that after a problem is detected, the professional is set up with treatment and rehabilitation options. He also mentioned that discussion on the Board of Dentistry was unanimous for raising fee rates.

MOTION:

Rep. Chew moved to send the docket accepted as written to the full committee. The motion was carried by voice vote.

ADJOURN:

With no further business, the meeting was adjourned at 3:36 p.m.

Representative Carlos Bilbao
Subcommittee Chairman

Camille Luna
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE
McGEACHIN SUBCOMMITTEE**

DATE: January 10, 2008

TIME: 3:00 p.m.

PLACE: Room 240

MEMBERS: Chairman McGeachin, Representatives Luker, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: Rosie Anduenza, Department of Health and Welfare; Linda Palmer, Department of Health and Welfare; Susie Cummins, Department of Health and Welfare; Bob Aldridge, Trust and Estate Professional of Idaho.

Chairman McGeachin called the meeting to order at 3:00 p.m. and thanked the presenters for their attendance. **Chairman McGeachin** asked the presenters to speak through the chairman when presenting.

Chairman McGeachin recognized **Rosie Anduenza** who was presenting for **Annie Dalgetty**.

**Docket #
16-0308-0701:** Docket No. 16-0308-0701 -- Rules Governing Temporary Assistance for Families in Idaho (TAFI) – was presented by **Rosie Anduenza**. **Ms. Anduenza** explained that TAFI is a cash assistance program for low-income families. This docket was intended to align self-employment income calculations for the TAFI program with the same methodology the Food Stamp program uses to calculate self-employment income. The Department has since discovered that some of Idaho's self-employed families are being negatively impacted by the current Food Stamp rule. Because the Food Stamp Program will change the rule on the calculation of self-employment, she asked for the committee to reject this TAFI docket.

Chairman McGeachin asked if anyone in the room wished to testify on the docket, and asked if there were any questions from the committee members.

MOTION: **Rep. Rusche** moved to acquiesce to the wishes of the Department and reject docket 16-0308-0701. The motion passed on a voice vote.

**Docket #
16-0304-0701:** Docket No. 16-0304-0701 -- Rules Governing the Idaho Food Stamp Program -- was presented by **Rosie Anduenza**.

Chairman McGeachin recognized **Ms. Anduenza**.

Ms. Anduenza told the committee that the docket would make Idaho's Food Stamp Program more customer-friendly and less error-prone. The docket contains three simple changes to the Food Stamp regulations in

that it would allow customers additional time to report changes in their income, would require an applicant to re-file an application in certain situations, and would provide direction on how and when to pro-rate food stamp benefits when an applicant has caused a delay.

Chairman McGeachin asked if anyone in the room wished to testify on the docket, and asked if there were any questions from the committee.

MOTION: **Rep. Luker** moved to approve docket 16-0304-0701 and refer it to the full committee. The motion passed on a voice vote.

Docket # 16-0305-0702: Docket No. 16-0305-0702 - Long Term Care Partnership - Eligibility for Aid to the Aged, Blind, and Disabled (AABD) - was presented by **Susie Cummins**. **Chairman McGeachin** recognized **Ms. Cummins**. **Ms. Cummins** explained that the rules in this docket bring the Medicaid eligibility rules into alignment with the changes in Senate Bill 1170, passed during the 2007 Legislative Session.

Previously, an individual who purchased a Qualified Long-Term Care Partnership Policy was required to exhaust the benefits of that policy before any resources could be protected for Medicaid eligibility. They will now be allowed to keep resources equal to the amount that the policy paid out at the time the long-term care Medicaid application is approved. This dollar amount is also exempt from estate recovery after the insured passes away.

Chairman McGeachin asked if anyone in the room wished to testify on the docket, and asked if there were any questions from the committee.

MOTION: **Rep. Rusche** moved to approve docket 16-0305-0702 and refer it to the full committee. The motion passed on a voice vote.

Docket # 16-0305-0703: Docket No. 16-0305-0703 - Eligibility for Aid to the Aged, Blind, and Disabled (AABD) - was presented by **Susie Cummins**. **Ms. Cummins** explained that the docket concerns formal rule changes to the Medicaid eligibility rules. 1) Definitions have been added for partnership policies, pension funds, and treasury rate so that it is clear what the terms mean when used in the rules; 2) Guidance has been added on calculating the value of a life estate; 3) The Community Spouse Resource Allowance has been updated so that a spouse is not required to spend all of their assets for the nursing home care of their ill spouse; and 4) Annuity rules have been updated to clearly define the difference between revocable and irrevocable annuities and when an asset transfer penalty should be applied as the result of purchasing an irrevocable annuity.

Chairman McGeachin asked if anyone in the room wished to testify on the docket, then recognized Bob Aldridge, representative of the Trust and Estate Professionals of Idaho.

Mr. Aldridge stated for the record that the ongoing discussions on these three dockets have gone very well and a structured way to discuss future rules has been developed. His organization is not objecting to any of the

proposed rules.

Chairman McGeachin then asked if there were further questions from the committee.

MOTION: **Rep. Rusche** moved to approve docket 16-0305-0703 and refer it to the full committee. The motion passed on a voice vote

Docket #
16-0305-0704: Docket No. 16-0305-0704 - Eligibility for Aid to the Aged, Blind, and Disabled (AABD) - was presented by **Susie Cummins**. **Ms. Cummins** explained that the docket aligns the Medicaid eligibility rules with federal guidance and regulations. It re-words the term "waived newborn" to match the federal term "deemed newborn," allows an individual to request continued benefits pending a fair hearing if they make the request before the effective date of the negative action taken on their benefits, and updates U.S. citizenship documentation requirements because of the federal rules that became final on July 13, 2007.

Chairman McGeachin asked if anyone in the room wished to testify on the docket, and asked if there were any questions from the committee.

A discussion was held on citizenship documentation.

MOTION: **Rep. Luker** moved to approve docket 16-0305-0704 and refer it to the full committee. The motion passed on a voice vote.

Docket #
16-0301-0701: Docket No. 16-0301-0701 - Eligibility for Health Care Assistance for Families and Children - was presented by **Linda Palmer**. **Ms. Palmer** told the committee that this docket contains two separate sections of rule change to bring Idaho into compliance with changes made in Federal Regulations for Medicaid eligibility. It would require that Medicaid be given to any newborn baby for one year from the date of birth when the delivery of the baby was paid for by Medicaid, and defines two groups exempt from the Medicaid requirement to provide proof of U.S. citizenship as they have already provided the proof to the Department of Health and Welfare and the Social Security Administration. The two groups are individuals receiving Social Security Disability Income, and children receiving child welfare services under the Social Security Act.

Chairman McGeachin asked if anyone in the room wished to testify on the docket, and asked if there were any questions from the committee.

A discussion was held regarding eligibility requirements.

MOTION: **Rep. Luker** moved to approve docket 16-0301-0701 and refer it to the full committee. The motion passed on a voice vote.

**Docket #
16-0301-0702:**

Docket No. 16-0301-0702 - Eligibility for Health Care Assistance for Families and Children - was presented by **Linda Palmer**. **Ms. Palmer** explained that this docket contains changes to align Idaho Health Care for Families and Children rules with new and existing Federal regulations. It would update U.S. citizenship document to align with Federal rules that became final on July 13, 2007, would allow individuals to request their benefits be continued pending a fair hearing decision if they make the request before the effective date of the action, and would restore a section of rule that was removed in error during Medicaid reform.

Chairman McGeachin asked if anyone in the room wished to testify on the docket, and asked if there were any questions from the committee.

MOTION:

Rep. Luker moved to approve docket 16-0301-0702 and refer it to the full committee. The motion passed on a voice vote.

**Docket #
16-0301-0703:**

Docket No. 16-0301-0703 - Eligibility for Health Care Assistance for Families and Children - was presented by **Linda Palmer**. **Ms. Palmer** explained that this docket brings Health Care for Families and Children reporting requirements into alignment with proposed changes to the Food Stamp and Aid to the Aged, Blind, and Disabled (AABD) program rules by allowing a participant until the 10th day of the month after the change occurs to notify the Department. The current rule states that a change must be reported within ten days of the change.

Chairman McGeachin asked if anyone in the room wished to testify on the docket, and asked if there were any questions from the committee.

MOTION:

Rep. Rusche moved to approve docket 16-0301-0703 and refer it to the full committee. The motion passed on a voice vote.

ADJOURN:

There being no further business before the committee, **Chairman McGeachin** adjourned the meeting at 3:45 p.m.

Representative Janice McGeachin
Chairman

Marsha Palmer
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE NIELSEN SUBCOMMITTEE

DATE: January 10, 2008

TIME: 3:00 p.m.

PLACE: Room 228

MEMBERS: Chairman Nielsen, Reps. Shepherd (8), Marriott, Henbest

**ABSENT/
EXCUSED:**

GUESTS: Dieuwke Spencer, Bureau Chief, Department of Health and Welfare; James Aydelotte, Bureau Chief, Department of Health and Welfare; Kathryn Turner, Program Manager, Department of Health and Welfare, Division of Health; Christine Hahn, State Epidemiologist, Department of Health and Welfare; Tom Schmalz, Central District Health Department; Wayne Denny, Emergency Medical Services Bureau; Jane Smith, Administrator, Department of Health and Welfare; Dia Gainor, Bureau Chief, Emergency Medical Services; David Eisentrager, Lab manager, Department of Health and Welfare; Martin Bilbao, Dr. David Kim, Chairman of Emergency Medical Services Physicians Committee and Medical Director, Life Flight

Chairman Nielsen called the subcommittee meeting to order and welcomed the guests.

Docket no. 16-0202-0701 Chairman Nielsen invited **Dr. David Kim** to present docket 16-0202-0701. **Dr. Kim** explained that this rule relates to the scope of practice and medical supervision standards for EMS personnel in Idaho. Currently, there are no scope of practice rules in effect since the rulemaking authority for the previously-existing EMS scope of practice rules was transferred from the Board of Medicine to the EMS Physician Commission by the 2006 Legislature. He described that the Legislature gave the EMS Physician Commission the authority because EMS scope of practice issues have become increasingly complex. **Dr. Kim** further described that, since the old EMS scope of practice rules are no longer in effect, the Commission is establishing new rules to replace them to comply with current statutory requirements. He described specific changes to Section 100, Section 300, Section 400, and Section 500.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0202-0701 as written. The motion passed unanimously by voice vote.

Docket no. 16-0208-0701 **Chairman Nielsen** invited **James Aydelotte** to present docket 16-0208-0701. **Mr. Aydelotte** explained that the passage of Senate Bill 1069 last year added advanced practice professional nurses and physician assistant to the list of those legally authorized to sign death and still birth certificates and authorize the final disposition and removal of a dead body or stillborn fetus. The change he described would allow the rules to agree with the amended statutes 39-260 and 39-268, and included language clarification, some reorganization, and other housekeeping changes.

Chairman Nielsen inquired about the use of the term “designee.”

MOTION: **Chairman Nielsen** moved that the committee set aside docket 16-0202-0701 until further clarification could be provided. The motion carried unanimously by voice vote.

Docket no. 16-0210-0702 **Chairman Nielsen** invited **Kathryn Turner** to present docket 16-0210-0702. **Ms. Turner** explained the Idaho Reportable Diseases chapter of rules provides for disease surveillance and control and requires specified individuals to report certain diseases and conditions to the Department or Health Districts. These reporting requirements help protect the public from diseases that can be harmful or life-threatening to others if the disease is not reported and contained. Changes to the pending rule include the addition of MRSA as a reportable disease (including control measures for specific manifestations of MRSA infections, and the addition of definitions and expanded language related to tuberculosis, as well as corrections of citation references and textual corrections.

After questions from **Chairman Nielsen** and **Rep. Marriott** about reporting requirements, **Ms. Turner** stated that a goal is to move toward more immediate reporting through an automated process, and that penalties are in place for those organizations who fail to report an outbreak of disease, although they have never been used.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0210-0702 as written. The motion carried unanimously by voice vote.

Docket no. 16-0210-0701 **Chairman Nielsen** invited **Kathryn Turner** to present docket 16-0210-0701. **Ms. Turner** explained docket 16-0210-0702 would replace docket 16-0210-0701.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0210-0701 as repealed. The motion passed unanimously by voice vote.

Docket no. 16-0215-0701 **Chairman Nielsen** invited **Dieuwke Spencer** to present 16-0215-0701. **Ms. Spencer** explained that the rule was opened last year to bring it into alignment with current recommendations of the federal Advisory Committee on Immunization Practices. At that time, **Chairman Nielsen** requested that language be added to section 150.01 to clearly state that Section 110 provides for exemption from this rule. She related that the rule continues to be confusing for personnel in the schools and that a new table has been designed which provides a specific date of September 1, 1999 as well as the number of doses required for each immunization for those born both before and after that date.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0215-0701 as written. The motion passed unanimously by voice vote.

Docket no. 16-0219-0701 **Chairman Nielsen** invited **Dr. Christine Hahn** to present docket 16-0219-0701. She explained that, in order to help protect the public against food-borne illnesses, the Department is amending the Idaho Food Code to include vendors at farmer’s or community markets who sell prepared

food to include a definition for an “intermittent food establishment” and that the Centers for Disease Control and Prevention has determined that Norovirus is the most common cause of food-borne outbreaks nationwide. The employee health section of these rules is being amended to add safety standards and precautions for the disease Norovirus.

Rep. Shepherd inquired about the cost and the enforcement of such a rule. **Dr. Hahn** replied that workers at intermittent or seasonal markets will receive one permit which lasts for the season.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0219-0701 as written. The motion passed unanimously by voice vote.

Docket no. 16-0227-0701 **Chairman Nielsen** invited **David Eisentrager** to present docket 16-0227-0701. **Mr. Eisentrager** stated that regulatory authority for the radiation control inspections has been located in the Department of Environmental Quality area of the IDAPA code. The numbering and language changes will now place these regulations in the Health and Welfare section of the code. Additionally, there are changes to the numbering system as well as language clarifications.

Rep. Shepherd asked about the facilities that would use such radiation equipment, and if there were additional changes in either requirements or cost. **Mr. Eisentrager** replied no.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0227-0701 as written. The motion passed unanimously by voice vote.

ADJOURN: The meeting adjourned at 4:47 p.m.

Representative Peter Nielsen
Chairman

Laurie Kaden
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE
BILBAO SUBCOMMITTEE**

DATE: January 11, 2008

TIME: 8:30 a.m.

PLACE: Room 225

MEMBERS: Chairman Bilbao; Representatives Loertscher, Thayn, Chew

EXCUSED: Representative Loertscher

GUESTS: Roger Hales, Attorney/Lobbyist, Idaho Bureau of Occupational Licenses; Tana Cory, Bureau Chief, Idaho Bureau of Occupational Licenses; Kris Ellis, Lobbyist, Acupuncture Association

Chairman Bilbao called the meeting to order at 8:30 a.m.

Docket #

24-0901-0701:

Roger Hales appeared on behalf of the Administrative Board of Occupational Licenses to review the following:

Nursing Home Educational & Training Requirements Rule 200.03. This change would allow continuing education requirements for licensees to be waived for the first year, but are required in the second year. The Nursing Home Administrators-In-Training rule (400.02) would allow trainees to work on a full time basis in any capacity in an Idaho licensed nursing home setting while earning their internship. **Rep. Thayn** asked if there had been any negative input. **Mr. Hales** replied that no negative input had been received.

Rep. Chew requested **Mr. Hales** to explain the rule again. **Mr. Hales** explained that different areas required a specific number of hours for training, and that now trainees can work in any capacity on a full-time basis within the nursing home to meet those training hours, which is a more flexible system.

MOTION:

Rep. Thayn moved that the subcommittee report finding no reason to reject docket # 24-0901-0701. The motion passed by voice vote.

Docket #

24-1101-0701:

Mr. Hales explained in rule 400 that all applicants were required to pass all parts of the exam given by the National Board of Podiatric Medical Examiners. This exam had been conducted prior to that by the local Board. At this time, the jurisdiction for the exam is being returned to the local Board. Regarding rule 410, the Board will recognize any application for licensure as null and void after a period of two (2) years from the date of original application if no license has been issued. Regarding Rule 700 (Continuing Education), post-graduate courses approved by the National Board of Podiatry will also be accepted by the Idaho Board.

MOTION:

Rep. Chew moved that the subcommittee report finding no reason to reject docket #24-1101-0701. The motion passed by voice vote.

Docket #

24-1401-0701: **Mr. Hales** explained under rule 201.06c that supervision of social workers pursuing licensure as clinical practitioners must be approved by a licensed, clinical social worker or a licensed marriage and family therapist who is registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. He explained rule 201.08 (out-of state supervised experience) may be considered for licensing purposes in Idaho.

Chairman Bilbao posed a question about the licensure of a professional in a hospital setting. **Mr. Hales** replied that mental health does not issue temporary licensure. **Chairman Bilbao** said that large nursing homes have registered counselors. Can licensure be expedited? **Mr. Hales** replied that this can sometimes take up to 60 days. **Mr. Hales** stated that boards are sensitive to the needs of applicants, and also suggested to contact Tana Cory, Chief of the Bureau of Occupational Licenses, for assistance.

Regarding rule 201.08c, **Mr. Hales** stated that a documented 15 hours of clinical supervisory training is required.

Rep Chew inquired as to whether the requirements are the same for both inside and outside training. **Mr. Hales** replied that the difference of inside and outside training is not specified. He went on to explain in rule 350.02a & b that a bachelor's degree candidate shall be required to successfully pass the bachelor's examination, and that master's candidates shall be required to successfully pass the master's examination.

Mr. Hales explained in rule 450.02a and c that some verbiage was changed stating that social workers shall not discriminate against anyone because of age, gender, race, color, religion, national origin, mental status, physical disability, or social or economic status, and shall not practice while impaired by medication, alcohol, drugs, or other medications.

Chairman Bilbao asked if there were concerns expressed. **Mr. Hales** stated there were none of which he was aware.

MOTION:

**Docket #
24-1501-0701:**

Rep. Thayne moved that the subcommittee report finding no reason to reject Docket #24-1401-0701. Motion carried by voice vote.

Mr. Hales related information about docket 24-1501-0701. He explained that an update was made by removing the requirement of a counseling program in teacher education either to one accredited or approved by the National Council or a counseling program listed in the Interstate List of Approved Programs. He also shared a minimum of one (1) graduate level course in at least six (6) areas is required in the counseling program. An upgrade to the language of accreditation of universities and colleges was made as well. Rule 238 changed to the verbiage from must to may, and requires supervision from a registered Marriage and Family Counselor. Rule 245 now designates that an individual pursuing Idaho licensure as a Professional Counselor may register with the Board prior to commencement of supervised experience. In Rule 250, he explained that last year the Board adopted new status categories for annual renewal

fees for inactive and senior licenses.

Rule 300 changes to a more flexible in/out of state applicant for a total of 100 hours of continuing education to be completed in the five (5) years immediately prior to application. Regarding rule 360 (Inactive Status), an applicant must make a written request and must pay an established fee, and all continuing education requirements will be waived. Inactive Licensees cannot practice during this time. When a licensee desires active status, he must show acceptable fulfillment of continuing education for the previous twelve months (12) and submit a fee. For a Senior Status Request, each person must be 65 years old and request must be written and pay an established fee. No continuing education is required of those holding a current inactive license.

MOTION:

Rep. Chew moved that the subcommittee report finding no reason to reject docket #24-1501-0701. Motion carried by voice vote.

**Docket #
24-1601-0701:**

Regarding rule 300, **Mr. Hales** explained that denturists have internship requirements. The Board wants limits set at two years of internship to be completed in twenty-four (24) months, yet not to exceed thirty (30) months. **Mr. Hales** related that this requirement can be extended with good cause by the Board. Relating information about rule 450, he said that an additional requirement that no fraudulent, false, deceptive or misleading advertisements will be disseminated.

MOTION:

Rep. Chew asked if there had been problems with advertising. **Mr. Hales** replied negatively.

**Docket #
24-1701-0701:**

Rep. Thayne moved that the subcommittee report finding no reason to reject docket #24-1601-1701. The motion carried by voice vote.

Chairman Bilbao invited **Chris Ellis** representing the Acupuncture Association to speak. **Ms. Ellis** explained that rule 010 would allow any college or university to be accredited by an organization approved by the U.S. Department of Education. In Rule 200, regarding successful passage of an examination or other demonstration of proficiency as approved by the board, a licensed acupuncturist is required to attend course work of 1800 hours and pass a test. There is a shorter approach for other medical professionals, including 100 hours of course work, 200 hours of practice, and a passing grade on a board-approved exam.

MOTION:

Rep. Chew moved that the subcommittee report find no reason to reject Docket #24-1701-0701. The motion carried by voice vote.

**Docket #
24-2301-0701:**

Mr. Hales related that this is a relatively new profession. **Dennis Stevenson** brought corrected pages 494, 495 and 496 for this section of rules-making language changes by the Board under Rule 210 (Qualifications for Audiologist Licensure); Rule 220 (Qualifications for Speech-Language Pathologist Licensure); Rule 230 (Qualifications for Speech-Language Pathologist Aides); Rule 240 (Qualifications for Speech-Language Pathologist Assistant Licensure); and Rule 250 (Qualifications for Hearing Aid Dealer and Fitter Licensure).

Mr. Stevenson stated that these are boiler-plate changes to the

requirements for qualifications. **Mr. Stevenson** stated that the changes are not substantive, but more for proper language use.

Rep. Thayn was not sure as to why the changes were being made.

Mr. Stevenson stated the changes being made were requested by the Board and will make the rule wording more consistent. Grammatical changes to the requirement were for hearing aid employees to have adequate personal contact with supervisor for the first 60 days of employment. Rule 250 includes no substantive changes, just grammatical changes.

MOTION:

Rep. Thayn moved that the subcommittee report finding no reason to reject docket #24-2301-0701. The motion carried by voice vote.

There being no further business to come before the subcommittee, **Chairman Bilbao** adjourned the meeting at 9:35 a.m.

Representative Carlos Bilbao
Chairman

Donna Nelson
Secretary

MINUTES

**MCGEACHIN SUBCOMMITTEE
HOUSE HEALTH AND WELFARE COMMITTEE**

DATE: January 11th, 2008

TIME: 10 A.M.

PLACE: Room 240

MEMBERS: Chairman Janice McGeachin, Rep. Lynn Luker, Rep. John Rusche

**ABSENT/
EXCUSED:** None

GUESTS: See attached sheet.

Because Rep. McGeachin was attending a JFAC meeting, Chairman Block conducted the meeting.

**DOCKET #16-
0307-0701:**

Randy May, Deputy Administrator from the Medicaid Division of Health and Welfare presented this docket to the subcommittee. He explained that he has senior oversight responsibility for the survey, licensing, and certification programs the Department operates to support both federal guidelines and Idaho Statue and rule. He further explained that the purpose of this new section of rule is to help protect the health and safety of Idaho residents receiving services from home health agencies. Home health agencies provide skilled nursing care, home health aide services, homemaker services, physical therapy, nutritional services, and social services designed to help individuals live more independently in their own homes rather than in an institutional setting. These services are typically delivered in the individual's home in a one-on-one setting. This rule helps protect citizens receiving services in that one-on-one setting by requiring home health agencies conduct criminal history and background checks on all staff hired after October 1, 2007. This new requirement is a prerequisite for the agency to hold a license to operate within the state of Idaho.

This rule requires the agency to conduct a criminal history and background check using the Department's criminal history check program.

MOTION: Rep. Luker made a motion to accept **Docket #16-0307-0701** as written. On a voice vote, the motion carried.

**Docket #16-
0315-0701**

Mr. May also presented this docket to the subcommittee. He explained that the purpose of this rule is to help protect the health and safety of Idaho residents receiving services in semi independent group residential facilities for the developmentally disabled or the mentally ill. These homes are intended to provide a transition between discharge from institutional care and full return to independent community living. There are seven of these homes throughout Idaho. This rule impacts semi independent group homes by adding a new requirement that they conduct criminal history and background checks on all staff hired after October 1, 2007.

This new requirement is a prerequisite for the home to hold an agreement

to operate within the state of Idaho. The rule requires the home to conduct a criminal history and background check using the Department's program.

MOTION: Rep. Luker made a motion to accept **Docket #16-0315-0701** as written. On a voice vote, the motion carried.

Docket #16-0302-0701

Mr. May also presented this docket to the subcommittee. He explained that this docket adds a new section to the rules governing skilled nursing facilities and intermediate care facilities in the state. This rule requires skilled nursing facilities and intermediate care facilities conduct criminal history and background checks on all staff hired after October 1, 2007. This new requirement is a prerequisite for the facility to hold a license to operate within the state of Idaho. The rule allows two options for conducting the criminal background check. They can use the Department's criminal background check or they can use a criminal background check from another source provided that background check includes a fingerprint identification and a check against databases run by: the FBI's national crime information center, the Idaho state police, the Idaho sex offender registry, the office of Inspector General exclusion list, and the Idaho nurse aide registry.

Rep. Rusch commented that there should be some way to make background checks more efficient so potential applicants do not have to obtain four or five different checks for different jobs. **Mr. May** responded that there is the capability to tap into background checks by using the employer ID numbers.

Robert VandeMerwe, representing the Idaho Health Care Association spoke in opposition to this docket. He explained that his organization is in favor of background checks; however they support having just one check done instead of the two background checks required. He explained that the facilities have to pay for these checks. He mentioned that currently there is a bill in Congress to have everyone use FBI background checks and the federal government would pay for those checks. This bill has not been passed yet.

Mr. May responded that there is no national standard for background checks and the Department feels that fingerprint checks are critical to the safety of vulnerable adults.

Mr. VandeMerwe explained that this rule docket has been heard in the Senate Health and Welfare Committee and Chairman Lodge has requested more study into this matter.

Mr. May explained that if this docket were to be rejected there would be a hole in the provider umbrella for criminal history checks.

MOTION: Rep. Rusche made a motion to accept **Docket 16-0302-0701** as written. On a voice vote, the motion carried.

Rep. McGeachin chaired the meeting.

Docket #16-0311-0701

Mr. May presented this docket to the subcommittee. He explained that the purpose of the rule is to help protect the health and safety of Idaho residents

living in intermediate care facilities for the mentally retarded. This rule impacts those facilities by adding a new requirement that they conduct criminal history and background checks on all staff hired after October 1, 2007. This new requirement is a prerequisite for the facility to hold a license to operate within the state of Idaho. The rule allows two options for conducting the criminal background check. First, they can use the Department's criminal background check, or they can use a criminal background check from another source provided that the background check includes a fingerprint identification and check against databases run by those of the previous docket.

MOTION: Rep. Rusche made a motion to accept **Docket #16-0311-0701** as written. On a voice vote, the motion carried.

Docket #16-0322-0701 **Mr. May** presented this docket to the subcommittee. He explained that the purpose of this rule is to help protect the health and safety of Idaho residents living in residential care or assisted living facilities. The rule adds a new requirement that they conduct criminal history and background checks on all staff hired after October 1, 2007. The rule allows two options for conducting the criminal background check. First, they can use the Department's criminal background check, or they can use a criminal background check from another source provided that the background check includes a fingerprint identification and check against databases run by those of the two previous dockets.

MOTION: Rep. Luker made a motion to accept **Docket #16-0322-0701** as written. On a voice vote, the motion carried.

Docket #16-0505-0701 **Mond Warren**, Bureau Chief of criminal background checks for the Department of Health and Welfare presented this docket to the subcommittee. He explained that this docket repeals the rules for criminal background checks that were in place for a federal pilot project for long term care facilities. He further explained that there were no previous requirements for criminal background checks except for nursing homes. A statewide system for criminal background checks was developed which reduced the turnaround time for background checks from six to eight weeks to two or three days. 3.2% of all applicants were denied employment due to the criminal background checks.

MOTION: Rep. Rusche made a motion to accept **Docket #16-0505-0701** as written. On a voice vote, the motion carried.

Docket #16-0310-0701 **Paul Leary**, Deputy Administrator of the division of Medicaid for the Department of Health and Welfare presented this docket to the subcommittee. He explained that his docket was presented last year as a temporary rule and was extended by the 2007 Legislature. In the rewrite of IDAPA 16.05.06; Criminal History and Background Checks, some language was changed removing general language requiring criminal history checks for providers of Medicaid services who provide direct care or services to children and/or vulnerable adults.

Additional language has been added to the Medicaid rules that govern the Medicaid Enhanced Benefit Plan to ensure that all providers who provide

Home and Community Based Services to vulnerable adults are required to complete a criminal history background check.

He further explained that Senate Bill 1339 which was passed by the 2006 Legislature, removed the requirement for a physician's order for personal care services. An amendment to the Medical Assistance State Plan has been approved by the Centers of Medicare and Medicaid and the Department is now making the change in rule.

MOTION: Rep. Luker made a motion to accept **Docket #16-0310-0701** as written. On a voice vote, the motion carried.

ADJOURNMENT Chairman McGeachin adjourned the meeting at 10:50 A.M.

Representative Janice McGeachin
Chairman

Claudia Howell
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE NIELSEN SUBCOMMITTEE

DATE: January 11, 2008

TIME: 8:30 a.m.

PLACE: Room 228

MEMBERS: Chairman Nielsen, Reps. Shepherd (8), Marriott

**ABSENT/
EXCUSED:** Rep. Henbest

GUESTS: Larry Tisdale, Division of Medicaid, Department of Health and Welfare; Paul Leary, Division of Medicaid, Department of Health and Welfare; Pat Guidry, Division of Medicaid, Department of Health and Welfare; Dr. Donald Morris, Department of Health and Welfare

Chairman Nielsen called the subcommittee meeting to order and welcomed the guests.

**Docket no.
16-0309-0702** **Chairman Nielsen** invited **Larry Tisdale** to present administrative rule docket 16-0309-0702. **Mr. Tisdale** explained that 16-0309-0702 is comprised of amended as well as new sections of rule intended to define and describe the methodology used by the department to determine interim as well as permanent reimbursement rates for new, federally-qualified health centers (FQHCs) and the services that they provide.

Responding from questions from **Chairman Nielsen** and **Rep. Marriott**, **Mr. Tisdale** explained that federally-funded clinics service the uninsured, and that the annual adjustment of the reimbursement rate is set under an inflationary index and not reset each year.

MOTION: **Rep. Marriott** moved that the committee accept docket 16-0309-0702 as written. The motion passed unanimously by voice vote.

**Docket no.
16-0309-0703** **Chairman Nielsen** invited **Mr. Tisdale** to present docket 16-0309-0703. He explained that this rule changes the definition of reimbursement floor percentages such that the reimbursement floor calculation for hospitals with more than 40 beds would be 81.6% of Medicaid costs and the floor for hospitals with 40 or fewer beds would be 96.5%.

Rep. Marriott moved that the committee report no reason to reject docket 16-0309-0703. The motion passed by voice vote.

**Docket no.
16-0309-0704** **Chairman Nielsen** welcomed **Paul Leary** to present docket 16-0309-0704. He described the need to amend the medical assistance rules under Chapter 9 of the Medicaid Basic Plan in order to clarify under which circumstances a surgically implanted hearing aid may be authorized. He went on to describe that hearing aid technology has recently changed and improved, and that surgically-implanted hearing devices would occur only after it was determined that a non-implantable hearing device would not

meet the medical needs of the patient. Responding to a question from **Rep. Marriott, Mr. Leary** described that surgical implantation costs between \$11,000 and \$12,000.

MOTION: **Rep. Shepherd** moved that the committee accept docket 16-0309-0704 as written. The motion passed unanimously by voice vote.

Docket no.
16-0309-0705

Chairman Nielsen invited **Mr. Leary** to address docket 16-0309-0705. **Mr. Leary** shared that Chapter 9 of the Medical Assistance rules have been amended to add a “pay for performance”-enhanced management fee for Healthy Connections Providers who enroll Medicaid participants with diabetes, asthma, hypertension, hyperlipidemia, and depression in their disease management program – a rule consistent with the direction of HB 776 passed by the 2006 Legislature to improve the health outcomes of Medicaid participants. He explained that the rule adds to the methodology used for determining the reporting requirements for each chronic disease.

Responding to a question from **Chairman Nielsen** about the reduction in paperwork if the rule were to be implemented and his concern about excellent patient care, **Dr. Donald Norris** was invited to speak and replied affirmatively to both questions.

MOTION: **Rep. Shepherd** moved that the committee accept docket 16-0309-0705 as written. The motion passed unanimously by voice vote.

Docket no.
16-0309-0707

Chairman Nielsen invited **Mr. Leary** to present docket 16-0309-0707. **Mr. Leary** described that dental benefits on the Medicaid Basic Plan are currently provided through a selective or managed contract; that previous rules relating to dental services are being deleted; and that rules now state that these benefits are provided through a third party. The effective date for this rule change was September 1, 2007, which coincides with the date the benefits were outsourced.

He went on to describe that approximately 120,000 Medicaid participants now receive their dental benefits through the new program, and that the services covered by the program are essentially the same as those covered under the previous program, however there are now limitations placed on the services that are consistent with those offered by a commercial dental insurance product. **Mr. Leary** mentioned that pregnant women are also covered in this dental program.

Reading a comment from **Rep. Henbest, Chairman Nielsen** inquired about the Blue Cross contract. **Mr. Leary** replied that they were seeking the best provider, not the one who offered the lowest price.

MOTION: **Rep. Marriott** moved that the committee accept docket 16-0309-0707 as written. The motion passed unanimously by voice vote.

Docket no.
16-0310-0705

Chairman Nielsen invited **Mr. Leary** to present docket 16-0310-0705. **Mr. Leary** explained that participants who receive Enhanced Plan Benefits received their dental benefit through Medicaid. The entire rule relating to Medicaid dental benefit coverage has been deleted from Chapter 9 of the Medicaid Basic Plan and moved in its entirety to Chapter 10 of the Medicaid Enhanced Plan. He went on to describe that the Enhanced Plan is for those with developmental disabilities and those who require enhanced mental health services. Roughly half of these individuals are children; the rest are adults.

MOTION:

Rep. Shepherd moved that the committee accept docket 16-0310-0705 as written. The motion passed unanimously by voice vote.

Docket no.
16-0309-0708

Chairman Nielsen invited **Pat Guidry** to present docket 16-0309-0708. **Ms. Guidry** described the need to allow physicians who provide mental health services to use the telehealth technology in locations of their choosing and to utilize hospitals or other places where equipment exists to provide service for patients who may be remotely located throughout the State of Idaho. In response to a question posed by **Chairman Nielsen** on behalf of **Rep. Henbest** about the fiscal impact of the program, **Ms. Guidry** went on to explain that there would be some savings in transportation costs to the patient, and that emergency room utilization would likely be reduced. **Rep. Marriott** commented that technology used in this manner is typically excellent.

MOTION:

Rep. Marriott moved that the committee accept docket 16-0310-0705 as written. The motion passed unanimously by voice vote.

ADJOURN:

The meeting adjourned at 10:36 a.m.

Representative Peter Nieslen
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 14, 2008

TIME: 1:15 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Becky Pierce, Speech Language Pathologist, Harms Memorial Hospital; Tammy Emerson, Speech Language Pathologist, Idaho Schools, Loa Perin, Volunteer, AARP; Chuck Walter, Volunteer, AARP; Linda Jackson, Executive Director, Idaho Occupational Therapy Association; Tana Cory, Bureau Chief, Bureau of Occupational Licenses; Annie Dalgetty, Program Specialist, Department of Health and Welfare; Marla Stinger, Welfare Specialist, Department of Health and Welfare; Heidi Low, American Cancer Society; Kerry Ellen Elliott, Lobbyist, Health Districts; Paul Leary, Deputy Administrator, Division of Medicaid, Department of Health and Welfare; Karen Mason, Executive Director, Idaho AEYC; Michael Pearson, Senior Financial Specialist, Department of Health and Welfare; Genie Sue Weppner, Program Manager, Department of Health and Welfare; Sondra McMIndes, Speech Pathologist, Idaho Speech and Hearing Association; Dennis Stevenson, Administrative Rules Coordinator, Department of Administration

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

MOTION: **Rep. Henbest** moved to accept the committee meeting minutes of January 9, as written. The motion carried by voice vote.

**Docket #
16-0612-0701:** **Chairman Block** invited **Genie Sue Weppner** to present docket 16-0612-0701 to the committee. This docket proposed improvements to the Idaho Child Care Program rules though targeting the subsidy to vulnerable, low-income families; preserving assistance to students; and improving market rates while supporting families working to achieve self-sufficiency. The Idaho Child Care Advisory Panel, the Office of Performance Evaluation, the State Legislative auditor, and a stakeholder group requested by the committee examined the proposed changes. The rule raises eligibility limits, makes the ICCP co-payment structure more gradual so that no co-payment increase is more than 5%, and creates a small savings that will allow for improvement of the market rate that is paid to providers. In order to offset the increased costs related to these improvements, Ms. Weppner proposed limiting post-secondary education as an eligible activity to 40 months; limiting work search as an eligible activity to no more than the month following no-fault job loss; and utilizing savings due to a decline in ICCP caseload reduction.

Responding to a question by **Rep. Luker** about definitions of the words “child, child care, and foster care,” **Ms. Weppner** agreed that further clarification about these terms must take place. **Rep. Luker** asked if a section of the rule could be rejected. **Chairman Block** invited **Dennis Stevenson**, Administrative Rules Coordinator, to speak about rejecting section 303.03 from the rule. **Mr. Stevenson** indicated that the committee could accept the rule down to the subsection of the rule, and exclude section 303.03. **Rep. Luker** followed up by inquiring if the rule was the same rule under consideration last year which was withdrawn. **Ms. Weppner** replied that it was the same rule with the exception of the 50% self-employment rule. **Rep. Nielsen** asked if the figure reflected the subtraction of 50% of the individual’s gross monthly income, less expenses. **Ms. Weppner** replied that the amount was arrived at by taking the gross income and subtracting 50%, and if a person’s expenses were more than 50% that they would likely be more eligible. **Rep. Henbest** inquired if **Ms. Weppner** had confirmed through the Department of Labor that job-searching that takes approximately one month is the average amount of time for an individual to find a new job. **Ms. Weppner** replied that, although she hadn’t checked with the Department of Labor, that much job-searching could be done at home when child-care concerns would not be an issue. She added that the “36-month” rule has been changed to a “40-month” rule to stop the “professional student” from receiving benefits from this. Should the modified automatic standard deduction (303.03) rule be accepted as written, asked **Rep. Luker** and reiterated by **Chairman Block**, could **Ms. Weppner** assure the committee that changes would be made next year? **Ms. Weppner** replied affirmatively. **Rep. Nielsen** asked when the rule would take effect – at either the close of the session or on July 1. **Mr. Stevenson** replied that the rule would take effect on the day the resolution is adopted. **Ms. Weppner** replied to a question by **Rep. Nielsen** regarding the exclusion of section 303.03 by saying that, if the section were eliminated, there would be no rule for self-employment. **Rep. Luker** indicated he would agree, then, with leaving that section as written.

MOTION:

Rep. Nielsen moved that the committee accept docket 16-0612-0701 as written. The motion passed unanimously by voice vote.

Docket # 16-0612-0702:

Chairman Nielsen asked **Genie Sue Weppner** to continue to present docket 16-0612-0702. **Ms. Weppner** explained that the rule would provide the funding necessary to improve the Idaho Child Care Program while remaining budget-neutral. The rule would result in savings since adjustments for reimbursements to providers through improving the market rate would be allowed. Changes would also preserve assistance to students while providing continued support for working families. The Idaho Child Care Advisory Panel, the Office of Performance Evaluation, the State Legislative auditor, and a stakeholder group requested by the committee recommended the proposed changes.

The rule would require individuals applying for child care to cooperate with child support, and reinforces the Welfare Reform philosophy that absent parents should be responsible for a child’s financial well-being. As well, it would reduce the dependency upon welfare programs as opportunities for fraudulent use of child care assistance when the absent

parent continues to contribute to the household income. The rule will also benefit low-income working families to both find and to maintain work, and is also effective while a parent earns a 4-year college degree in an effort to avoid poverty. The ICCP will continue to allow post-secondary education as an eligible activity, but will require non-working students to pay a co-payment that is equal to or less than the average co-payment paid by working students. The stakeholder group who reviewed the rule strongly recommended that all individuals receiving ICCP should pay a reasonable share of the costs of child care and should be a share rate that would encourage students to seek employment rather than apply for additional student loans.

Rep. Thayn inquired if improvements in rates had been noticed. **Ms. Weppner** replied that the Federal Government suggested a 75% rate, but that, in some areas of the State of Idaho, the rate had been 85%.

MOTION: **Rep. McGeachin** moved that the committee accept docket 16-0612-0702 as written. The motion passed unanimously by voice vote.

Docket #
16-0309-0701: **Chairman Block** invited **Paul Leary** to present docket 16-0309-0701. **Mr. Leary** explained that the rule was present during the 2007 Legislative Session as a temporary rule and now as a pending rule. House Bill 663 passed by the 2006 Legislature directed the department to establish enforceable cost sharing in order to increase the awareness and responsibility of Medicaid participants for their cost of their health care and to encourage use of cost-effective care in the most appropriate setting. These rules created enforceable co-payments allowing hospitals to receive a co-payment for non-emergent use of the emergency room and emergency transportation providers to receive a co-payment for non-emergent use of emergent transportation. Also, the rules allow a provider to collect a payment for a missed appointment if that is their policy for patients and if they have previously notified the patient. It was decided that a co-payment for non-preferred drugs should not be implemented.

Asked by **Rep. Henbest** if an emergency room physician would ever label a non-emergency as an emergency simply to get reimbursed, **Mr. Leary** replied that this would not be an incentive for them, that there is not a lot of incentive for them to change, that the rule of six visits per year was no longer in effect, and that only roughly 12% of emergency room visits ever resulted in hospital admission. **Rep. Henbest** continued by asking how much latitude the Federal Government gives, and was **Mr. Leary** taking this back to his drawing board? **Mr. Leary** replied that a task force of physicians interested in changing behaviors had been started.

When **Rep. Rusche** asked how many care centers had no primary care physicians who accept Medicaid during or after hours, **Mr. Leary** replied that many do. **Rep. Luker** inquired about co-payments of \$3.00, and **Mr. Leary** replied that the co-payment is typically nominal, that the rule will help to establish enforceable co-payments, and that states may allow the hospitals to charge for co-payment. He went on to discuss the over-utilization of emergency rooms as treatment centers, and admitted that the problem is more far-reaching than what just Medicaid handles. **Rep.**

Luker asked if money was being spent on a rule that was ineffective. **Mr. Leary** replied that there will be no change in department practice since hospitals are allowed to collect a co-payment. **Rep. Marriott** asked if the department was tracking after-hours co-payments. **Mr. Leary** replied that he did not know. **Rep. Bilbao** shared a comment that a hospital near Emmett alleviated the problem by asking for the \$3.00 co-payment, and that diversions to newly created immediate care centers went up by 165%, and emergency room used declined substantially.

Rep. Henbest inquired if the Federal Government will allow reimbursement for someone with a sore throat to be billed as such.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0309-0701 as written. The motion passed unanimously by voice vote.

Docket # 16-0318-0701: **Chairman Block** invited **Paul Leary** to continue to present docket 16-0318-0701 to the committee. **Mr. Leary** explained that the docket was present during the 2007 Legislative Session as a temporary rule and was now a pending rule. House Bill 663 passed by the 2006 Legislature directed the department to establish enforceable cost-sharing in order to increase awareness and responsibility of Medicaid participants for the cost of their health care and to encourage use of cost-effective care in the most appropriate setting. The rules in the docket identify which participants are subject to co-payment provisions and specify the co-payment amount for services inappropriately accessed by the participant. Legislators, the Idaho Hospital Association, the Idaho Medical Association, the Idaho Citizen Action Network, the Idaho State Pharmacy Association, and some independent providers were in agreement and support of the department's direction reflected in these rules.

Rep. Nielsen asked if anything would allow the provider to provide the service yet forgive the co-payment. **Mr. Leary** replied affirmatively.

MOTION: **Rep. Luker** moved that the committee accept docket 16-0318-0701 as written. The motion passed unanimously by voice vote.

Docket # 16-0309-0706: **Chairman Block** invited **Paul Leary** to continue to present docket 16-0309-0706 to the committee. **Mr. Leary** explained that the rule being amended allows independent speech therapists and occupational therapists to bill Medicaid directly. Various associations were tasked with identifying issues related to access and continuity of care, service and pricing, and treatment parameters and service limitations. It was determined that speech therapy limits should be changed from 250 visits per year to 40 visits per year. Occupational limits were set at 25 visits per year consistent with current limitations.

Mr. Leary described that there would be no additional fees if the rule is implemented. In response to various questions from **Reps. Marriott, Rusche, Luker, and Thayn**, **Mr. Leary** clarified that limits are not capped if there is a pre-authorized medical necessity authorized by a physician to exceed the limit. **Chairman Block** invited **Steve Millard**, President of the Idaho Hospital Association, to speak. He indicated his members did not

want to reduce the number of visits but that they may not have understood about the pre-authorization trigger number.

Chairman Block invited **Becky Pierce** to speak about the docket. Ms. Pierce indicated she was not in favor of reducing the number of visits, and that generally more than 40 sessions of speech therapy are needed in working with patients. **Tammy Emerson** and **Sandra McMIndes** were then invited by **Chairman Block** to address the docket. Both were in support of the docket.

Mr. Leary then responded to a question from **Rep. Chew** about the procedure a speech pathologist undertakes to authorize medical necessity.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0309-0706 as written. The motion passed unanimously by voice vote.

Docket #
16-0310-0704 **Chairman Block** requested **Paul Leary** continue to present docket 16-0310-0704. **Mr. Leary** explained that this docket was identical to docket 16-0309-0706 (Basic Plan) and would serve those on the Enhanced Plan in the exact same manner. **Chairman Block** invited **Linda Jackson** to speak. **Ms. Jackson** stood in support of both docket 16-0309-0706 and docket 16-0310-0704.

MOTION: **Rep. Rusche** moved that the committee accept docket 16-0310-0704 as written. The motion passed unanimously by voice vote.

ADJOURN: The meeting was adjourned at 3:13 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE BILBAO SUB COMMITTEE

DATE: January 14, 2008

TIME: 3:15 P.M.

PLACE: Room 225

MEMBERS: Chairman Bilbao, Representatives Loertscher, Thayn, Chew

GUESTS: Mark Johnston, Executive Director Board of Pharmacy, Michael McPeck, Attorney Generals Office, Larry Munkelt, Director of Pharmacy, St. Alphonsus Regional Medical Center, Russell Duke, Central District Health, Pam Eaton, ID Retailers Association

Docket No: 27-0101-0601 **Mr. Johnston** introduced docket no. 27-0101-0601. The proposed rule making provides a mechanism for the initiation of a Remote Dispensing Pilot Program that will allow for the dispensing of prescriptions through remote dispensing machines.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(2)(a) and ©, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rulemaking is necessary to protect the public health, safety, and welfare, and to confer a benefit by providing pharmaceutical care through the use of telecommunications and remote dispensing machines to patients at a distance from the pharmacy and pharmacist providing the pharmaceutical care.

MOTION: **Rep. Thayn** moved that Docket no. 27-0101-0601 be transferred to the full committee. The motion was carried by voice vote.

Docket No: 27-0101-0701 **Mr. Johnston** introduced docket no. 27-0101-0701 for approval of the pending rules. It is the purpose of the Idaho Pharmacy Act “to promote, preserve and protect the health, safety and welfare of the public by and through the effective control and regulation of the practice of pharmacy. In the furtherance of that purpose, it is appropriate to amend IDAPA 27.01.01.464 regarding the filling of prescriptions for controlled substances by licensed pharmacists to require that persons receiving controlled substances be positively identified by staff at the pharmacy at the time any controlled substance is dispensed directly to an individual at the pharmacy. The proposed rule provides for identification of persons receiving controlled substances at a pharmacy, describes the manner of satisfying the positive identification requirement, and provides exceptions to the identification requirements.

MOTION: **Rep. Thayn** moved that docket no. 27-0101-0701 be transferred to the full committee. The motion was carried by voice vote.

Docket No: 27-0101-0702 **Mr. Johnston** introduced docket no. 27-0101-0702 for approval of the pending rules. This rule provides for “limited service pharmacies” which are

retail drug outlets that are not community pharmacies but limit the types of drug order that may be filled. This rule further provides that, where appropriate, the rules applicable to institutional and retail pharmacies may be applied to limited service pharmacies. IDAPA 27.01.01.469.01 contains requirements for all community and mail service pharmacies regarding all Schedule II, III, and IV controlled substance prescriptions filled by the pharmacies. The proposed rule change would amend subsection 469.01 to add limited service pharmacies to those pharmacies required by the rule to report data regarding controlled substance prescriptions. Thus, limited service pharmacies permitted pursuant to IDAPA 27.01.01.177 to fill Schedule II, III, or IV controlled substance prescriptions would be required to report data regarding those prescriptions pursuant to IDAPA 27.01.01.469.01 as are community and mail service pharmacies. The rule changes add "limited service pharmacies," to IDAPA 27.01.01.469.01 so the list of pharmacies in that rule would read: "All community, limited service, and mail service pharmacies.....".

MOTION: **Rep. Thayne** moved that docket no. 27-0101-0702 be transferred to the full committee. The motion was carried by voice vote.

Docket No: **27-0101-0703** **Mr. Johnston** introduced the docket no.27-0101-0703 for approval of the pending rule. The Idaho Legislature in 2007 enacted comprehensive legislation regarding the licensing of wholesale distributors and the providing o prescription drug pedigrees. The legislation is known as the 2007 Idaho Wholesale Drug Distribution Act. The Act necessitates revision of the Board of Pharmacy's existing rules regarding wholesalers in order to implement the new legislation. The proposed rule implements the licencing requirements, bonding requirements, and drug pedigree requirements required by the Idaho Wholesale Drug Distribution Act, which Act is a comprehensive revision of the former wholesale drug distribution laws.

MOTION: **Rep. Chew** moved that docket no. 27-0101-0703 be transferred to the full committee. The motion was carried by voice vote.

Docket No: **27-0101-0704** **Mr. Johnston** introduced docket no. 27-0101-0704 for approval of the pending rule. Section 54-1703, Idaho Code, states that one of the purposes of the Idaho Pharmacy Act is "to promote, preserve and protect the health, safety and welfare of the public by and through the effective control and regulation of the practice of pharmacy....". In pursuit of that purpose, the proposed new rule would create a "tech-check-tech" pilot project applicable to "hospitals" as defined in Section 39-1301(a), Idaho Code, that also qualify as an "institutional facility" with an "institutional pharmacy" as the later two terms are defined in IDAPA 27.01.01.252.01. The purpose of the pilot project is to allow designated pharmacy technicians within a hospitals institutional pharmacy to review the work of other pharmacy technicians in connection with the filling of floor and ward stock and unit dose distribution systems for hospital patients whose orders have previously been reviewed and approved by a licenced pharmacist. It is contemplated that if any alteration or combining of dosages is necessary, then a licensed pharmacist would be required to check the resulting dosage. The objective to be served by the pilot program is to free licensed pharmacists within an institutional pharmacy from routine tasks related to the checking of manufacturer or robotically prepared unit dose medications, which checking is capable of being performed by a trained technician, so that the pharmacist has

additional time for other tasks within the practice of pharmacy as defined in Section 54-1704, Idaho Code, including, but not limited to, "participation in drug and device selection...(and) drug regimen reviews" with a view toward enhancing patient health care. The proposed rule contemplates that the Board of Pharmacy, through its Executive Director, may authorize specific hospitals with institutional pharmacies to participate in the pilot project, and that authorization to participate in the pilot project phase of the program would be at the discretion of the Board and the Executive Director.

The new rule authorizes a "tech-check-tech" pilot program within the institutional pharmacies of hospitals; defines the hospitals eligible to participate in the pilot program; provides that participation in the program during the pilot phase shall be at the discretion of the Board of Pharmacy and the Executive Director; restricts the scope of tasks that may be performed by a pharmacy technician designated to review the work of other pharmacy technicians; requires that hospital participating in the program file with the Board of Pharmacy a writing program describing the duties, training, and monitoring for the designated technicians; establishes the minimum requirements for the hospitals program; and requires that the director of the institutional pharmacy be responsible for all activities of pharmacy technicians in the "tech-check-tech" program to ensure that all activities are performed completely, safely, and without risk of harm to patients.

MOTION: **Rep. Chew** moved that docket no. 27-0101-0704 be transferred to the full committee. The motion was carried by voice vote.

Docket No: **27-0101-0705** **Mr. Munfet** introduced docket no. 27-0101-0705 for approval of the pending rule. The Board of Pharmacy is instituting a 24/7 electronic database for tracking controlled substance prescriptions. The rule is needed to comply with the directive of Section 37-2726(4), Idaho Code, that the Board promulgate rules to insure that only authorized individuals have access to the database.

The proposed rule establishes procedures for registration in order to access the database; for assignment of user accounts, log-in names, and passwords; for confidentiality; for discipline for the unauthorized disclosure of information or sharing of account information, log-in names, or passwords; and for information reports by non-practitioners.

MOTION: **Rep. Chew** moved that docket no. 27-0101-0705 be transferred to the full committee. The motion was carried by voice vote.

Docket No. **41-0401-0701** **Mr. Duke** introduced docket no. 41-0401-0701 for approval of the pending rule. This rule was made effective July 1, 1993 and applied only to Public Health District 4. The rule specifies fees for services delivered by the agency, except for those specified elsewhere in Idaho Code. On January 26, 1994 a set of rules were adopted that apply to fee setting for all 7 Public Health Districts. At that point, the 1993 rules became obsolete. This rulemaking is to repeal the 1993 rules for housekeeping purposes.

MOTION: **Rep. Loertscher** moved that docket no. 41-0401-0701 be transferred to the full committee. The motion was carried by voice vote.

ADJOURN: The meeting adjourned at 4 P.M.

Representative Carlos Bilboa
Chairman

Shirley Scott
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE
McGEACHIN SUBCOMMITTEE**

DATE: January 14, 2008

TIME: 3:30 p.m.

PLACE: Room 148

MEMBERS: Chairman McGeachin, Representative Luker, Rusche

**ABSENT/
EXCUSED:** None

GUESTS: Shirley Alexander, Department of Health and Welfare; Mond Warren, Department of Health and Welfare; Jeanne Goodenough, Office of the Attorney General; Nancy Kerr, Idaho Board of Medicine

Chairman McGeachin called the meeting to order at 3:30 p.m. and thanked the presenters for their patience and cooperation. She recognized **Shirley Alexander**.

**Docket #
16-0601-0701:** Docket No. 16-0308-0701 - Rules Governing Family and Children's Services, Child Protection - was presented by **Ms. Alexander**.

These rule changes became effective as temporary rules on October 1, 2007. These rules allow an individual to petition the Department of Health and Welfare to remove his/her name from the Central Registry according to the level of severity the individual poses to children. Prior to this rule change, the individual's name would remain on the Registry permanently.

A discussion was held on the differences between the Central Registry and the Sex Offender Registry.

Chairman McGeachin asked if anyone in the room wished to testify on the docket, and asked if there were any questions from the committee.

A discussion was held on risk factors and assessment, who has access to Level 4 information, and any appeal process.

MOTION: **Rep. Rusche** moved to approve docket 16-0601-0701 and refer it to the full committee. The motion passed on a voice vote.

**Docket #
16-0506-0602:** Docket No. 16-0506-0602 - Criminal History and Background Checks - was presented by **Mond Warren**.

This docket is a repeal of the previous criminal history rules approved last year by the Legislature. This docket must be approved this year as a pending rule. These rules spell out the process for all background checks.

Chairman McGeachin asked if anyone in the room wished to testify on the docket, and asked if there were any questions from the committee.

A discussion was held regarding the National Criminal database and criminal records for individuals from other states.

MOTION: **Rep. Rusche** moved to approve docket 16-0506-0602 and refer it to the full committee. The motion passed on a voice vote.

Docket #
16-0506-0601: Docket No. 16-0506-0601 - Rules Governing Mandatory Criminal History Checks - was presented by **Mr. Warren**.

This docket contains the Criminal History and Background Check rules that spell out the process for all Department background checks.

MOTION: **Rep. Luker** moved to approve docket 16-0506-0601 and refer it to the full committee. The motion passed on a voice vote.

Docket #
16-0501-0701: Docket No. 16-0501-0701 - Use and disclosure of Department Records - was presented by **Jeanne Goodenough**.

This docket contains rule changes that describe the Department's confidentiality requirements. The rules were substantially rewritten after the implementation of HIPAA - the Health Insurance Portability and Accountability Act.

MOTION: **Rep. Rusche** moved to approve docket 16-0501-0701 and refer it to the full committee. The motion passed on a voice vote.

Docket #
22-0101-0701: Docket No. 22-0101-0701 - Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery In Idaho - was presented by **Nancy Kerr**.

This docket is a pending fee rule of the Board of Medicine. It: 1) clearly defines terms and national organizations associated with physician licensing; 2) establishes the requirement for lawful presence in the United States and reaffirms English language requirements; 3) corrects language related to international graduates from foreign to international; 4) establishes international school requirements for curriculum and provides a more flexible requirement for international schools to establish a graduate history versus the previous requirement; and 5) changes the fee schedule consistent with other rules of the Board.

MOTION: **Rep. Luker** moved to approve docket 22-0101-0701 and refer it to the full committee. The motion passed on a voice vote.

Docket #
22-0102-0701: Docket No. 22-0102-0701 - Rules of the Board of Medicine for the Registration of Externs, Interns, and Residents - was presented by **Ms. Kerr**.

This docket is a pending fee rule of the Board of Medicine. It: 1) provides general housekeeping changes for conformity; 2) clarifies and defines the accrediting agencies for post graduate physician training; 3) establishes the requirement for lawful presence in the United States, reaffirms English language and translations requirements; 4) clarifies acceptable school of medicine, supervision and liability requirements for interns, externs, and residents; and 5) changes the fee schedule consistent with other rules of the Board.

MOTION: **Rep. Luker** moved to approve docket 22-0102-0701 and refer it to the full committee. The motion passed on a voice vote.

Docket #
22-0111-0701: Docket No. 22-0111-0701 - Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho - was presented by **Ms. Kerr**.

This docket is a pending fee rule of the Board of Medicine. It: 1) provides general housekeeping updates; 2) requires lawful residence in the United States; and 3) requires English language proficiency. The rule also broadens the fee schedule language to conform to other rules of the Board of Medicine and increases fees for lapsed or cancelled licenses to reinstate licensure. The rule establishes the requirement for current certification by the national specialty board for the profession.

MOTION: **Rep. Rusche** moved to approve docket 22-0102-0701 and refer it to the full committee. The motion passed on a voice vote.

ADJOURN: There being no further business before the committee, **Chairman McGeachin** adjourned the meeting at 4:30 p.m.

Representative Janice McGeachin
Chairman

Marsha Palmer
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE NIELSEN SUBCOMMITTEE

DATE: January 14, 2008

TIME: 3:00 p.m.

PLACE: Room 225

MEMBERS: Chairman Nielsen, Representatives Shepherd (8), Marriott, Henbest

**ABSENT/
EXCUSED:** None

GUESTS: James Aydelotte, Bureau Chief, Vital Statistics, Department of Health and Welfare; Davalee Leavitt, Program Manager, Department of Health and Welfare; Pat Guidry, Program Manager, Department of Health and Welfare; Sharon Duncan, Bureau Chief, Division of Medicaid, Department of Health and Welfare; Leslie Clement, Medicaid Administrator, Department of Health and Welfare; Sandy Evans, Executive Director; Board of Nursing; Sherri Kovach, Rules Coordinator, Department of Health and Welfare; Christy Colucci, Department of Health and Welfare; Robert ?

Chairman Nielsen welcomed with guest to the meeting, which began at approximately 3:30 p.m.

**Docket #
16-0208-0701:** **Chairman Nielsen** invited **James Aydelotte** to return to speak about docket 16-0208-0701 and the use of the word “designee” in the language of the rule. The rule deals with the disposition of dead bodies. Section 850 of these rules has to do with a funeral director removing a dead body or fetus from the place of death or stillbirth. First, he s/he must obtain assurances from the proper officials that the death or stillbirth is from natural causes and that the appropriate person will assume responsibility for the official certification of the cause of death. Second, the funeral director must notify the coroner when appropriate. Third, the funeral director must obtain permission to remove the dead body or fetus. Generally, those that provide these assurances and permissions are physicians, physician assistants, and advanced practice professional nurses. The rule also allows designees to provide the assurances and permissions when needed. He returned to reassure the committee members that the term ‘designee’ would not be simply anyone in the office, but clarified that the “designee” also be a physician, physician’s assistant, or advanced practice professional nurse, and that the “designee” must have the same level of medical training as those they represent. **Mr. Aydelotte** indicated that they had reviewed the language with their attorney on January 11, and passed out to each member of the committee section 39-260 of the Idaho Statutes. **Rep. Henbest** inquired if the language of the rule had been approved by the Attorney General. **Mr. Aydelotte** indicated that the rule had indeed been reviewed by Corey Cartwright. Rep. Henbest indicated that roughly 30% of funeral directors also are coroners. Chairman Nielsen indicated concern with the terminology “designated associate.” If the rule were to pass, **Chairman Nielsen** indicated he wanted the department to change the language to

reflect to say “designated associate” instead of “designee,” and while it might be rare that someone breaks the standard procedure, it may leave the door open to someone who may be able to take advantage of the situation. He indicated he wanted to see the matter of the language resolved and asked for **Mr. Aydelotte’s** reassurance that he would follow up, to which **Mr. Aydelotte** replied that the language had been long-standing, and that he would, indeed, follow up as requested.

MOTION: **Rep. Marriott** moved that the committee accept docket 16-0208-0701 as written. The motion passed unanimously by voice vote.

Docket # 16-0309-0709: **Chairman Nielsen** invited **Pat Guidry** to present docket 16-0309-0709. **Ms. Guidry** explained that these rules allow qualified mental health providers to offer outpatient family therapy services without the participant present, and that it is sometimes appropriate for the therapist to meet in therapeutic session with the participant’s family members without the participant present. This treatment aspect is consistent with various models of intervention including Functional Family Therapy, and was modified so that it could be performed telephonically in mental health clinics where previously it was required to be conducted face-to-face.

Currently Medicaid’s mental health benefits include individual therapy, group therapy and family therapy. In 2006, House Concurrent Resolution 48 encouraged the department to continue to explore modifications of mental health benefits for individuals with disabilities or special needs. **Rep. Loertscher** has supported the adoption of this change in rule. **Chairman Nielsen** indicated that **Rep. Loertscher** was pleased the family was now allowed to be involved.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0309-0709 as written. The motion passed unanimously by voice vote.

Docket # 16-0310-0707: **Chairman Nielsen** invited **Pat Guidry** to present docket 16-0310-0707. **Ms. Guidry** explained that these rules explained in 16-0309-0709 that applied to those on the Medicaid Basic Plan also apply to those on the Medicaid Enhanced Plan.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0310-0707 as written. The motion passed unanimously by voice vote.

Docket # 16-0310-0703: **Chairman Nielsen** invited **Sharon Duncan** to present docket 16-0310-0707. **Ms. Duncan** explained that the Division of Medicaid and the Division of Welfare Financial Eligibility Programs coordinated their efforts on these rules. Formerly, after conducting a standard functional assessment on a participant, a nursing facility would have to submit the person’s data in the form of a Minimum Data Set (MDS) to the department. Department nurses would then convert this data to a standardized score using the department’s Uniform Assessment Instrument (UAI), resulting in a two-step process. The rule change is needed, argued **Ms. Duncan**, to eliminate the extra “conversion” step, thereby simplifying the process. The UAI scoring rules are being moved from the nursing facility section to the aged and disabled waiver section, since the assessment process used to produce the MDS is only applicable to the nursing facility setting, and will still be used to determine

eligibility for long-term care services covered under the aged and disabled waiver.

Rep. Henbest inquired if the LSO had performed an analysis on the new rule. **Ms. Duncan** replied that the score is what the MDS data is converted to. **Chairman Nielsen** asked if the rule dealt with assisted living facilities, to which **Ms. Duncan** replied no, only to nursing facilities.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0310-0703 as written. The motion passed unanimously by voice vote.

Docket # 16-0323-0701: **Chairman Nielsen** invited **Sharon Duncan** to present docket 16-0310-0707. **Ms. Duncan** explained that the rule was a companion rule to docket 16-0310-0703 previously presented. These rules changes are required to reflect changes being made in the proposed Enhanced Plan Benefits for nursing facility entitlements and, as in docket 16-0310-0703, are designed to eliminate the extra “conversion” step so that a participant’s assessment data can be directly used to determine medical eligibility for nursing facility care. She went on to say the term “nursing facilities” is being removed from the definition of supported living services provider since the UAI will no longer be used for nursing facility residents, and that reference to the use of the UAI for nursing facility resident reassessments is also being removed since the MDS will be able to be used directly.

Chairman Nielsen inquired about section 011.013 (page 382) and the use of the change of the word “shall” to “must.” **Ms. Duncan** replied that word change was recommended by their rule committee.

MOTION: **Rep. Henbest** moved that the committee accept docket 16-0323-0701 as written. The motion passed unanimously by voice vote.

Docket # 16-0310-0706: **Chairman Nielsen** invited **Sharon Duncan** to present docket 16-0310-0706. **Ms. Duncan** explained that, during the 2007 Legislative Session, House Bill 167 clarified the difference between a personal assistance service agency and a fiscal intermediary agency. An FI is defined as an entity that provides services that allow the participant receiving personal assistant services, or his designee or legal representative, to choose the level of control he will assume in recruiting, selecting, managing, training, and dismissing a personal assistant, regardless of who the employer of record is, and allows the participant control over the manner in which the services are delivered. A personal assistance service agency is defined as an entity that recruits, hires, fires, trains, supervises, schedules, oversees quality of work, takes responsibility for services provided, and provides payroll and benefits for personal assistants working for them and is the employer of record. Original legislation required entities providing fiscal intermediary services to become personal assistance agencies as well. This created conflict. The changes to the statute under HB 167 addressed these issues, and, currently, FI agencies do not have to become a personal assistance agency to provide FI agency services for participants. The change in rule will align the Medicaid Enhanced Plan Rules for personal assistance service agencies with Idaho Code that went into effect on July 1, 2007.

Rep. Henbest asked the temporary rule was being extended. **Ms. Duncan** replied that it was time to revise the rule. **Rep. Henbest** asked if agencies had to be one or the other. **Ms. Duncan** replied that agencies could be both but that it was not required to be both.

Chairman Nielsen invited **Leslie Clement** to speak about the docket. **Ms. Clement** further clarified the differences between a fiscal intermediary and a personal care agency, their need to maintain separation, the high standards for personal care agencies, and the removal of the conflict of interest.

MOTION: **Rep. Shepherd** moved that the committee accept docket 16-0323-0701 as written. The motion passed unanimously by voice vote.

Docket # 23-0101-0701: **Chairman Nielsen** invited **Sandy Evans** to speak about docket 23-0101-0701. **Ms. Evans** told about the rules amended language related to grounds for discipline. As well, the rules also implement provisions of legislation passed in 2007 (HB 157) authorizing regulation of certified medication assistant, abbreviated MA-C, by the Board of Nursing beginning July 1, 2008.

Rep. Henbest inquired if the rule was coming before the statute. **Ms. Evans** assured the committee that the rule could stand alone as a definition. **Rep. Henbest** followed up by stating that she was aware that LSO had no concern about the rule, and that it sounded straightforward.

Rep. Marriott inquired about the difference between an examination and an endorsement. **Ms. Evans** explained that an initial credential is granted through examination, and that subsequent licensure is by endorsement, recognizing that there may be additional qualifications needed to be met. **Chairman Nielsen** asked why reinstatement should cost less than renewal. **Ms. Evans** replied that the renewal process is a two-year process so that the credential is valid for two years. **Chairman Nielsen** asked if continuing education is required. **Ms. Evans** replied that there is no requirement for continuing education for renewal, but that the Board of Nursing does have the ability to assess the competence of its members.

Rep. Henbest inquired about the use of fingerprinting rather than using DNA. **Chairman Nielsen** asked what would happen if a process took up to six months, and would the Board of Nursing believe that temporary certification could provide the agency from any mishaps? **Ms. Evans** replied that the Board of Nursing would have the ability to withdraw that nurse's license, and that the issuance of a temporary license was at the Board's discretion.

MOTION: **Rep. Marriott** moved that the committee accept docket 23-0101-0701 as written. The motion passed unanimously by voice vote.

Docket # 23-0101-0702: **Chairman Nielsen** invited **Sandy Evans** to speak about docket 23-0101-0702. **Ms. Evans** said that the rules correct a procedural dilemma created in the existing rules specifically to provide a process for nurses who violate monitoring conditions to continue in the board's non-public

alternative to discipline program while they are in treatment and beginning recovery for chemical addiction.

Rep. Marriott asked how one would know if, in a hospital, one was being treated by a nurse working on a limited license. **Ms. Evans** replied that one would only know if one accessed the website to know if a nurse was labeled as such, and that nurses were closely monitored. **Chairman Nielsen** asked if it is beneficial to issue a limited license, and what would cause that to happen. **Ms. Evans** replied that the benefit is to having a healthy nurse caring for a patient, and so that the nurse could become a functioning member of society.

Rep. Henbest asked if the nurse could be involved with in-patient treatment and not be practicing, and could that be a requirement of the license. **Ms. Evans** replied that yes, the Board does allow that, but that they operate under specific policies and guidelines, and that the nurse needs to be absent until they are ready to provide care. While sometimes the decision is to return after 90 days of sobriety, sometimes it can take up to six months or a year. **Chairman Nielsen** asked if the Board of Nursing was policing themselves, to which **Ms. Evans** replied that yes, they do an excellent job of protecting the public.

MOTION: **Rep. Henbest** moved that the committee accept docket 23-0101-0702 as written. The motion passed unanimously by voice vote.

ADJOURN: The meeting adjourned at 4:45 p.m.

Representative Pete Nielsen
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: January 16, 2008

TIME: 1:15 p.m.

PLACE: Room 225

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

**ABSENT/
EXCUSED:** None

GUESTS: Kasey Arnett, Manager, Ascent Behavioral Health Services; Robyn Nelson, Therapist, Ascent Behavioral Health Services; Richard Patterson, Therapist, Ascent Behavioral Health Services; Paul Leary, Deputy Administrator, Department of Health and Welfare; Debby Ransom, Bureau Chief, Department of Health and Welfare; Larry Tisdale, Bureau Chief, Department of Health and Welfare; Darren Richman, CFO, Ascent Behavioral Health Services; Jim Baugh, Director, Co-Ad; Corey Surber, Coordinator, St. Alphonsus; Ted Ryan, Manager, St. Alphonsus; Bethany Gadzinski, Bureau Chief, Department of Health and Welfare; Scott Tiffany, Bureau Chief, Department of Health and Welfare; Sherri Kovack, Rules Coordinator, Department of Health and Welfare; Chuck Halligan, Program Manager, Department of Health and Welfare; Ed Hawley, Department of Administration; Linda Jackson, Executive Director, Idaho Occupational Therapy; Toni Lawson, Vice President, Idaho Hospital Association; Kelly Buckland, Executive Director, SILC; Tana Cory, Bureau Chief, Bureau of Occupational Licenses; Kathie Garrett, Lobbyist, Advocacy for Addiction Counseling and Treatment

Chairman Block called the meeting to order, welcomed the committee members and guests, and asked the guest to introduce themselves. She commended the committee members for their hard work, and stated that, of 81 rules to be reviewed, 70 have been completed.

Chairman Block called for the approval of the minutes from January 10, 2008. **Rep. Luker** requested a change on page two of the minutes. With the acceptance of the change so noted, the minutes were approved.

**Docket #
16-0310-0702:**

Chairman Block invited **Paul Leary** to present docket #16-0310-0702 to the committee. **Mr. Leary** asked for approval of the docket with an effective date of July 1, 2006. The rule pertains to the eligibility requirements for participants on the Medicaid Enhanced Plan who receive mental health benefits which were formerly too restrictive, and amends sections of a previous rule now allowing individuals requiring enhanced outpatient psychotherapy to retain more restrictive eligibility requirements for Psychosocial Rehabilitation and Partial Care. Questioned by **Reps. Marriott** and **Luker**, **Mr. Leary** defined both the word "enhanced" of "Enhanced Plan" as well as "partial care services" defined as those services provided in a clinic. **Rep. Nielsen** asked why these rules weren't

referred to in the old law. **Mr. Leary** replied that they were always in the section, but that they were moved from within the chapter and amended. Asked by **Rep. Nielsen** about partial care, **Mr. Leary** explained that it would not expand care, was formerly excluding some individuals from some types of care, and further expanded mental health services for the people that need psychotherapy.

Rep. Nielsen asked for reassurance that section 112 of the rule didn't include added language and that a portion of the rule had not been rejected. **Mr. Leary** assured **Rep. Nielsen** accordingly, and further clarified that, in the rules for eligibility for mental health services, there had previously been only one door through which to get into the system, and that now a wider door was needed for people who needed psychotherapy. **Chairman Block** asked if there was a way the committee could know what was rejected last year. Yielding to the question, **Ed Hawley** indicated yes. In follow-up, **Mr. Leary** summarized by saying that the rule had previously been rejected on the basis that it had been too restrictive, and that only one "door" had allowed entry into the mental health system; now there were three "doors" through which to get into the system.

MOTION:

Rep. Nielsen moved that the committee accept docket 16-0310-0702 as written. The motion passed unanimously by voice vote.

**Docket #
16-0314-0801:**

Chairman Block invited **Debbie Ransom** to present docket 16-0314-0801. **Ms. Ransom** requested approval to extend these temporary/proposed rules for one year in order to gather public comment, updates, and approval before re-submitting them to the 2009 Legislature. The docket deals with free-standing emergency departments -- those not co-located on a hospital campus; the present rules only address emergency rooms located on a hospital campus. The rules outline minimum design and construction standards, standards of care and service, and provide guidelines to ensure proper regulation. Only one such free-standing emergency department is currently located in Idaho (which has been open since October 1, 2007), however more are planned throughout the state. This trend is expected to develop throughout select portions of the nation.

Rep. Rusche asked if there had been an increase in air transport, to which **Ms. Ransom** replied there had not yet been much research regarding the topic. One criterion had been stipulated that the free-standing emergency room be located in a 35-mile radius from the main campus and that, if located beyond a 35-mile radius, **Rep. Nielsen** added that it was unlikely the population would support such a facility. Would co-payment be made if one went to an emergency room when it was not an emergency?, to which **Ms. Ransom** replied that she did not know, although it would not matter if one presented at a free-standing clinic or the main campus of a hospital.

Rep. Luker asked for an explanation regarding the standards for both free-standing and hospital-attached emergency rooms, and questioned why only a one-year extension was needed. **Ms. Ransom** replied that both rules and staffing requirements were slightly different at each facility. **Rep. Marriott** shared that he did not like the rule since free-standing

clinics did not offer care but only triage. **Rep. Rusche** mentioned that often care is transferred to facilities in bigger cities. **Rep. Nielsen** wondered if there could be something better for dollar-for-cost service for non-emergencies. Yielding to a question from **Chairman Block, Ted Ryan**, Director of Medical Services for St. Alphonsus, told the committee the hospital stood in support. Discussion ensued about the choice of locale for free-standing emergency rooms, their financial viability, and the 35-mile radius rule. **Rep. Henbest** asked if someone were to present at one facility or another, would there be any difference in charge, to which **Ms. Ransom** replied no. **Rep. Henbest** went on to inquire about the cost concerns of transference of responsibility from within or between campuses. **Mr. Ryan** replied that there are no additional costs due to transport.

Yielding to a question by **Chairman Block, Toni Lawson** was asked if she wanted to testify on behalf of the docket, to which she replied no. **Rep. Nielsen** asked if EMS had been consulted regarding the rule, to which **Ms. Ransom** replied yes, and that they stood in concurrence with the rule.

MOTION: After reassuring **Rep. Thayne** that the rule was being extended for one year, **Rep. Rusche** moved the committee accept docket 16-0314-0801 as written. The motion passed unanimously by voice vote.

**Docket #
16-0317-0701:**

Chairman Block invited **Larry Tisdale** to present docket 16-0317-0701. Following the intent of House Concurrent Resolution 49, the Department implemented these temporary rules to convey benefits for qualified individuals enrolled under the Medicare/Medicaid Coordinated Plan, commonly referred to as "dual-eligibles." These individuals will receive coordinated and integrated benefits offered by a participating Medicare Advantage Organization (MAO). The Medicaid program will pay a certified premium determined by an actuary for coordinated services commonly covered by Medicare and Medicaid as well as for non-Part D-covered drugs and dentures.

Rep. Nielsen asked who would pay if one was dual-eligible. **Mr. Tisdale** replied that Medicaid pays Medicare the premium on behalf of the Medicaid recipient, and that there is no additional billing. **Rep. Nielsen** then asked if the premium paid by a dual-eligible participant is based upon a sliding scale, to which **Mr. Tisdale** replied that all are covered under the policy price. When purchasing the Medicare Advantage Plan, **Rep. Rusche** asked, is it the same as other commercially-available plans? **Mr. Tisdale** replied that one would be required to use network physicians, and that coverage has been added to make sure the benefits given are not reduced. **Rep. Marriott** asked why \$128,000 should be spent to implement the computer program to administer the program. **Mr. Tisdale** replied that costs have already been incurred, and that no additional costs would be evidenced.

Rep. Henbest asked if Preferred Providers accept assignment and agree to the reimbursement rate. **Mr. Tisdale** explained that, similar to a PPO, they do accept assignment on those claims, and that participants do have an assigned physician.

Mr. Tisdale concluded by stating that, when this benchmark was presented, both bids came in low, that there will be savings to the Department, and, that by managing care and benefits, the Department had realized more efficiency.

Rep. Nielsen reminded the committee that, through the Medicare Advantage Plan, private industries can contract with CMS, who can give their dollars to Blue Cross. Medicare then is no longer involved, and Blue Cross manages the program. **Rep. Chew** reminded the committee that, since Medicare Advantage incorporates Medicaid, it can also provide service to low-income people.

Rep. Luker queried **Mr. Tisdale** about the fiscal impact, and the savings of total dollars vs. state dollars. **Mr. Tisdale** replied that the savings was in total dollars, and the savings in state dollars was 30%.

MOTION:

Rep. Luker moved the committee accept docket 16-0317-0701 as written. The motion passed unanimously by voice vote.

**Docket #
16-0701-0801:**

Scott Tiffany presented docket 16-0701-0801, a rule that provides the Division of Behavioral Health with a sliding fee scale for adult mental health, children's mental health, and substance abuse. The docket responded to a legislative audit finding that the current fee schedule is out of date.

The rules consolidate the process for determining fees for consumers of behavioral health services into one chapter, which have previously existed in separate chapters, and fees are based upon the cost of the services and the ability of the consumer to pay based upon income. Considerations include the family household income, allowable deductions, and the current poverty rate to determine what percent of the costs consumers will pay for behavioral health services.

Mr. Tiffany clarified for **Rep. McGeachin** the fiscal impact of the collection of fees, and gave an explanation about federal poverty rules from 1993 (\$10,000 in 1993 vs. \$12,000 currently). **Mr. Tiffany** went on to explain that collection rates are being improved even though the poverty level has gone up. Invited by **Chairman Block** to speak, **Kelly Buckland** spoke against the docket, stating that there had been no public hearings or input. **Rep. Henbest** clarified that, if the rule was not passed, the 1993 federal poverty guidelines would be used. **Mr. Tiffany** confirmed this statement, and said that the sliding fee scale would result in a benefit to taxpayers.

Rep. Marriott asked for further clarification regarding previous and current poverty levels, and **Rep. Luker** asked for clarification about the new sliding scale. **Mr. Tiffany** responded to **Mr. Luker** by stating that the new rule incorporated 2007 federal poverty guidelines. **Rep. McGeachin** asked if the repealed rule dealt only with children's mental health, to which **Mr. Tiffany** replied that it also applied to adult mental health. Yielding to a question from **Rep. McGeachin**, **Bethany Gadzinski** indicated that the rule is identical to the one in the statues, and that they

are not in conflict with each other. **Rep. McGeachin** inquired if the

second docket included substance abuse treatment, to which **Ms. Gadzinski** replied it did not.

Rep. Luker asked what the fiscal impact from year-to-year would be if the scale were not indexed. **Ms. Gadzinski** replied that it will make more mental health clients eligible, that money to service the substance abuse clients comes from the current pool of funds, and that there is currently a waiting list of roughly 700 people waiting for substance abuse treatment, about which **Rep. Nielsen** expressed concern.

Asked by **Chairman Block** whom the rule covers and whom the repealed rule covers, **Chuck Halligan** stated that the current rule will cover children and adults who apply and are eligible. If the child has Medicaid, Medicaid pays. The repealed rule applies to adults in the mental health program.

Chairman Block invited **Vern Garrett**, a treatment provider in Meridian, to share his testimony. **Mr. Garrett** argued that the cost of lower co-payments could be offset by required community service work, and that the same sliding scale should be used for both populations. He stated that those who do not have the money tend to drop out of the program, that providers are expected to collect the co-payment at the point of service, and that a goal should be treatment of fewer patients successfully versus the treatment of more patients unsuccessfully. He asked for rejection of the rule.

Rep. Henbest inquired about the selective use of the fee schedule. **Mr. Garrett** replied that it is selectively used with adolescents in that there is no co-payment, and that families weren't engaging children in treatment because of the cost. **Mr. Garrett** replied affirmatively when asked by **Rep. Henbest** if he was concerned that practice will change even though the rule hasn't changed.

After general testimony by **Jim Baugh**, **Rep. Luker** asked if he was testifying in favor or against the rule. **Mr. Baugh** replied that he didn't think the committee should reject the rule since that would put into effect a rule the public would like less because the FPC were from 1993.

Rep. Rusche asked **Ms. Gadzinski** if there was intent on the part of the State to follow the letter of the rule. **Ms. Gadzinski** replied that they didn't anticipate changing anything they were currently doing. She went on to speak about the desire to get adolescents into treatment, that the fee scale for alcohol abuse was the same as that for substance abuse, and that the use of the scale would be based upon where they started in treatment first.

If the rule were rejected, **Rep. Luker** asked **Ms. Gadzinski**, are there children in need who would not be serviced? **Ms. Gadzinski** replied that it does not affect changes to substance abuse, but changes children's and adult's mental health programs, which will continue to base upon 1993 federal poverty guidelines. **Mr. Tiffany** reiterated that, if the rule were extended, it would reduce participants' co-payments. **Rep. Nielsen** summarized that if poverty levels are raised, co-payments will be reduced, but that will, in turn, increase the number of people thus eligible for services, who will have to be paid for somehow. He asked if the Department had asked for an increase in funding.

Ed Hawley clarified that the rule is a fee rule, and confirmed that, if either

House or Senate rejects the rule, it is rejected. However, he said, if the rule is rejected, it does not stop the rule from being extended for a year.

MOTION: **Rep. Rusche** moved the committee accept docket 16-0701-0801 as written. **Rep. Nielsen** offered a substitute motion to reject docket 16-0701-0801 as written. The substitute motion failed on a roll call vote. The original motion passed by voice vote.

Docket # 16-0403-0801: **Mr. Tiffany** asked that this companion docket to docket 16-0701-0801 be repealed.

MOTION: **Rep. Rusche** moved that the committee accept docket 16-0403-0801 as written. The motion passed unanimously by voice vote.

Docket # 16-0710-0801: **Chairman Block** invited **Mr. Tiffany** to continue to present docket 16-0710-0801, a temporary rule that provides the Division of Behavioral Health with a standard process for announcing, scoring, and awarding of development grants according to Idaho Code section 39-3134A. Development grant-funding helps make available mental health and substance use disorder services.

Rep. Marriott inquired as to who provides funding. **Mr. Tiffany** replied that the Legislature allocates funds.

MOTION: **Rep. Nielsen** moved that the committee accept docket 16-0710-0801 as written. The motion passed unanimously by voice vote.

Docket # 16-0717-0801: **Chairman Block** invited **Bethany Gadzinski** to present docket 16-0717-0801 to the committee – a new chapter that outlines how to appeal a denial of a substance use disorder treatment service decision made by the Department of Health and Welfare. Currently, there is no formal appeal process in rule for adults or adolescents seeking substance use disorder treatment services from the Department. In outlining how to appeal a denial, the chapter also defines the scope of voluntary substance use disorders services and describes the eligibility criteria, application requirements, individualized treatment plan, and selection of providers under these rules.

In response to a question from **Rep. Marriott**, **Ms. Gadzinski** clarified what it meant to be a member of the “priority population.” As determined by the Federal Government, this includes women, women with children, and IV drug users. As defined by the State, “priority population” includes adolescents, those in the criminal justice system, and drug users.

Rep. Luker asked if any negative comments had been received. **Ms. Gadzinski** replied that they had been requested to hold public hearings. **Rep. Thayne** asked if **Ms. Gadzinski** could walk the committee through the appeal process for someone who had been denied. **Ms. Gadzinski** indicated she would receive the appeal, then is given to a hearing officer who sets a hearing date. Once the hearing is concluded, a decision is made by those entities to either agree with the appeal or not. If the appeal is declined, the person has the right to appeal in a district court setting. In response to a question by **Rep. Thayne** if many filings in district

court were anticipated, **Ms. Gadzinski** replied that they anticipated there would not be many, but if a person who was part of a priority population felt they had been denied, they could appeal, and that it is fairly clear-cut who belongs to a priority population and who doesn't.

Rep. Rusche asked if there was an internal review process. **Ms. Gadzinski** replied that they currently have a management services contractor, and that they have a process in place through which a clinical decision can be appealed. It may also be directed to a third party.

Discussion then ensued about the definition of an "adolescent." As the rule is currently written, an adolescent is described as someone between the ages of 14 and 18 years old. Voicing a concern, **Mr. Garrett** interjected that some 13-year-olds and even some 12-year-olds were under treatment, and, if the rule were to be rejected, would 12- and 13-year-olds be eliminated from treatment? To this, **Rep. Bilbao** indicated he had visited a federal facility where the upper age limit had been 17 years old, and that both ends of the age spectrum should be examined. **Rep. Bilbao** then went on to ask if that line could be adjusted without rejecting the whole rule, to which **Mr. Hawley** replied that the committee could take that section out. **Rep. Rusche** then followed up by asking what would be done with the 12- and 13-year-olds? **Ms. Gadzinski** replied that there simply wasn't a lot of research in looking at children younger than 14 years old, and that frankly, it had become somewhat of a new phenomenon.

Rep. Luker asked **Mr. Hawley** if the definition were stricken from the rule, would a "default" definition (i.e. a standard, dictionary definition the term "adolescent" be used? **Mr. Hawley** replied that, if the definition were struck, any additional references to the definition would also have to

be struck. **Rep. Marriott** added that if the committee decided to strike the term "adolescent," then any adolescent could not appeal a denial. **Ms. Gadzinski** replied that the rule would then likely return to the definition used in the previous rule. **Chairman Block** confirmed with **Ms. Gadzinski** that it would mean the same thing. **Rep. Nielsen** clarified that a person younger than age 14 could not appeal, to which **Rep. Luker** replied that it wasn't the appeal by but the eligibility of someone under the age of 14 for substance abuse treatment.

Rep. Nielsen asked if there would be another place where those adolescents could receive treatment for their abuse. **Ms. Gadzinski** replied that often treatment could fall under children's mental health, but that mostly, there are not a lot of options. **Rep. Nielsen** asked, then, why the age was so restrictive. **Ms. Gadzinski** replied that age 14 is when research proves a child is no longer a child but an adolescent.

MOTION:

Rep. Marriott moved that the committee accept docket 16-0717-0801 with the exception of subsection 010.01. The motion passed unanimously by voice vote.

Docket #
16-0733-0801:

Chairman Block asked **Mr. Tiffany** to continue to present docket 16-0733-0801, a temporary rule that provides a framework for eligibility and an appeal process for adult consumers who utilize services provided by or contracted through the Division of Behavioral Health. It specifically applies to those who have been denied eligibility for voluntary mental health services and gives those who have been denied eligibility a formal process to appeal a decision after six months or at any time upon showing a substantial material change in circumstances.

Rep. Nielsen commented that perhaps assumptions about the appeals process being similar to other appeals processes that were in the rules were being made. **Mr. Tiffany** replied that it may be a bit different from the substance abuse policy, but that people are allowed to provide documentation to prove they are eligible if they have been denied.

MOTION: **Rep. Rusche** moved that the committee accept docket 16-0733-0801 as written. The motion passed unanimously by voice vote.

RS17370: **Chairman Block** invited **Tana Cory** to present RS 17370 to the committee.

MOTION: **Rep. Nielsen** moved to authorize RS17370 to be sent to print. The motion passed unanimously by voice vote.

RS17381: **Chairman Block** invited **Tana Cory** to present RS 17381 to the committee.

MOTION: **Rep. Loertscher** moved to authorize RS17381 to be sent to print. The motion passed unanimously by voice vote.

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

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: January 18, 2008

TIME: 1:15 p.m.

PLACE: Room 225

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

**ABSENT/
EXCUSED:** Reps. Loertscher, Rusche

GUESTS: Burke A. Hays, Lobbyist, Planned Parenthood; Mia Piercey, Lobbyist, Planned Parenthood; Benjamin Kelly, Connelly and Snyder; Roger Hales, Idaho Bureau of Occupational Licenses; Eric Negaard, Cosmetology Board; Joni Huff, Cosmetology Board; Denise Rogers, Chiropractic Association; Ed Hawley, Department of Administration; Greg Dunkley, IDAMFT; Tana Cory, Bureau Chief, Idaho Bureau of Occupational Licenses; Roy Spaulding, IDAMFT; Kathie Garrett, Idaho Academy of Family Physicians; Shannon Gaertner-Ewing, State Chiropractic Board; David Ridley, Idaho Marriage and Family Therapists Intern; Jill Mitchell, IDAMFT; Cameron Preece, IDAMFT; Dr. Jason West, Gay Rolfe

Chairman Block called the meeting to order and welcomed the committee members and guests. She asked the guests to individually introduce themselves.

Chairman Block asked for approval on all subcommittee meeting minutes from Thursday, January 10. **Rep. Nielsen** moved to approve the minutes of the Nielsen subcommittee. The motion passed on a voice vote by members of the committee. **Rep. Luker** indicated a quorum was not present to move the approval of the minutes of the McGeachin subcommittee. **Rep. Bilbao** moved to approve the minutes of the Bilbao subcommittee. The motion passed on a voice vote by members of the committee.

**Docket #
24-0301-0702:** **Chairman Block** invited **Roger Hales** to present docket 24-0301-0702 to the committee. **Mr. Hales** described the need to clarify the chiropractic scope of practice, the endorsement requirements for time frames for licensure in another state, the need to increase the continuing education requirement to eighteen (18) hours effective January 2009, and the allowance of six (6) continuing education hours to be allowed through distance learning and home study.

Rep. McGeachin inquired what necessitated the change. **Mr. Hales** replied that the FDA had changed the definition of a drug, and that they have moved an injectable form of a drug into a prescription category.

Rep. Luker asked **Mr. Hales** about the Smith case – a case heard by the Supreme Court that dealt with naturopathic and herbal remedies – and how much of the rule would fall into a similar category unregulated in the

first place. **Mr. Hales** replied that the Supreme Court case dealt with certain practices so basic they didn't need to be regulated, but that the new rule would deal with definition of vitamins and minerals that the Smith case did not address. **Mr. Hales** did not know if the naturally-occurring substances would also be included.

Rep. Marriott asked about the wording of section 011.020. **Rep. Bilbao** asked and **Mr. Hales** defined the use of the term "compounding."

In order for chiropractic physicians to remain current and to continue to be competent, **Mr. Hales** described the ability for rural chiropractic physicians to be able to take continuing education credits remotely or through home study.

Chairman Block invited **Denise Rogers**, Executive Director for the Idaho Association of Chiropractic Physicians, to speak to the committee. She indicated her organization's support of the rule changes and to continue to use the compound nutrients and botanicals that they have used in the past. **Rep. Luker** further clarified that, by defining this scope of practice, chiropractors can continue doing what they are currently doing. Since the FDA had re-defined the definitions of certain drugs in 1994, **Rep. Luker** asked, would these chiropractic physicians have been in violation since that time? **Ms. Rogers** replied that the desire was to bring the rules into line with those that had been defined by the FDA.

Chairman Block then invited **Shannon Gaertner-Ewing** to speak to the committee. She spoke about the term "legend" drugs as any prescribed drug including narcotics, increasing the number of required continuing education hours to eighteen (18), the allowance of six (6) hours from distance learning, and the difference in the use of the term "compounding" among chiropractors and pharmacists.

Chairman Block invited chiropractic physician **Jason West** to address the members of the committee. He offered further insight into the definition of a "legend" drug and suggested that their use allows consumers a less costly care alternative. **Rep. Marriott** asked what would occur if the rule did not pass, to which **Dr. West** replied that he did not know.

Ed Hawley was invited by **Chairman Block** to speak regarding the rule. He indicated that, if it didn't pass, it has to go to a concurrent resolution agreed to by both the House and the Senate. **Chairman Block** clarified **Mr. Hawley's** comment for **Dr. West**.

Rep. Chew asked **Dr. West** questions about "legend" drugs and what drugs chiropractic physicians and/or pharmacists would be allowed to prescribe. **Dr. West** replied that these drugs would mostly be vitamins.

Rep. Thayn asked **Dr. West** if chiropractic physicians were basically trying to get into rule what they were already doing. **Dr. West** replied that the Federal Government has changed the rule, but the State of Idaho hadn't yet.

Rep. Marriott asked for clarification from **Mr. Hales** that the rule could not

be in conflict with the law, that chiropractic physicians cannot provide legend/prescription drugs, and, if the rule passes, it would not affect current practice. **Rep. Henbest** asked if the rule would trump or supercede the statute. **Mr. Hales** replied no.

Rep. Nielsen disclosed for the members of the committee his conflict of interest with the work given to certain family members by **Dr. West**, and indicated that the rule is meeting the requirements of the old statute.

Chairman Block invited **Gay Wolfe** to testify before the committee. She spoke in favor of **Dr. West's** work. The guests were asked if anyone wanted to provide additional testimony regarding the rule.

MOTION: **Rep. Nielsen** moved to accept docket 24-0301-0702 as written. The motion passed unanimously by voice vote.

Docket # 24-0301-0701: **Mr. Hales** told the committee that this rule had been vacated, and that the rule was the same as that of docket 24-0301-0702 with the exception of the final three words.

Mr. Hawley described for the committee that a vacated rule was never in effect and was not a rule that was going to be changed, and did not need to be acted upon.

No committee action was taken on this docket.

RS17393 **Mr. Hales** described that this bill will remove language which requires that the examination for licensure be conducted by the board and provides for a third party examination administrator to conduct the examination instead. The bill would also remove language that requires the students enrolled in an Idaho licensed school to be registered with the board.

Rep. Marriott clarified with **Mr. Hales** that those taking the examination would not have to travel to take the examination, to which **Mr. Hales** replied yes.

MOTION: **Rep. Henbest** moved that the committee send RS17393 to print. The motion carried by voice vote.

RS17415 **Mr. Hales** described that this bill will create a status for associate marriage and family therapists to compare with the licensed professional counselor counterpart for a two-tiered approach. Once qualified for associate marriage and family therapist and licensed, the licensee will hold this license while gaining the supervised work experience required for the marriage and family therapist license. Under current statutes the education and supervised experience must be completed before being eligible for licensure.

Rep. Henbest asked how the public would know the difference between the two licenses. **Mr. Hales** replied that the different titles require different allowance to be able to practice, and that the associate must be supervised by someone licensed to practice. **Rep. Nielsen** clarified that this is similar to a medical residency where one is allowed to gain on-the-job training while doing the job.

- MOTION:** **Rep. Marriott** moved that the committee send RS17415 to print. The motion carried by voice vote.
- RS17440** **Mr. Hales** told that this bill will create a chiropractic formulary council that will consist of five members: two licensed chiropractic physicians, one licensed pharmacist, one licensed physician, and one public member. The purpose of this council is to establish a formulary for use by chiropractic physicians, but shall not go beyond the scope of prescription medicines and medical devices covered by chiropractic education, training, and such specialty standards and certifications as required by board rule. The bill will give the board the authority to adopt rules to create standards and specialty certification for intravenous, injectable substances, and adjustments provided under anesthesia.
- Mr. Hales** indicated the grammatical changes used on lines 28 and 41 of the bill, that this language prevents chiropractors from prescribing “legend” drugs, and the concern about injecting or taking drugs intravenously. He went on to discuss the role of a chiropractor in a adjusting an unconscious patient in an operating room, and the specific training that would be required.
- Rep. Bilbao** suggested **Mr. Hales** contact the Idaho Hospital Association to clarify the role a chiropractor would play in a hospital setting. **Rep. Nielsen** asked if work was being done to fabricate a temporary rule, to which Mr. Hales replied that the board hadn’t been preparing those rules, and that formulated standards would follow after the bill was passed.
- MOTION:** **Rep. Marriott** moved that the committee send RS17440 to print. The motion carried by voice vote.
- RS17443** **Tana Cory** explained that this bill would change the expiration date of board members’ terms to July 1 rather than the last day of the calendar year.
- MOTION:** **Rep. Henbest** moved that the committee send RS17443 to print. The motion carried by voice vote.
- Chairman Block** concluded the meeting by appointing **Reps. Nielsen, Shepherd, Luker, Marriott, Thayn, Henbest,** and **Rusche** to the Health and Welfare budget subcommittee.
- Rep. Luker** indicated that a quorum of the McGeachin subcommittee was now present, and moved to approve the minutes of the McGeachin subcommittee for January 10. The motion passed on a voice vote by members of the committee.
- ADJOURN:** The meeting adjourned at 2:49 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: January 22, 2008

TIME: 1:15 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Rosie Andueza, Program Manager, Department of Health and Welfare; James Aydelotte, Bureau Chief, Department of Health and Welfare/Vital Statistics; Patrick Guzzle, Program Manager, Department of Health and Welfare/Food Protection; Dieuwke A. Spencer, Bureau Chief, Department of Health and Welfare/Chemical and Preventive Services; Kathryn Turner, Program Manager, Department of Health and Welfare/Office of Epidemiology and Food Protection; Michelle Button, D.A., Department of Health and Welfare; Shirley Alexander, Program Manager, Department of Health and Welfare; Kris Carter, Department of Health and Welfare/Office of Epidemiology and Food Protection; Dia Gainor, Bureau Chief, Department of Health and Welfare; Arthur Sacks, Executive Director, Board of Dentistry; Leslie Clement, Administrator, Department of Health and Welfare/Medicaid; Sandy Evans, Executive Director, Board of Nursing; Mond Warren, Bureau Chief, Department of Health and Welfare; Nancy Kerr, Executive Director, Board of Medicine; Mary Leonard, Associate Director, Board of Medicine; Annie Dalgetty, Program Specialist, Department of Health and Welfare; Mark Johnston, Executive Director, Board of Pharmacy; Chuck Walter, AARP; Angela Jones, Administrator, ICBVI; Nana Hanchett, Rehabilitation Chief, ICBVI; David Eisentrager, Idaho Bureau of Labs

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

Chairman Block asked for approval on all subcommittee meeting minutes from Friday, January 11. **Rep. Nielsen** moved to approve the minutes of the Nielsen subcommittee. The motion passed on a voice vote by members of the committee. **Rep. McGeachin** moved to approve the minutes of the McGeachin subcommittee. The motion passed on a voice vote by members of the committee. **Rep. Bilbao** moved to approve the minutes of the Bilbao subcommittee. The motion passed on a voice vote by members of the committee.

Chairman Block asked for approval on the standing committee meeting minutes from Monday, January 14. **Rep. Rusche** moved to approve the minutes of the standing committee. The motion passed on a voice vote.

Subcommittee For Subcommittee 1, **Chairman Nielsen** presented recommendations to

Final Reports: accept, as presented, the 21 dockets listed on page 2 of the Administrative Rules Final Reports.

MOTION: **Rep. Nielsen** moved that the full committee accept the recommendations of Subcommittee 1 and accept, as written, the 21 dockets listed on page 2 of the Administrative Rules Final Reports. The motion carried by voice vote.

For Subcommittee 2, **Chairman McGeachin** presented recommendations to accept, as presented, the 21 dockets listed on pages 3-4 of the Administrative Rules Final Reports.

MOTION: **Rep. McGeachin** moved that the full committee accept the recommendations of Subcommittee 2 and accept, as written, the 21 dockets listed on pages 3-4 of the Administrative Rules Final Reports. The motion carried by voice vote.

MOTION: **Chairman McGeachin** provided a brief overview of the rejected rule, and told the members of the full committee that the sponsor of the docket, **Ms. Rosie Anduenza**, requested rejection of the rule. **Ms. Anduenza** then spoke in support of rejecting the rule by adding that, had the rule been approved, different rules would have applied to different programs within the Idaho Food Stamp Program.

For Subcommittee 2, **Chairman McGeachin** moved that the full committee **reject** docket 16-0308-0701 as presented on page 6 of the Administrative Rules Final Reports. The motion carried by voice vote.

For Subcommittee 3, **Chairman Bilbao** presented recommendations to accept, as presented, the 19 dockets listed on pages 4-5 of the Administrative Rules Final Reports.

MOTION: **Rep. Bilbao** moved that the full committee accept the recommendations of Subcommittee 3 and accept, as written, the 19 dockets listed on pages 4-5 of the Administrative Rules Final Reports. The motion carried by voice vote.

RS17373 **Sandy Evans** described that RS17373 amends two sections of the Nursing Practice Act related to the relegation of nursing in Idaho. The first proposed amendment corrects a statutory citation found in 54-1401 Idaho Code – a housekeeping change necessary to correct an error in the current citation number that was identified during a routine review of the statute. The second proposed amendment clarifies language related to grounds for discipline related to habitual use of drugs and alcohol in 54-1413(1) and amends the grounds for discipline related to habitual drug use. The third proposed amendment adds a basis for disciplinary grounds in 54-1413(1) by adding language that will establish the clear basis for disciplinary action when nurses do not comply with orders of the Board of Nursing.

Rep. Luker voiced concern about payments and/or costs and the authority of the licensing Board. He inquired if the Board intentionally included the language, and the possibility that the language could be adjusted initially.

Ms. Evans replied that the Board's authority is limited. The Board has the authority to recoup the cost of disciplinary proceedings, and has

consistently included that in its order. The intent of the language in the RS is to clarify the authority of the board to discipline a license or refuse to renew or to deny an application for someone who has not complied with the cost of the disciplinary proceedings. There are no fines or added costs, **Ms. Evans** explained.

Rep. Rusche inquired about denial of a license if costs have not been paid. **Ms. Evans** replied that the intent is to prevent future licensing if the previous order hasn't been completed.

MOTION: **Rep. Bilbao** moved that RS17373 be sent to print. The motion carried by voice vote.

RS17389 **Mark Johnston**, Executive Director of the Board of Pharmacy, presented in the absence of Jan Atkinson. He described that RS17389 is proposed legislation that provides for the revision of Section 37-2726, Idaho Code, to address the absence in the statute of criminal penalties for wrongful disclosure of confidential patient information or wrongful accessing of confidential patient information. The Board of Pharmacy is tasked with operating the Prescription Monitoring Program, where data is collected about controlled substance prescriptions filled at retail and mail order pharmacies. This information is available to authorized users, such as pharmacists, those who prescribe, and law enforcement officials. The fruits of a \$196,000 federal grant are currently being realized, as the program is available for round-the-clock access for authorized users. Previously, this information was not available after business hours. RS17389 would impose discipline for persons using this data in an unauthorized method.

MOTION: **Rep. Rusche** moved that RS17389 be sent to print. The motion carried by voice vote.

RS17391 **Mr. Johnston** described that RS17391 revises Section 54-1705(24), Idaho Code, which harmonizes the definition of "practitioner" with the definition of the "practice of pharmacy" in Section 54-1704, Idaho Code, by deleting the phrase "other than a pharmacist" from the "practitioner" definition. Currently, **Mr. Johnston** explained, there is an inconsistency between Sections 54-1704 and 54-1705(24) since the "practice of pharmacy" includes within its scope matters referenced in the definition "practitioner," but the latter definition excludes pharmacists. The proposed change eliminates the inconsistency.

MOTION: **Rep. Luker** moved that RS17391 be sent to print. The motion carried by voice vote.

ADJOURN: With no further business, the meeting concluded at 1:53 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: January 24, 2008

TIME: 1:15 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** Reps. Loertscher, Thayn

GUESTS: Bob Aldridge, Attorney, TEPI, Pilot Project; Alan Winkle, director, PERSI; Sarah Scot, ICOA; Tana Cory, Bureau Chief, bureau of Occupational Licenses; Roger Hales, Attorney, Bureau of Occupational Licenses; Kathie Garrett, Idaho Academy of Family Physicians; Benjamin Davenport, Lobbyist, Evans Keane

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

Chairman Block asked for approval on all subcommittee meeting minutes from Monday, January 14. **Rep. Nielsen** moved to approve the minutes of the **Nielsen** subcommittee. The motion passed on a voice vote by members of the committee. **Rep. McGeachin** moved to approve the minutes of the **McGeachin** subcommittee. The motion passed on a voice vote by members of the committee. A quorum was not present to approve the committee meeting minutes chaired by **Rep. Bilbao**.

Chairman Block asked for approval on the standing committee meeting minutes from Wednesday January 16. **Rep. Henbest** moved to approve the minutes of the standing committee. The motion passed on a voice vote.

**Docket #
24-1301-0701:**

Chairman Block invited **Roger Hales** to present docket 24-1301-0701. **Mr. Hales** described that these rules are being allowed as per Title 54, Chapter 22, Idaho Code. The rule would give the board authority to adopt the jurisprudence exam and to set a passing score for the examination.

Rep. Marriott asked if a rule were in place regarding who can be on the board, to which **Mr. Hales** replied that the statute specifies the membership requirements and qualifications to sit on the board.

Rep. Luker inquired about how the jurisprudence exam is adopted and disseminated to the public. **Mr. Hales** replied that the exam would be adopted by a motion of the board. **Chairman Block** asked for a clarification of the usage of the word "jurisprudence" in this rule. **Rep. Luker** summarized by saying that "jurisprudence" is a study of the ethics of the underlying workings of the law, to which **Mr. Hales** added that the test typically covers the laws of that profession.

Rep. Nielsen asked, if the exam was an open-book exam, why the passing score of 75% was so low and asked what the scale of grading methodology was. **Mr. Hales** replied that the board may not allow the test to be open-book, that it gives the board the flexibility to create that test, and that 75% is a fairly standard passing rate for a test. The benefits of taking a national exam, **Mr. Hales** explained, is that it is reliable, psychometrically defensible, and tests the essential elements of the profession. If it is a scaled score, some grade-curving may be involved, and that the curved score may be based on those who take the exam. It also includes a section to assess competency.

MOTION:

Rep. Rusche moved that the committee accept docket 24-1301-0701 as written. The motion passed unanimously by voice vote.

RS17647

Chairman Block invited **Rep. Matthews** to present RS17647. The proposed legislation clarifies Sections 18-1505(4)(c) and 39-5302(7), Idaho Code, to state that unjust or improper use of a vulnerable adult's financial power of attorney falls within the definition of exploitation because it is a misuse of a vulnerable adult's funds, property, or resources. Often, **Rep. Matthews** explained, law enforcement officials and county prosecutors mis-characterize these cases as civil matters not subject to prosecution.

Rep. McGeachin asked for clarification of the word "exploitation" in the proposed legislation from **Sarah Scott**, counsel for the Idaho Commission on Aging. **Ms. Scott** summarized that two sections of Idaho Code refer to elder abuse, and that the proposed legislation would place these cases in a criminal, rather than civil, category. **Rep. Matthews** further added that the use of the words "unjust and improper" is a clearer definition, to which **Rep. Marriott** suggested that the interpretation of these words may mean different things to different individuals.

Rep. Rusche asked how the misuse of power of attorney is different from power of attorney itself. **Rep. Matthews** indicated that his counsel had advised him that the primary concern is with the financial aspects of the role the power of attorney can play in the care of a vulnerable adult. **Rep. Rusche** asked if this new legislation would likely create more felony cases which would burden the court system. **Rep. Matthews** replied that he hadn't yet consulted with those agencies who would be responsible for hearing cases of this type.

Rep. Luker asked **Ms. Scott** about the broad use of the term "misuse" and his concerns over changing a word that could affect the ability to prosecute a case either civilly or criminally and which would limit power of attorney too strictly. **Ms. Scott** then talked about the definitions of "unjust or improper" versus the word "misuse" and the specificity of the proposed legislation applying to the financial realm of power of attorney.

Rep. Luker voiced concern that "financial power of attorney" might be too limiting as most powers of attorney are "general," and the word "misuse" was defined, in case law, but perhaps "unjust or improper" was not. **Ms. Scott** replied that they had utilized similar language from that used in the State of Utah.

Rep. Henbest suggested that, since there are some substantive questions related to the wording of the proposed legislation that it might be better for **Rep. Matthews**, along with **Ms. Scott**, to clarify the language with additional legal input rather than to pass the bill which would later require amending. **Rep. Matthews** concurred.

Rep. Chew suggested it might be better to train law enforcement agencies how to understand the current rule. **Rep. Nielsen** commented that the legislation would perhaps be better considered by the Judiciary, Rules & Administration committee. **Rep. Matthews** stated that **Chairman Clark** of the Judiciary, Rules & Administration Committee suggested the Health and Welfare Committee hear the proposed legislation. **Rep. McGeachin** suggested that **Rep. Matthews** solicit input from prosecuting attorneys about the language of the proposed legislation.

MOTION: **Rep. Henbest** moved to hold the RS until a time certain of Wednesday, January 30, when **Rep. Matthews** could return to the committee with clarified language. The motion passed unanimously on a voice vote.

H0361 **Chairman Block** invited **Tana Cory** to speak about H0361. **Ms. Cory** explained that this bill will allow the Board to establish a provision in rule for inactive license status to enable those not actively practicing in Idaho to retain their license.

Rep. Nielsen asked about inactive license status and how long inactivity typically lasts. **Ms. Cory** replied that those with inactive licenses have to pay a fee and update their education requirements. Yielding to a question from **Rep. Nielsen** about whether this allowance was similarly made in other occupations, **Roger Hales** replied that it is not unusual, and that if a license is inactive, one must pay a reinstatement fee to be reinstated and also complete the continuing education for the inactive time.

MOTION: **Rep. Henbest** moved that the committee send H0361 to the House floor with a do pass recommendation. The motion carried by voice vote. **Chairman Block** appointed **Rep. Henbest** to carry the bill on the floor of the House.

H0362 **Chairman Block** invited **Tana Cory** to present H0362. The bill will change the compensation for board members to remove them from PERSI, which currently has a tax implication with regard to some board members' retirement benefits.

MOTION: **Rep. Rusche** moved that the committee send H0362 to the House floor with a do pass recommendation. The motion carried by voice vote. **Chairman Block** appointed **Rep. Rusche** to carry the bill on the floor of the House.

ADJOURN: With no further business, the meeting adjourned at 2:24 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: January 28, 2008

TIME: 1:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Jim Nowierski, Lobbyist, Gallatin Group; Kathie Garrett, Lobbyist, Idaho Academy of Family Physicians; Mark Johnston, Executive Director, Board of Pharmacy; Tana Cory, Bureau Chief, Bureau of Occupational Licenses; Roberta Crockett, Board Chair, Licensing Board; Cameron Preece, IDAMFT; Roy Spaulding, Intern, IDAMFT; Jill Mitchell, IDAMFT; Greg Dunkley, IDAMFT; Piper Field, IDAMFT; Marlene Strong, IDAMFT

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

Chairman Block asked for approval of the **Bilbao** subcommittee meeting minutes from Monday, January 14. **Rep. Bilbao** moved to approve the minutes of the **Bilbao** subcommittee. The motion passed on a voice vote by members of the committee.

Chairman Block asked for approval of the standing committee meeting minutes from Friday, January 18. **Rep. Henbest** moved to approve the minutes of the standing committee. The motion passed on a voice vote.

Chairman Block asked for approval of the standing committee meeting minutes from Tuesday, January 22. **Rep. Henbest** moved to approve the minutes of the standing committee. The motion passed on a voice vote.

H0375 **Chairman Block** addressed the members of the committee and said that H0375 is a bill regarding cosmetology that would be heard by the Business Committee, and that approval to move the bill to the Business Committee had been given by both **Chairman Black** of the Business Committee as well as **Speaker Denney**.

MOTION: **Rep. Rusche** moved that the committee send H0375 to the Business Committee. The motion carried by voice vote.

H0390 **Chairman Block** invited **Mark Johnston** to speak about H0390. **Mr. Johnston** described that H0390 revises Section 54-1705(24), Idaho Code, which harmonizes the definition of "practitioner" with the definition of the "practice of pharmacy" in Section 54-1704, Idaho Code, by deleting the phrase "other than a pharmacist" from the "practitioner" definition.

Currently, **Mr. Johnston** explained, there is an inconsistency between Sections 54-1704 and 54-1705(24) since the “practice of pharmacy” includes within its scope matters referenced in the definition “practitioner,” but the latter definition excludes pharmacists. The proposed change eliminates the inconsistency.

Mr. Johnston explained that pharmacists now administer, dispense, and conduct research, and that the definition of “practitioner” had not evolved along with the scope of practice over the years.

Rep. Luker inquired further about the use of the term “practitioner.” **Rep. Nielsen** asked for clarification regarding the words “other than a pharmacist.” **Mr. Johnston** replied that both the Idaho Pharmacy Association and the Idaho Retail Association wanted the Board of Pharmacy to initiate the change in wording which would bring both sections of the Idaho Code into harmony.

MOTION: **Rep. Chew** moved that the committee send H0390 to the House floor with a do pass recommendation. The motion carried by voice vote. **Chairman Block** appointed **Rep. Chew** to carry the bill on the floor of the House.

H0378 **Tana Cory** explained that H0378 would change the expiration date of board members’ terms to July 1 rather than the last day of the calendar year. The bill also describes how to appoint a board member if there were a vacancy on the board and that board members serve at the pleasure of the Governor.

Rep. Rusche asked if a board would be replaced completely if there were a new Governor. **Ms. Cory** replied that, while board members do serve at the pleasure of the Governor, they are not always reappointed if there is a new Governor. **Rep. Luker** asked if the language change supported the purpose of the bill. **Ms. Cory** replied that the purpose was to change the expiration dates of board members’ appointments. **Rep. Luker** inquired if **Ms. Cory** would agree to removing the words “at the pleasure of the Governor” from the bill. **Ms. Cory** concurred.

Ms. Cory went on to explain that the Governor, not the board, appoints the members. This is similar to language used by other boards. **Rep. Henbest** reiterated that it is common for board members to serve at the pleasure of the Governor.

MOTION: **Rep. Luker** motioned to hold the bill until time certain to have **Ms. Cory** compare the bill to other licensing board statutes relating to appointments by the Governor. The motion passed by voice vote.

H0376 **Roberta Crockett** testified on behalf of **Roger Hales**. **Ms. Crockett** explained that H0376 will create a status for associate marriage and family therapists to compare with the licensed professional counselor counterpart for a two-tiered approach. Once qualified for associate marriage and family therapist and licensed, the licensee will hold this license while gaining the supervised work experience required for the marriage and family therapist license. Under current statutes the education and supervised experience must be completed before being eligible for licensure.

Ms. Crockett went on to tell that, upon graduation and after taking an examination, these professionals are called registered interns. This often causes confusion for consumers, **Ms. Crockett** explained, and frequently makes it difficult for these professionals to obtain jobs.

Rep. Bilbao asked if insurers would be required to reimburse for services at the associate level. **Ms. Crockett** replied that most insurers would not, however the opportunity to work within the Medicaid system would become an option.

Rep. Rusche asked what supervision of registered marriage and family therapist interns entails and the role that interns play in the delivery system of care. **Ms. Crockett** answered that interns must complete 3,000 hours of direct client interaction, and that the supervision plan incorporates either direct or indirect (by audio/video) supervision by the supervisor. **Rep. Luker** asked how long it would take to complete these hours, to which **Ms. Crockett** replied between 2 and 3 years.

Rep. Rusche asked how interns charge a client. **Ms. Crockett** replied that many registered interns seek to find experience in agencies, hospitals, and non-profits, that a supervisor is provided to them as part of their employment, and that some interns seek outside supervision and pay for that supervision separately.

Rep. McGeachin suggested the inclusion of the word "licensed" before the words "marriage and family therapist" to several sections of the bill.

Cameron Preece spoke about the inability for interns to find suitable work in the field within the State of Idaho. **Roy Spaulding** reiterated this concern. **Mr. Spaulding** described in detail the process he has undergone in working to obtain licensure, his method of both charging clients and paying for supervision, his inability to bill Medicaid for services rendered, and his difficulty in obtaining a job as a registered marriage and family therapist intern within the State of Idaho. **Greg Dunkley** also spoke in favor of the bill.

Chairman Block invited **Jill Mitchell** to speak about the proposed legislation. **Dr. Mitchell** shared her experience of being licensed in other states, that doctors do not have to pay comparable supervisory fees during their residencies as do marriage and family therapists, and that Idaho ranks 47th out of 50 states for marriage and family therapist licensure.

In response to a question by **Rep. McGeachin** regarding the addition of the word "licensed" to the bill, **Roger Hales** answered that the addition of the word would probably not add a substantive change that would affect the legislation, and that the intent was to bring the legislation into alignment with that for social workers and counselors.

Piper Field was invited to speak and told the committee that all 44 counties in Idaho are in short supply of licensed marriage and family therapists, but that both Northwest Nazarene University and Idaho State University have master's programs in this field.

MOTION: **Rep. Thayn** moved that the committee send H0376 to the floor of the House with a do pass recommendation. **Rep. McGeachin** offered a substitute motion to amend the bill as follows:

Page 1, line 19 – “**Licensed** associate marriage and family therapist . . .”

Page 1, Line 42 – “**A licensed** . . .”

Page 3, Line 35 – “Licensure as a ‘**licensed** associate . . .”

Page 5, Line 48 – “**licensed** associate marriage and family therapist or a **licensed** marriage . . .”

Page 5, Line 51 – “against a **licensed** counselor or a marriage and family therapist or a **licensed** associate . . .”

Page 6, Line 4 – “against a **licensed** counselor . . . or a **licensed** associate . . .”

Page 6, Line 9 – “**licensed** counselor . . . or a **licensed** associate marriage . . .”

The substitute motion passed on a voice vote.

ADJOURN: With no further business, the committee adjourned at 3:21 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: January 30, 2008

TIME: 1:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Bob Aldridge, Attorney, Pilot Project IDPI; Kathie Garrett, Lobbyist, Idaho Academy of Family Physicians; Tracy Warren, Program Specialist, Idaho Council on Developmental Disabilities; Sarah Scott, Idaho Commission on Aging; Michael Middleton, Idaho Commission on Aging; Martin Bilbao, Connelly Smyser; Skip Smyser, Idaho State Dental Association; John Blaisdell, Idaho State Dental Association

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

Chairman Block asked for approval of the standing committee meeting minutes from Thursday, January 24th. **Rep. Rusche** moved to approve the minutes of the standing committee. The motion passed on a voice vote.

Chairman Block announced that the sequence of the items on the agenda would be different from that given on the agenda.

H0410

Chairman Block invited **Skip Smyser**, representing the Idaho Dental Association, to speak about H0410. This legislation will provide a personal representative, executor, heir or spouse of a deceased dentist six (6) months to allow that person to continue operating the dental practice of the deceased to preserve the business asset and to attempt to sell the practice. Upon approval of the board, another six (6) months will be provided to sell the practice, so long as a good faith effort is being made and all diagnosis, care and treatment of patients are made by an authorized and licensed dentist.

As a six-month period is granted by statute, and a six-month period is granted by the board, **Rep. Nielsen** inquired if it would not be better to grant a period of a year. **Mr. Smyser** replied that it would be important to make sure the best interests of the estate are protected and that extending the time period longer would not be necessarily beneficial.

Rep. Nielsen asked if this referred to sole proprietorships. **Mr. Smyser** replied that the bill is written for any type of practice but would generally apply to those practices where another dentist would not be able to assume the practice. **Mr. Smyser** passed out copies of an amendment recommended by the Idaho Dental Association to the members of the

committee.

Dentist **John Blaisdell** was invited by **Chairman Block** to address the committee and spoke in support of the bill. **Chairman Block** invited **Steve Tobiason**, representing the Idaho State Board of Dentistry, to address the committee. Currently, **Mr. Tobiason** stated, a non-licensed dentist cannot own a practice in Idaho. The Board of Dentistry understands that the representative appointed after a death may not be a licensed dentist under section 930. Under the new law, a non-dentist may own the practice for a period of up to six months.

MOTION: **Rep. Nielsen** moved to send the bill to the amending order with committee amendments attached. **Rep. McGeachin** seconded the motion. The motion passed on a voice vote.

Docket #
15-0102-0701: **Sarah Scott** addressed the members of the committee regarding docket 15-0102-0701. **Ms. Scott** described that the Idaho Commission on Aging (ICOA) is responsible for investigating abuse, neglect, and exploitation of “vulnerable adults” – those individuals with mental or physical impairments that affect their ability to make or implement decisions. The current rules limit employment as an Adult Protection Worker to those individuals who are social workers licensed to practice in Idaho. The proposed rule expands the definition of an Adult Protection Worker to include other qualified individuals with relevant education and experience to carry out the required duties. In addition to licensed social workers, those with bachelors degrees and two years of experience in working with the vulnerable adult population or those with an A.A. degree with two years of working in law enforcement may be eligible.

Rep. Rusche asked if the rule would move cases more toward a criminal rather than a protective bias. **Ms. Scott** replied that often the only way to hold those who exploit these individuals accountable is in criminal court, and that there is frequently a disconnect between adult protection workers and law enforcement.

Rep. Henbest commented that the system of adult protection needed to move toward what child protection utilized about 10 years ago, and stated that it made sense for a team to investigate adult protection cases to determine the best course of action for the exploited adult. She asked **Ms. Scott** about the bachelors degree qualifications of the workers themselves. **Ms. Scott** replied that she expected some opposition from law enforcement regarding a multi-disciplinary approach, and explained that currently in Reg. IV they are piloting the use of experienced personnel who don't have B.S. degrees.

Rep. Luker asked **Ms. Scott** if her agency was short of qualified people. **Ms. Scott** replied that there is not a lack of people, but a lack of people who can add dimension to the team.

Michael Middleton, an adult protection supervisor, then addressed the committee. **Mr. Middleton** commented that he thought it was valuable to work with a variety of people with different expertise. **Bob Aldridge** was then invited by **Chairman Block** to speak. **Mr. Aldridge** asked for support of the rule. He stated that it is important to distinguish between

cases where there is willful abuse of a vulnerable adult or simply infighting occurring between family members, that the new rule will allow more ways of investigating cases of abuse, and that the theory of a multi-disciplinary team has created a better body of knowledge about the problem of vulnerable adult exploitation and abuse, including more ways to solve it.

MOTION: **Rep. Luker** moved that the committee accept docket 15-0102-0701 as written. The motion passed unanimously by voice vote.

RS17647 **Chairman Block** invited **Rep. Mathews** to discuss RS17647, an RS that was moved on January 24 to a time certain date of January 30. The proposed legislation clarifies Sections 18-1505(4)(c) and 39-5302(7), Idaho Code, to state that unjust or improper use of a vulnerable adult's financial power of attorney falls within the definition of exploitation because it is a misuse of a vulnerable adult's funds, property, or resources. Often, **Rep. Matthews** explained, law enforcement officials and county prosecutors mis-characterize these cases as civil matters not subject to prosecution.

When vulnerable adults have been financially exploited and their assets exhausted, the State ends up paying when they require long-term care assistance. **Rep. Mathews** told that he had contacted the Prosecutor's Association, and that their research indicated that the language regarding the terms "misuse," "unjust" and "financial power of attorney" should remain the same and not affect the legislation.

Rep. Luker said he had not discovered other references to "financial power of attorney." **Rep. Mathews** indicated that using the terms "financial power of attorney" would not limit power of attorney in general. **Bob Aldridge** shared that power of attorney currently includes medical power of attorney, and that the goal of the legislation is to both limit and enforce financial power of attorney.

Rep. Henbest added that this legislation adds an important definition of exploitation as it relates to "financial" power of attorney which is currently needed given the increasing financial abuse of the elderly.

MOTION: **Rep. Henbest** moved that RS17647 be sent to print. The motion carried by voice vote.

ADJOURN: With no further business, the committee adjourned at 2:47 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE BUDGET SUBCOMMITTEE

DATE: January 30, 2008

TIME: 3:00 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Amy Castro, Legislative Services Office; Rep. Wood, Kathie Garrett, Idaho Academy of Family Physicians

Chairman Block invited **Amy Castro** from the Legislative Services Office to speak about the House Health and Welfare budget. Both **Ms. Castro** and **Rep. Wood** provided the members of the committee with an overview of the budget, including certain lines item of the budget. **Ms. Castro** answered questions by various members of the committee who sought clarification on certain budget line items. **Kathie Garrett** requested that substance abuse should be a future agenda item.

ADJOURN: The meeting adjourned at 4:53 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: February 4, 2008

TIME: 1:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Hannah Suona, ACLU of Idaho; Burke Hays, Planned Parenthood; Fairy Hitchcock, Hitchcock Family Advocates; Jim Nowierski, Lobbyist, Gallatin Group; Kathie Garrett, Academy of Family Physicians; Sue Venable, Constitution Party; Rep. Bob Nonini; Toni Lawson, Idaho Hospital Association

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

Chairman Block asked for approval of the standing committee meeting minutes from Monday, January 28th. **Rep. Luker** moved to approve the minutes of the standing committee. The motion passed on a voice vote.

Chairman Block invited **Debbie Field** from the Office of Drug Policy to address the members of the committee. **Ms. Field** spoke about the various member agencies of the Interagency Committee on Substance Abuse, Treatment and Prevention (ICSA) and the purpose and duties of the agency; the state-wide need for services; the State's capacity to meet those identified needs; the types of substance abuse services being provided and the groups and numbers of people served, including which programs are effective and which are not; the overall evaluation of the State's efforts to address substance abuse; and the successful results of data collection.

The State of Idaho is the first state in the nation to have a common assessment tool throughout the state agencies and counties. Standardized tools for assessment were chosen in February 2007 and have been implemented through "GAIN": the Global Assessment of Individual Needs, and 487 individuals have been trained throughout the State to administer different instruments within GAIN. As a result of the GAIN program, judges can mandate treatment for a substance abuser instead of a prison sentence. **Ms. Field** spoke about the State's efforts to combat the spread of the use of methamphetamine.

Rep. Nielsen asked what the Office of Drug Policy's position was with regard to substance abuse prevention. **Ms. Field** replied that the Department of Health and Welfare has a substance abuse budget of 15 million dollars, and that 1 million is earmarked for substance abuse

prevention. Asked by **Rep. Rusche** about the substance abuse success rate, **Ms. Field** replied that it had been good for adults recovering from substance abuse (those who have often lost their jobs or who have had their children removed from their care), but have generally been less successful with children and young teens who are substance abusers.

Chairman Block invited **Bethany Gadzinski** to speak. **Ms. Gadzinski** informed the committee that the success rate is approximately 50% with those individuals in the criminal justice system, but non-criminal justice substance abusers have a recovery success rate between 20 and 25%. **Ms. Field** then concluded her presentation by telling of the success of the North Idaho Rehabilitation and Training Organization (NIRTO).

H0378

Chairman Block invited **Tana Cory** to discuss H0378, a bill that was moved on January 28 to a time certain date of February 4. **Ms. Cory** explained that H0378 would change the expiration date of board members' terms to July 1 rather than the last day of the calendar year. The bill also describes how to appoint a board member if there were a vacancy on the board and that board members serve at the pleasure of the Governor. **Ms. Cory** explained that, of the 26 boards that the Bureau of Occupation Licenses oversees, there are ten different ways in which language is used with regard to board appointments. Outside of Title 54, several board members serve at the pleasure of the Governor, and most boards and commissions have verbiage included which describes that their members serve "at the pleasure of the Governor."

Ms. Cory described that if a board member could no longer serve, some boards require that associations forward three names of qualified candidates for the vacated board position to the Governor for appointment.

MOTION:

Rep. Rusche moved that the committee send H0378 to the House floor with a do pass recommendation. The motion carried by voice vote. **Chairman Block** appointed **Rep. Rusche** to carry the bill on the floor of the House.

RS17683

Chairman Block invited **Rep. Nonini** to present RS17683. The legislation seeks to make it illegal to coerce or otherwise force a woman or girl into aborting her baby. According to **Rep. Nonini**, many women report that they were coerced into abortion and have suffered grievous emotional, psychological and spiritual harm in subsequent years after an abortion, and the legislation intends to empower all Idaho mothers to choose life for their pre-born children by preventing coercion in its most common forms.

This legislation was introduced last year as HO225. After working with the Attorney General's Office, this new RS is different from last year's RS. **Rep. Nonini** provided a few examples of how a woman could be forced or coerced into having an abortion.

Rep. Rusche asked why coercion to carry a child was not included in the protection the legislation would afford a woman. **Rep. Nonini** replied that women are typically highly protected if they chose to abort a baby if they so chose (Roe v. Wade, as an example), and indicated that there did not

seem to be a need to add more protective legislation for women in this regard.

Rep. Henbest asked if it was hard to prove attempts to commit and conspiring to commit abortion. **Rep. Nonini** replied that attorneys would likely know the answer to that question.

MOTION: **Rep. Nielsen** moved that RS 17683 be sent to print. The motion carried by voice vote.

RS17749 **Chairman Block** invited **Rep. Luker** to present RS17749. Rep. Luker described that this bill amends provisions of the Local Land Use Planning Act which includes certain group homes for the handicapped within the definition of "single family dwelling." Under the Act such homes may be established without any permits, variances or other restrictions that would not otherwise be imposed on a single family dwelling. The state provisions are an offshoot of the federal Fair Housing Act (FHA). In 1988, the FHA was amended to include those suffering from drug and alcohol addiction within the definition of handicapped. As a result, FHA group homes for drug and alcohol addicts have appeared in increasing numbers in family neighborhoods. Residents in these homes are often convicted felons still under the supervision of the Department of Corrections, or registered sex offenders.

The FHA does contain some exclusions. One exclusion specifically exempts from protection those "whose tenancy would otherwise constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others." According to the United States Department of Justice that includes "persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders," by virtue of their status. It would also include those who are still under the supervision of the department of corrections on probation or parole.

The current state law, **Rep. Luker** stated, does not contain the federal exemption, and therefore imposes a greater restriction on local government zoning authority than does the federal Fair Housing Act. Technical changes to sections 67-6531 and 67-6532 would use similar terminology in defining the term "residences."

Rep. Bilbao asked if a homeowners' association stating how many families can occupy a home would be superceded by the new legislation. **Rep. Luker** replied that homeowners' associations bylaws would still stand on their own, and that the new legislation would give a city more tools to deal with homeowners who have chosen not to enforce laws regarding this issue or where there no laws.

Rep. Nielsen indicated that similar legislation was introduced in the Judiciary, Rules, and Administration Committee. **Rep. Luker** indicated that the legislation under consideration by the Health and Welfare Committee would not conflict and that the two bills will operate independently.

Rep. Rusche stated that planning and zoning laws can often prevent

such residences from being established, and inquired where residences then would be established were there no planning or zoning laws. **Rep. Luker** replied that cities might not prohibit the homes but could set up an ordinance requiring notification when someone such as a sex offender moves into the home. The legislation does not mandate that the city do anything, and if there is no zoning, there is no restriction.

Rep. Bilbao asked if these residential homes are considered businesses. **Rep. Luker** replied that some are for profit, and that others are not-for-profit. Allowances are already made for the mentally and physically disabled, and that regulation must occur for all such businesses, **Rep. Luker** argued.

MOTION: **Rep. Marriott** moved that the committee send RS17749 to print. **Rep. McGeachin** discovered the Statement of Purpose had a typographical error, using the word "an" instead of the correct word "and." **Rep. Luker** indicated the typographical error should be changed. The motion passed on a voice vote.

RS17764 **Vice Chairman Nielsen** invited **Reps. Block** and **Chavez** to present RS17764. The purpose of the legislation is to heighten public awareness, to educate, and to aid in prevention of Fetal Alcohol Syndrome (FAS) and other alcohol-related neurological disorders by way of signage placement. **Rep. Block** indicated that FAS is the number one preventable birth defect. Business owners would be provided with the signage but would not be required to post the signs.

MOTION: **Rep. Rusche** moved that the committee send RS17764 to print. The motion passed on a voice vote.

ADJOURN: With no further business, the committee adjourned at 3:00 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE BUDGET SUBCOMMITTEE

DATE: February 4, 2008

TIME: 3:00 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Jeanne Goodenough, Office of the Attorney General; Sherm Furey, Office of the Attorney General; Debra Alsaker-Burke, Idaho SP CRT; Corrie Keller, Idaho Supreme Court; Heather Reilly, Idaho Prosecuting Attorney's Association; Andrew Ellis, Ada County Prosecutor's Office; Ann Cosho, Ada County Public Defender

Chairman Block thanked the guests for their attendance at the budget subcommittee meeting.

Chairman Block invited **Michelle Britton** to speak to the members of the subcommittee. **Ms. Britton** discussed the high turnover rate in child care work attributable to the stress of the job, the number of cases each social worker is required to handle, the types of cases they see, the stress of court proceedings, and the high level of accountability they are required to have by the Federal Government.

The growth of the child protection program, **Ms. Britton** explained, is due to the inability to move children out of the child protection system rather than to new children entering the system. Cases due to abuse, neglect, or abandonment cause children to enter the child protection system. Due to a high turnover rate among social workers, **Ms. Britton** indicated that adding 12 additional staff positions would lessen the overall caseload and would affect permanency outcomes for children in the child protection system. Streamlining their paperwork requirements and helping social workers manage their jobs is also an important factor toward retaining quality social workers.

Rep. Thayn asked what types of families these children who enter the system come from. **Ms. Britton** replied that 70 to 80% of the children come from homes where the parent(s) are drug users. **Rep. Henbest** asked if the practice of de-briefing was utilized in the child protection system. **Ms. Britton** replied that it typically was not. Bottlenecks in the court system and more time spent with attorneys are short-term issues that need to be addressed.

In summary, **Ms. Britton** stated that the two most important issues facing the Department of Health and Welfare were stopping the high rate of turnover among social workers and managing the permanency outcomes of child placement.

Corrie Keller, from the Idaho Supreme Court, spoke to the members of the subcommittee. He emphasized that Child Protection Petitions filed in Idaho have increased from 719 cases to 1182 cases in the past 5 years. Without adequate staffing, children often reappear in the prison system.

Rep. Marriott asked where the funds that would go to each of the 7 districts would come from. **Mr. Keller** replied that the judicial districts and the Health and Welfare districts do not align, which causes problems. **Rep. Thayn** asked about reunification between children and their parents. **Ms. Britton** yielded to the question and stated that a plan is worked out for each child as well as for their parent(s), and that judges look at the progress parent(s) make in deciding to reunify a child with his/her parent(s).

Andrew Ellis, representing the Ada County Prosecutor's Office, addressed the committee. **Mr. Ellis** also told of the very high turnover rate in front-line social workers and the demands of the positions, including the high workload and amount of paperwork required by federal and state law to be completed. Many social workers are underpaid and overworked. **Mr. Ellis** asked the members of the committee for additional staff positions. **Rep. Luker** asked **Mr. Ellis** how much discretion the Prosecutor's Office has in determining if a child protection case should move forward. **Mr. Ellis** replied that they have 100% discretion, and that in 5-10% of cases, they decline to file the case.

Ann Cosho, representing the Ada County Public Defender's Office, then spoke to the committee. **Ms. Cosho** has been involved in children's issues and the law for the past 18 years. **Ms. Cosho** told that, in Ada County, a specialized team handles child protection cases. She reiterated **Mr. Ellis's** statement that turnover among social workers is high. **Rep. Marriott** asked **Ms. Cosho** if her office defends parents or children. **Ms. Cosho** replied that her office represents parents in 95% of cases, but the Public Defender's Office is also appointed to represent children over 12. She anticipates a need for an increase in attorneys who will represent children since children, especially those in foster care, often need representation. Child protection is governed by federal guidelines, she added.

Chairman Block invited **Sherm Furey**, representing the Office of the Attorney General, to address the subcommittee. **Mr. Furey** told that the Office of the Attorney General is actively assisting both the Prosecutor's Office and the Department of Health and Welfare for better outcomes on child protection services. **Rep. Henbest** asked about law enforcement's role in child protection. Yielding to the question, **Mr. Ellis** replied that law enforcement has the statutory authority to make the decision regarding removal of a child from a home approximately 90-95% of the time. **Rep. Thayn** asked if the STRIKE task force addresses child protection situations created by adults. Yielding to the question, **Ms. Britton** replied that the Department of Health and Welfare could do a better job in the courts with legal services and with children to obtain better permanency outcomes. She also told that relative care (placement with a relative such as an aunt or uncle) is also utilized. **Rep. Nielsen** stated that it is important not to simply look at the cure for the problem, but to prevent the problem in the first place in such situations. He asked how reunification

of families could be helped. Yielding to the question, **Ms. Britton** replied that the best use of contract dollars is into reunification of families rather than into the court system.

Chairman Block asked **Jeanne Goodenough** if she had anything to add to the discussion. She replied that she did not.

Rep. Nielsen reiterated that the cure is often not sustainable, and that prevention is key. **Chairman Block** emphasized that, while illegal drug use, particularly the use of methamphetamine, are of great issue, use of alcohol should also not be overlooked. **Rep. Shepherd** added that less "certified" people, such as a strong family, should have more of a role in the child protection system.

ADJOURN: With no further business, the subcommittee adjourned at 4:45 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE BUDGET SUBCOMMITTEE

DATE: February 5, 2008

TIME: 3:00 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Sara Stover, Budget Analyst, Division of Financial Management; Marilyn Sword, Executive Director; Council on Disabilities; Kelly Buckland, Executive Director, State Independent Living Council; Richard Humiston, Division Administrator, Department of Health and Welfare; Dick Schultz, Deputy director, Department of Health and Welfare; Leslie Clement, Division of Medicaid, Department of Health and Welfare; Wayne Hammon, Division Administrator, Division of Financial Management; Rep. Fred Wood

Chairman Block thanked the guests for their attendance at the budget subcommittee meeting.

Chairman Block invited **Sara Stover** to speak to the members of the subcommittee. The Governor's recommendation is for 12 FTP – 6 social workers and 6 service technicians that could assist with clerical work. The OPE study, a federal review, and regions in the state with heavy caseloads contributed to the decision for the recommendation. The additional staff would be focused toward Regions 3 and 4 – the most populated areas in the state – and would allow the Department of Health and Welfare to operate more efficiently. The metrics used to determine efficiency would include permanency through reunification, permanency while a child is in foster care, timeliness of case handling, the consistency of visits, and case follow-up. There is also a request for legal representation and the addition of three contract attorneys who can assist with cases. There is currently a very high rate of turnover in the field of social work. Better salaries may draw in better candidates, and moving a qualified social worker from one region to work in another has generally not been successful and often results in a poorer-functioning unit in the region where the social worker previously worked. **Rep. Rusche** asked if the State of Idaho could be fined for failing to meet certain standards. **Ms. Stover** concurred that being out of compliance can generally result in the loss of federal funds, however she was unaware of specific non-compliance consequences for child welfare federal standards.

The Governor recommends RALF Rates Increases in the amount of 2.8 million. This amount is 65% of what was requested by the Department of Health and Welfare. **Ms. Stover** shared that 5 facilities in the State have discontinued serving Medicaid clients in the past two years, and that RALF plays an important role in keep patients out of nursing homes.

HCBS (Home and Community-Based Services) Rate Methodology provides for rate increases for developmentally-disabled housing units. When the Governor made this budget recommendation, a financial audit had not yet been released. Since rate methodologies have to be approved by CMS, a significant increase may not be approved, but significant rate increase recommendations are anticipated. **Rep. Luker** inquired if any attempt had been made to transfer funds from institutional services to home-based services. **Ms. Stover** replied that the budget amount deals with the existing need, and that there will likely not be excess funds to transfer. Invited by **Chairman Block** to yield to **Rep. Luker's** question, **Leslie Clement** added that, in developmentally-disabled services, few people reside in institutions; far more are living in communities rather than institutions. If there were a rate increase, **Rep. Henbest** asked, would the State Plan have to be changed? **Ms. Clement** replied that all pricing methodologies have to be approved through the State Plan.

Ms. Stover described that Physician Substance Abuse Screening funds are used for doctors who recognize clients with early substance abuse problems, similar to medical screening for diabetes. A total of \$65,000 has been allotted for two new Medicaid codes for substance abuse screening. **Rep. Rusche** asked if the GAIN assessment tool would be used to screen these individuals. **Ms. Stover** stated that this budget item has not been recommended by the Governor at this time.

Ms. Stover described that the replacement items category are used for the Department of Health and Welfare for replacing computers and for fuel-efficient fleet cars for the Department.

Chairman Block then invited **Leslie Clement** to address the members of the subcommittee. **Ms. Clement** spoke regarding MMIS Reprocurement, the Transfer of PSR Unit to Medicaid, and the Idaho Health Data Exchange.

MMIS Reprocurement is the Division of Medicaid's top priority for SFY 2009 and is in the amount of \$19.4 million. The State would contribute \$3.2 million and the decision unit would include 8 full-time positions. This year's funding request reflects a portion of the total project development cost of \$50.2 million, with the State share approximately \$6.5 million. The money will be spent on a project that allows for design, development, and implementation of a new system that will take two years to complete and will allow for improved data management. The contracts have been awarded to Unisys, ACS, and Thomas Medstat.

The budget request for Transfer PSR Unit to Medicaid would allow for 15 full-time positions for the Division of Behavioral Health to the Division of Medicaid. After an internal audit, moving staff to the Division of Medicaid could improve efficiencies and better align operations with Medicaid policy and could reduce staff duplication.

Yielding to **Chairman Block**, **Dick Hermiston** reiterated that when the 15 positions are removed and moved to the Division of Medicaid, federal funding is lost, but there will be fewer cost increases and better services delivered to clients.

Ms. Clement indicated that there are approximately 500 mental health agencies statewide. One hundred of them have been credentialed, and those agencies which are not performing should not be receiving Medicaid reimbursement. **Rep. Wood** asked how the credentialing system will be re-engineered and suggested that the credentialing system should be separate from both the agency and the State. **Ms. Clement** indicated that creating levels of credentialing, differentiating between agencies, and holding agencies accountable is important. The Division of Medicaid is currently the only agency providing this service.

Ms. Clement summarized that the top three priorities of the Department of Medicaid is MMIS, the Idaho Health Data Exchange – a public/private partnership which the governor believes is important – and the transfer of 15 PSR Units to Medicaid.

Ms. Stover indicated the Governor's top priorities are:

- 1) that all state agencies become more efficient with IT projects through the Department of Administration
- 2) completion of the MMIS and EPICS projects
- 3) a state mental health facility (ISSH)
- 4) 5% CEC

Chairman Block invited **Marilyn Sword** to address the subcommittee. She asked for the members of the subcommittee to support the demolition of old buildings on the grounds of Idaho State School and Hospital (ISSH), to support the conversion of one to two of the newer buildings to psychiatric facilities provided that security is adequate, and to oppose the construction of new "home-like" buildings at ISSH and instead to use the funds to improve and enhance services to allow people across Idaho to live in homes in their communities.

Chairman Block invited **Kelly Buckland** to address the committee. He asked the members of the committee to consider that correctional facilities should not have to provide mental health services to those who have not been convicted of crimes, and that those who have not been convicted who are seeking mental health services should not have to seek treatment on correctional facility grounds but instead at agencies in the community.

ADJOURN: With no further business, the subcommittee adjourned at 5:31 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: February 6, 2008

TIME: 1:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Molly Steckel, Lobbyist, IMA; Sandy Evans, Executive Director, Idaho Board of Nursing; Corey Surber, Manager, St. Alphonsus; Larry Callicutt, Director; Idaho Department of Juvenile Corrections; Ryan Hulbert, Clinical Services Administrator, Idaho Department of Juvenile Corrections; John Watts, Lobbyist, Veritas/Voices; Susie Pouliot, CEO, Idaho Medical Association

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

Chairman Block dispensed with the Approval of Minutes.

Chairman Block invited **Larry Callicutt** to address the members of the committee. **Mr. Callicutt**, Director of the Idaho Department of Juvenile Corrections, spoke about the victims of juvenile crimes; the role that families play while a juvenile is in custody; the reintegration process for a juvenile when they are reintegrated into the community; and the increase in the level of professionalism of the IDJC workforce, including Mr. Callicutt's desire for all IDJB workers to be trained through an "academy" process.

Within juvenile population trends, there has been an increase in both drug and alcohol disorder offenders (from 52% to 68% in the past two years) as well as co-occurring disorder offenders (from 16% to 30% in the past two years). **Mr. Callicutt** clarified that this increase was due to the methodology used in calculating these categories rather than an actual increase in the number of offenders.

Recidivism as defined by the IDJC is the act of being adjudicated or convicted of a new felony or misdemeanor that is not a status offense or probation violation. Seventy percent of juvenile offenders re-offend within the first year after release from juvenile corrections.

Mr. Callicutt discussed the juvenile justice data points of arrest, petition, detention, and probation. Ninety-five percent of all juvenile delinquency rates occur at the community and county level. Of the 9,000 students in the 12 detention centers within the State of Idaho, 800 are on juvenile probation.

Rep. Rusche asked what percent of the juvenile correction population had prior substance abuse or mental health disorders, how these disorders could be prevented, and if community treatment could prevent entry into the juvenile justice system. **Mr. Callicutt** replied that juveniles can often be diverted from the system if a mental health professional intervenes. The detention center in Bonneville County is the only center currently conducting mental health evaluations.

Rep. Chew asked what the expected recidivism will be in several years. **Mr. Callicutt** told that juveniles who return to their negative peer group and go back to using illegal substances will often reappear in the juvenile justice system.

In response to a question by **Rep. Luker** regarding gangs, **Mr. Callicutt** replied that IDJC assists gang members with values clarification and learning empathy from a victim's point of view. Often rival gang members are placed together in small groups while in the juvenile justice system to aid in learning these concepts.

Chairman Block then invited **Ryan Hulbert** to address the committee. **Dr. Hulbert** spoke about the joint efforts between IDJC and the Department of Health and Welfare to address the mental health needs of youth, including depression, post-traumatic stress disorder, and attention deficit and hyperactivity disorder (ADHD). He shared the cost-effective value of using functional family therapists who are able to help both juveniles between ages 10 and 18 and their families, and the community cooperation the Department has received to implement such a model program.

Rep. Nielsen indicated that, since mental illness often accompanies drug abuse, would mental health still be such an issue if drug abuse could be halted. **Dr. Hulbert** indicated that, typically, substance abuse is an attempt to self-medicate oneself and that recovery from use of methamphetamine can often take years.

Dr. Hulbert then described a board game he had developed to assist juveniles with the reintegration process and told of the success of a community-based program in Lewiston, ID.

H0388

Chairman Block invited **Sandy Evans** to speak about H0388. **Ms. Evans** described that the bill amends two sections of the Nursing Practice Act related to the relegation of nursing in Idaho. The first proposed amendment (Page 1, Line 20) corrects a statutory citation found in 54-1401 Idaho Code – a housekeeping change necessary to correct an error in the current citation number that was identified during a routine review of the statute. The second proposed amendment (Page 2, Line 14) clarifies language related to grounds for discipline related to habitual use of drugs and alcohol in 54-1413(1) and amends the grounds for discipline related to habitual drug use. The third proposed amendment (Page 2, Line 26) adds a basis for disciplinary grounds in 54-1413(1) by adding language that will establish the clear basis for disciplinary action when nurses do not comply with orders of the Board of Nursing.

Rep. Nielsen asked why nurses would abuse drugs and about programs

available to nurses that encourage prevention. **Ms. Evans** replied that the legislation would apply to only a small section of nurses who abuse drugs, and that addictive behaviors are often present long before an individual begins formal nursing training. Screening occurs for nurses both before they begin nursing school and when a nurse becomes licensed and personal references and criminal background checks are utilized.

Rep. Luker voiced concern that wording on page 2, line 14 did not include a rule that supplied sufficient definition and might be better addressed in the statute rather than the rule. **Ms. Evans** replied that the current language in the rule indicated what the Board of Nursing intended, and that the majority of nurses who are disciplined abuse prescription drugs.

MOTION: **Rep. Rusche** moved that the committee send H0388 to the house floor with a do pass recommendation. The motion carried by voice vote. **Chairman Block** appointed **Rep. Henbest** to carry the bill on the floor of the House.

RS17615 **Rep. Bilbao** presented RS17615 to the committee. The purpose of the legislation is to reaffirm that children should have access to high-quality, comprehensive, affordable primary and preventive health care services and that parents are responsible to provide for their children's health and dental care, yet sometimes have trouble accessing affordable care.

The legislation was presented to the Health Care Task Force, who, along with several other organizations, voted to support it. A concurrent resolution, the legislation carries no fiscal impact to the State of Idaho, will give the Governor a sense of legislative support, and will aid the 19,000 uninsured children who live in families with incomes at 185% of the federal poverty level.

MOTION: **Rep. McGeachin** moved that RS17615 be sent to print. The motion carried by voice vote.

RS17690 **Rep. McGeachin** presented RS17690. The legislation would establish a framework for voluntary licensure of midwives in Idaho, which will enhance maternity care options for Idaho families and will provide a mechanism for validating the qualifications. Currently, the practice is allowable in the state of Idaho without a license. Midwives, however, cannot be reimbursed for services unless they are licensed.

Rep. Marriott asked why licensure is voluntary and also about the scope of practice and education midwives will need to have. **Rep. McGeachin** stressed that the licensure would be voluntary, and that those who elect to become licensed will raise the standards and qualifications for all midwives. **Rep. Rusche** inquired if the reason for the legislation was so that midwives can collect insurance reimbursements. **Rep. Henbest** asked if midwives deliver medications, suture, or deliver oxygen in their practices. **Paula Weens**, a certified professional midwife, yielded to the question and indicated that the legislation would be an expansion of the kind of service that women currently receive, and that licensure would allow midwives to better deliver those types of medical services.

MOTION **Rep. Shepherd** moved that RS17690 be sent to print. The motion carried by voice vote.

RS17792 **Rep. McGeachin** presented RS17792. The legislation would compel Idaho's congressional delegation and others to improve the federal survey process for skilled nursing facilities. The legislation is supported by the Idaho Health Care Association.

The survey process for skilled nursing facilities is currently antiquated and inflexible. Developed in 1987, the process is presenting a problem for people in skilled nursing facilities who face increasing costs. If survey results are negative, skilled nursing facilities often have difficulty in collecting insurance and hiring skilled employees.

MOTION **Rep. Nielsen** moved that RS17792 be sent to print. **Rep. Rusche** offered a substitute motion to send the legislation to the second reading calendar. The substitute motion failed by a show of hands. The main motion carried by voice vote.

RS17791 **Rep. Rusche** presented RS17791. The legislation would remove the sunset date from the Health Quality Planning Commission, add "lay" reporting to the tasks of the Commission, and also adds the responsibility of utilizing language which laymen can understand to the HQPC charge.

The cost of supporting the HQPC is about \$35,000 annually, and is included in the base funding for the Department of Health and Welfare.

With the data report being completed, **Rep. Luker** asked what the scope of purpose of the board was besides compiling the data report. **Rep. Rusche** indicated that they have not accumulated data on the best practices around delivery of health care in the state, but that data-gathering will be better accessed with the new system. The cost of \$35,000 is much less than what a contracted research firm may charge for similar services. **Rep. Rusche** told **Rep. Nielsen** that he is not a member of the committee who will implement this project.

MOTION: **Rep. Loertscher** moved that RS17791 be sent to print. The motion carried by voice vote.

ADJOURN: With no further business, the subcommittee adjourned at 3:28 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE BUDGET SUBCOMMITTEE

DATE: February 6, 2008

TIME: 3:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: None

Chairman Block thanked the committee members for their attendance at the budget subcommittee meeting.

Chairman Block briefed the committee members on the requested budget priorities provided by Richard Armstrong, Director, Idaho Department of Health and Welfare; budget priorities provided by the Governor; priorities requested by Leslie Clement, Medicaid Administrator, and requests by the public.

Chairman Block told the members of the subcommittee that the next meeting would be on Thursday, February 7 at 3:00 p.m.

ADJOURN: With no further business, the subcommittee adjourned at 4:02 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE BUDGET SUBCOMMITTEE

DATE: February 7, 2008

TIME: 3:00 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Cindy Shreiner, Administrative Assistant, Council for the Deaf and Hard of Hearing; Steven Snow, Executive Director, Council for the Deaf and Hard of Hearing; Kathie Garrett, Lobbyist, Advocates for Addiction Counseling

Chairman Block called the meeting to order and welcomed the committee members and guests. She invited **Steven Snow** through interpreter **Cindy Shreiner** to read a statement in support of budget funding for an interpreter position for Mr. Snow, a deaf individual and the new Executive Director for the Council for the Deaf and Hard of Hearing.

Rep. Thayn asked if reasons were given why an interpreter was not hired for **Mr. Snow**. **Mr. Snow**, through interpreter **Ms. Shreiner**, indicated no. **Rep. Rusche** asked if previous Executive Directors had also been deaf and required interpreters. **Ms. Shreiner** said that the two former Executive Directors had not been deaf, and that **Mr. Snow** is the only deaf individual currently working for the State of Idaho. **Rep. Henbest** asked about various technologies that could be utilized to assist **Mr. Snow** to be able to do his job. **Rep. Marriott** asked if interpreters who live in Boise could assist **Mr. Snow**. **Ms. Shreiner** replied affirmatively.

Rep. Thayn asked about the Multi-State Purchasing Pool. **Rep. Henbest** replied that more receipts than initially expected were received, and that the line-item is spending authority for those receipts. **Rep. Nielsen** said that this item allowed Idaho to enter into partnership with other states to purchase drugs. **Rep. Block** asked if any money was taken that would be put into a health savings account. **Rep. Thayn** said that if the line-item was only for spending authority, that the budget subcommittee should support it.

Rep. Marriott asked about the Governor's priorities for the Inpatient Psychiatric Facility at ISSH. **Rep. Henbest** replied that the Governor had approved to put these funds into the use of permanent building funds for this project. **Rep. Nielsen** said that the Governor's 5% CEC should be left in the hands of the JFAC Committee. **Chairman Block** reiterated that if fewer budget requests are made, the likelihood of receiving funding is greater. **Rep. Henbest** replied that the CEC change will mostly likely be across the board. **Rep. Thayn** indicated that supporting MMIS should be a priority; **Rep. Nielsen** stated that supporting EPICS should also be

important.

Rep. Luker inquired about the ISSH facility. **Rep. Henbest** responded that the facility would have more security and that 20 extra beds would be added to make the facility similar to State Hospitals North and South. **Rep. Wood** added that the facility is not secure, that the state is currently bearing the cost of placing patients around the state, and that the state needs more resources to decrease that budget item over time. **Rep. Luker** asked if this budget item is to come from the permanent fund, and if the committee could give the item a lower priority and elevate another budget item. **Rep. Henbest** replied that an effort is being made to work within an existing budget, and that any savings that are realized would be put towards higher priority items. **Rep. Luker** suggested it be put on the budget list, but not as a high priority.

Rep. Marriott asked about staffing the facility. **Rep. Henbest** replied that the Department of Health and Welfare has done some modeling around the FTP, and that the item would probably appear in next year's budget.

Rep. Block asked **Rep. Henbest** what the JFAC Committee looks for regarding the budget. **Rep. Henbest** replied that the Governor's DFM staff has both "one-time" funding as well as ongoing funding. **Rep. Wood** and **Rep. Henbest** will be looking for areas of the budget where perhaps not all of the money is being spent and could be moved elsewhere. **Rep. Wood** reiterated that ongoing funding is critical, and that "one-time" money is spent just once. Ongoing funds will be viewed carefully. **Rep. Wood** said that the Department of Health and Welfare has 30 million dollars of statutory requirements. The state has 2.8 percent of last year's expenditures in roll-ups to the current year, and MMIS is the number one priority.

Rep. Henbest returned the topic of the ISSH facility. She explained that patients who are served by state hospitals cost the state 1/3 less because there is no competition in community hospitals for psychiatric care, that the facilities are currently 1.4 million over the allotted 2.1 million budget, and that those dollars could be leveraged to pay for treatment at the state's own facilities. **Rep. Marriott** added that, by creating additional beds at these facilities, the money saved on private hospitals could be applied to the budget. **Rep. Nielsen** stated that when private enterprise is involved, costs are cheaper. **Rep. Henbest** explained that services are desperately needed and that there is no competition. **Rep. Nielsen** asked about creating competition. **Rep. Wood** said that creating competition is not lucrative, that there is often no private payment source, that the only provider is the state government, and that many don't qualify for state assistance. **Rep. Nielsen** wondered if the state was being "held hostage" and is being forced to pay to make ends meet. **Rep. Wood** concurred.

Rep. Henbest recommended that EPICS, now in its third and final year, should not be interrupted. The EPICS program allows employees to manage their workloads more efficiently. **Rep. Luker** inquired about the priority and urgency of funding additional child welfare staff. **Rep. Nielsen** asked if the RALF rate increase applied to assisted living facilities. **Rep. Henbest** replied affirmatively. **Rep. Nielsen** indicated he would support the Governor's rather the Department of Health and

Welfare's line on that budget item.

Rep. Marriott asked for clarification on the term "CEC" (Change in Employee Compensation). **Rep. Henbest** replied that it is proposed that all state employees would receive a 5% increase. **Rep. Marriott** suggested the committee follow the Governor's recommendations regarding the CEC line-item, and asked how priorities should be listed for presentation to the JFAC Committee.

Rep. Luker suggested using the recommendations forwarded by the Department of Health and Welfare as a model, then adding additional adjustments. **Rep. Marriott** asked if money could be found to pay for an interpreter for **Mr. Snow**, and that it did not make sense to hire someone and not give him tools to perform his job.

Rep. Nielsen asked about the early bond payoff. **Rep. Henbest** replied that early bond payoff was 50 million. **Rep. Thayn** suggested that the Department of Health and Welfare's list of budget recommendations appeared to be a good template to follow. In response to a question by **Chairman Block** about the Idaho Health Data Exchange (IHDE), **Rep. Henbest** replied that the budget item should perhaps be moved to a higher priority, and that the item is needed by the DHW, the Governor, and the Office of Drug Policy in order to have a modern data-collecting system. **Rep. Luker** concurred. **Chairman Block** suggested that the committee utilize the DHW recommendations list and choose the dollar amount for each line-item based upon what the Governor has requested.

ADJOURN: With no further business, the budget subcommittee adjourned at 4:35 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: February 8, 2008

TIME: 1:00 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** Rep. Loertscher

GUESTS: Toni Lawson, vice President, Idaho Hospital Association; kathie Garrett, Lobbyist, Idaho Academy of Family Physicians; Julie Taylor, Lobbyist, Blue Cross of Idaho; Sarah Fuhrimna, Lobbyist, Roden Law Office

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

Chairman Block dispensed with the Approval of Minutes.

RS17662 **Rep. Henbest** presented RS17662. The legislation intends to align current Idaho Statute with policy and practice changes associated with Medicaid reform. The bill provides for increased availability of premium assistance to individuals, small business, and large businesses. The legislation also tasks the Department of Health and Welfare to conduct program outreach and marketing.

Rep. Thayn asked about the fiscal impact if increased numbers of children could enroll. **Rep. Henbest** replied that a 20% match would come from dedicated funds, and that the 12.3 million currently in the fund would draw down if enrollment went up. **Rep. Luker** inquired where the 12.3 million came from, what the current use of that fund money is, and what the impact would be if everyone who was eligible to take advantage of the fund did so. **Rep. Henbest** replied that expenditures from the fund would total 2 million, that anticipated enrollment is for 1,500 enrollees, and that the source of funds is a percent of premium tax dollars. **Rep. McGeachin** asked if qualifications would be met to obtain the matching funds. **Rep. Henbest** replied affirmatively.

MOTION: **Rep. McGeachin** moved to send RS17662 to print. The motion passed by voice vote.

RS17878 **Rep. Henbest** presented RS17878. This legislation directs the Director of the Department of Health and Welfare to register facilities for the storage and/or transport of human bodies and body parts intended for research or educational purposes. **Rep. Henbest** went on to explain that there exists a gap in the Uniform Donor Act in the regulation of bodies and body parts related to use of such parts for research and /or educational purposes. In 1998, a statute was repealed requiring registration with the Department of

Health and Welfare by those who were storing bodies or body parts. The proposed legislation would both require registration with the Department of Health and Welfare and would give the Department the ability to require information concerning the location and scope of the business, adding a civil enforcement penalty for those who fail to register. **Rep. Luker** asked if the legislation could be made broader yet could still add exclusionary language. **Rep. Henbest** replied affirmatively.

MOTION: **Rep. Nielsen** moved to send RS17878 to print. The motion passed by voice vote.

RS17864 **Rep. Henbest** presented RS17864. The proposed legislation adds a new Chapter 20 to Title 39 of Idaho Code to establish a statewide multi-disciplinary, multi-agency Child Mortality Prevention Team (CMPT) to aid in the prevention of child deaths through the examination of relevant records. The bill would define the membership, organization, and duties of the Child Mortality Prevention Team and create in the State Treasury a child mortality prevention team fund. The legislation also amends Idaho Code concerning public records exempt from disclosure to include information reviewed by the Child Mortality Prevention Team.

Although the State of Idaho had a CMPT from 1997 to 2000 by Executive order of the Governor, Idaho is currently the only state in the nation without a Child Mortality Prevention Team. The team would disseminate aggregate information about causes of unexpected child death that may aid in death prevention. The team would compile a report from a state-wide perspective. Policy changes could include seat belt laws, child safety restraints, Sudden Infant Death Syndrome (SIDS), suicide prevention, and firearm safety.

The estimated fiscal impact to establish the CMPT is \$43,550 and would be an ongoing cost.

MOTION: **Rep. Luker** moved to send RS17864 to print. The motion passed by voice vote.

RS17658 **Rep. Henbest** presented RS17658. The proposed legislation urges the Idaho Department of Health and Welfare to use portions of the Medicaid Disproportionate Share Hospital (DSH) funds to help individuals retain private health insurance. Currently, funds that come from the Federal Government are matched by State of Idaho Medicaid in a 70/30% ratio and are distributed to hospitals as additional compensation for their care of Medicare, Medicaid, and indigent patients. The total for FY 2009 is 25.5 million – 18 million from the Federal Government and 7 million from the State of Idaho. President Bush has recommended to CMS to allow for some funds to be used for premium assistance programs for those who qualify for Title 19. The Department of Health and Welfare has the ability to distribute those funds to hospitals. It is anticipated that 420 people would enroll if this were allowed. This would cost \$500,000 but would not be drawn from the general fund.

Rep. Nielsen asked if the State of Idaho would make a contract with either Blue Cross or Blue Shield to insure these individuals. **Rep. Henbest** replied that the legislation targets those who require health insurance premium assistance, prevents gaps in coverage, and would

help to keep individuals off Medicaid. **Rep. McGeachin** asked if there would be an expected loss of revenue to the hospitals. **Rep. Henbest** replied that the legislation would allow for individuals who seek medical treatment to be covered continuously, thus accessing health services as needed rather than delaying care.

MOTION: **Rep. Nielsen** moved to send RS17658 to print. The motion passed by voice vote.

RS17862 **Rep. Chew** presented RS17862. The legislation amends section 54-1707, Idaho Code, to allow the Idaho Society of Health-Systems Pharmacists – a nonprofit corporation – to also nominate pharmacists for a vacancy on the Idaho Board of Pharmacy. The bill also outlines the experience necessary for pharmacist members of the board and allows the Governor to appoint any person otherwise qualified to fill the position of the public representative whether or not said person is nominated by the aforementioned pharmacy organizations or not.

MOTION: **Rep. Luker** moved to send RS17862 to print. The motion passed by voice vote.

RS17847 **Rep. Chew** presented RS17847. The legislation will establish the Idaho Prescription Drug Program within the Idaho Department of Health and Welfare. The purpose is to provide those who are uninsured or under-insured with prescription drug rates similar to those paid by those in group plans at a savings of 40 to 60%. In the State of Idaho, there are currently 240,000 people who do not have health insurance. Those who are full-cash payers for prescription drugs typically pay 50% more for prescriptions.

Rep. McGeachin inquired about income guidelines for those individuals applying for such coverage. Funding for the program would come from monies from the Medicaid Fraud Control Unit (MFCU) specifically recovered from pharmaceutical companies found to be fraudulent.

MOTION: **Rep. Nielsen** moved to send RS17847 to print. The motion passed by voice vote.

RS17890 **Rep. Chew** presented RS17890 – a concurrent resolution encouraging the Department of Health and Welfare to proceed with the development of a Medicaid medication therapy management (MTM) program. The State of Idaho is currently burdened when insured individuals are unable to manage their medication regimens. Designed to be a collaboration between physicians, pharmacists, and patients, an advantage of the program would be both cost-deferral and also decreased costs in general.

Rep. Luker asked if the recovered money from the MFCU was directed to the general fund, to which **Rep. Chew** replied yes.

MOTION: **Rep. Nielsen** moved to send RS17890 to print. The motion passed by voice vote.

RS17859 **Rep. Chew** presented RS17859. The resolution will urge the Idaho Department of Health and Welfare to work with the Food Safety Advisory Council to review current research on health risks pertaining to natural rubber latex use in food preparation and recommend guidelines to deal with such risks. **Rep. Chew** indicated that food handlers and law enforcement personnel often wear latex gloves, and that between 10 and 18% of these individuals will develop latex allergies. **Rep. Chew** requested that the RS be printed with a change to the language.

Rep. McGeachin inquired about the language used in the legislation. **Rep. Henbest** clarified that language should read “. . . that the Idaho Department of Health and Welfare is urged to work with the Food Safety Advisory Council to review current research on health risks pertaining to natural rubber latex use in food preparation and recommend guidelines to deal with such risks.”

MOTION: **Rep. Henbest** moved to send RS17859 to print. The motion passed by voice vote.

RS17748 **Vice Chairman Nielsen** invited **Rep. Block** to present RS17748. The proposed legislation seeks to add or amend language within Idaho Code title 39, Chapter 3 to update definitions and procedures for treatment of substance abuse. **Rep. Block** indicated that various definitions would be updated, as current definitions are no longer accurate. **Rep. Luker** asked where the definitions were taken from. Yielding to the question, **Debbie Field** indicated that the current language was outdated across the board and need to be updated. **Rep. Nielsen** asked if the proposed legislation would be another statute. Yielding to the question, **Ms. Field** replied affirmatively.

MOTION: **Rep. Marriott** moved to send RS17748 to print. The motion passed by voice vote.

RS17745 **Rep. Block** presented RS17745. The proposed legislation seeks to add an exempted entity to Idaho Code Title 41, Chapter 3932. Currently, the application of a new substance use disorder treatment provider falls under a statute written to address managed care reform. Under this statute, the State has no ability to manage needed treatment capacity levels geographically. This has created a situation where there are too many providers in some areas and not enough in others.

The legislation would eliminate duplication related to substance abuse treatment. The legislation has no bearing on current providers, makes good business sense, and has no fiscal impact.

Rep. McGeachin asked for clarification on the words “substance use and substance abuse.” Yielding to the question, **Ms. Field** indicated that the differences in terminology are the currently accepted language by the Office of Drug Policy.

MOTION: **Rep. Henbest** moved to send RS17748 to print. The motion passed by voice vote.

RS17691

Rep. Ruchti was invited to present RS17691 to the committee. The legislation would make it an infraction to smoke in a vehicle when a child younger than thirteen years old is present. This legislation may only be enforced as a secondary offense, although no points to a drivers' license would be assessed nor would an offender's insurance rates increase.

Rep. Ruchti further explained that second-hand smoke has been proven to produce childhood diseases such as cardiorespiratory diseases, ear problems, SIDS, and asthma, and that a child has the right to live in a smoke-free environment.

Rep. Nielsen asked for a brief committee recess in order to speak with **Rep. Ruchti**. After reconvening, **Rep. Shepherd** inquired what the costs of printing the bill would be, and **Rep. McGeachin** voiced concern about the way the proposed legislation was written. **Chairman Block** put the committee at ease while she inquired how much printing the bill would cost. The Assistant to the Speaker of the House indicated the cost is approximately \$10.00 to print the bill.

MOTION:

Rep. Henbest moved to send RS17691 to print. **Rep. McGeachin** offered a substitute motion to return RS17691 to the sponsor. The substitute motion passed on a roll call vote.

Chairman Block – nay
Vice Chairman Nielsen – aye
Rep. McGeachin – aye
Rep. Bilbao –
Rep. Loertscher –
Rep. Shepherd – aye
Rep. Luker – aye
Rep. Marriott – aye
Rep. Thayn – aye
Rep. Henbest – nay
Rep. Rusche – nay
Rep. Chew – nay

ADJOURN:

With no further business, the meeting adjourned at 3:39 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: February 12, 2008

TIME: 1:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Jessica McDonald, Lobbyist, Idaho Association of Realtors; Fairy Hitchcock, Theatre Technician, Hitchcock Family Advocates; Kathie Garrett, Lobbyist, Partners in Crisis; Jim Baugh, Executive Director, Co-Ad; Dennis Davis, Director, City of Nampa; Gaylon Hughes; Debby Ransom, Department of Health and Welfare; Jerry Todd; Scott Spjute, Zoning Administrator, City of Boise

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

Chairman Block asked for approval of the standing committee meeting minutes from Wednesday, January 30. **Rep. Thayn** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.

Chairman Block asked for approval of the standing committee meeting minutes from Monday, February 4. **Rep. Marriott** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.

Chairman Block invited **Brent Reinke** of the Department of Correction to speak to the committee. **Mr. Reinke** spoke about the IdahoVINE program, the Adam Walsh Act, recommended actions for strengthening Idaho's Sex Offender laws, the Juvenile Sex Offender Registry, and the individuals who comprise the various criminal justice sub-committees. The date for compliance with the Adam Walsh Act (AWA) is July 1, 2009, and the fine for non-compliance with AWA is 10% of the Burn Jag grants. **Mr. Reinke** told that there are currently 39 violent sexual offenders in the State of Idaho. Recidivism rates are surprisingly low – 7 to 8% – and offenders do not typically re-offend sexually.

Mr. Reinke then introduced **Dr. Mary Perrien**. **Dr. Perrien** told that, of the 12 beds in the maximum security facility, 3 beds are set aside for civil commitments, and 9 are for inmates who require intensive service. Additional beds would serve both the Department of Corrections (260 beds) and the Department of Health and Welfare (40 beds). In the previous legislative session, funding was received which provided both shelter for the vulnerable along with enhanced services. In response to a question from Rep. Marriott, **Dr. Perrien** concurred that a mentally ill

person should not have to go to a prison to receive treatment for mental illness, and that community resources for treatment are a better option. The Department has flexibility in treating major mental disorders, ADHD, and anxiety disorders, and is expecting to recruit nationally in the near future for a variety of trained professionals to treat these patients.

Rep. Luker asked how many of the 9 inmates requiring intensive service would be classified as needing the highest level of security. **Dr. Perrien** replied that this analysis had not yet been performed.

HJM6

Rep. McGeachin presented HJM6. The legislation would compel Idaho's congressional delegation and others to improve the federal survey process for skilled nursing facilities. The legislation is supported by the Idaho Health Care Association.

The survey process for skilled nursing facilities is currently antiquated and inflexible. Developed in 1987, the process is presenting a problem for owners of skilled nursing facilities who face increasing costs. If survey results are negative, skilled nursing facilities often have difficulty in collecting insurance payments and hiring skilled employees.

The memorial would task interested parties, including the Department of Health and Welfare, the United States Health and Human Services Department, resident advocate groups, and industry representatives on how to improve the process of surveying skilled nursing facilities towards increased care and better use of taxpayer dollars. The state survey process currently used for state assisted living facilities could be used as a model.

Through the Department of Health and Welfare, the State of Idaho is responsible for inspecting skilled nursing facilities on an annual basis to ensure that certain requirements are being met. **Chairman Block** invited **Robert Vande Merwe** to address the committee. **Mr. Vande Merwe** told that inspectors contract with the state to conduct these inspections, and inspections are to be the same nationwide. Responding to a question from **Rep. Henbest**, **Mr. Vande Merwe** described flaws in the current inspection process, including food service preparation and facility cleanliness citations, which can often result in the facility's loss of licensure, the freezing of admissions, and fines up to \$10,000 per day. With the passage of HJM6, Congress could be petitioned to allow the State of Idaho to develop a survey system for skilled nursing facilities for the state similar to that used by assisted living facilities.

MOTION:

Rep. Rusche moved to send HJM006 to the floor of the House with a do pass recommendation. The motion passed by voice vote.

H465

Rep. Luker presented H465. **Rep. Luker** described that this bill amends provisions of the Local Land Use Planning Act which includes certain group homes for the handicapped within the definition of "single family dwelling." Under the Act such homes may be established without any permits, variances or other restrictions that would not otherwise be imposed on a single family dwelling. The state provisions are an offshoot of the federal Fair Housing Act (FHA). In 1988, the FHA was amended to include those suffering from drug and alcohol addiction within the definition of handicapped. As a result, FHA group homes for drug and

alcohol addicts have appeared in increasing numbers in family neighborhoods. Residents in these homes are often convicted felons still under the supervision of the Department of Corrections, or registered sex offenders.

The FHA does contain some exclusions. One exclusion specifically exempts from protection those “whose tenancy would otherwise constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.” According to the United States Department of Justice that includes “persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders,” by virtue of their status. It would also include those who are still under the supervision of the department of corrections on probation or parole.

The current state law, **Rep. Luker** stated, does not contain the federal exemption, and therefore imposes a greater restriction on local government zoning authority than does the federal Fair Housing Act. Technical changes to sections 67-6531 and 67-6532 would use similar terminology in defining the term “residences.”

Rep. Luker went on to discuss the definition of “single family dwelling,” zoning laws for how many unrelated individuals may occupy a residence, and the type of supervision required at the home. **Rep. Thayn** asked what the consequences would be if more than 8 unrelated individuals lived in the home. **Rep. Luker** replied that the city could then require a variance permit.

Chairman Block invited **Dennis Davis** from the City of Nampa to speak to the committee. **Mr. Davis** stated that the transitional homes can often appear in neighborhoods without warning, and are more suited to light industrial or multi-family city zones. He asked the committee to support H465.

Gaylon Hughes spoke to the committee in favor of H465. He described for the committee a type of transitional home in his neighborhood where 12 men between the ages of 18 to 45 or 50 currently live. He described the neighborhood’s problems with both traffic and safety issues.

Scott Spjute spoke to the committee in favor of H465, and suggested that the transitional homes should be required to be licensed.

Melanie Curtis of Supportive Housing and Integrative Partnerships (SHIPS) was invited to speak to the committee. She voiced a concern that communities may eliminate transitional housing which serves those with substance abuse problems.

Rep. Nielsen asked **Mr. Spjute** and **Rep. Luker** if language in Section 67-6532, line 27 should be changed from “may” to “shall.” **Mr. Spjute** replied that he was not prepared to suggest changes to the bill, but that he would like to see the Department of Health and Welfare oversee these homes. **Rep. Luker** replied that he excluded use of the word “shall” since he did not want to task the Department of Health and Welfare with oversight of the homes and because the legislation is designed to allow cities to take jurisdiction – including enacting an ordinance or requiring a

variance – regarding transitional homes.

Rep. Nielsen asked **Mr. Davis** if the City of Nampa could enforce licensure. **Mr. Davis** replied affirmatively. **Rep. Rusche** asked if there was currently any oversight of these homes. **Rep. Luker** replied that there is currently much disparity regarding enforcement.

MOTION:

Rep. Nielsen moved to send H465 to the floor of the House with a do pass recommendation. The motion passed by voice vote.

H489

Rep. Rusche presented H489. The legislation would remove the sunset date from the Health Quality Planning Commission (HQPC), add “lay” reporting to the tasks of the Commission, and also adds the responsibility of utilizing language which laymen can understand to the HQPC charge.

The cost of supporting the HQPC is about \$35,000 annually, and is included in the base funding for the Department of Health and Welfare.

The Health Quality Planning Commission was started in 2006 and was extended by legislation in 2007. The purpose of the HQPC is to develop a plan for health information and data exchange to improve information flow among health care providers, to reduce duplication, to lower costs, and to improve patient safety. The HQPC also is charged with developing and monitoring health care safety, and reporting the findings to the legislature. With the increase of “consumer directed” health plans and larger out-of-pocket financial responsibilities for most families, the need for health system information to be available in a transparent fashion has increased. The legislation adds the responsibility of considering reports in layman’s terms to the HQPC charge.

Rep. Bilbao inquired if the Department of Health and Welfare had been consulted regarding the fiscal impact. **Rep. Rusche** replied that DHW had been consulted. **Rep. Luker** asked when the Commission would issue the final report. **Rep. Rusche** replied that the final report has been completed, but that the report regarding quality assurance and patient services had not. **Rep. Luker** asked if the HQPC had been tasked with a new business plan. **Rep. Rusche** replied that the original purpose was focused upon developing a business plan, and that ongoing monitoring of the health care system and reporting must continue. The Commission’s current directive does not involve a specific plan, **Rep. Rusche** said.

Rep. McGeachin asked about the makeup of the HQPC and if it included members from around the state. **Rep. Rusche** replied that the Commission is composed of gubernatorial appointees. **Rep. Henbest** stated that the legislation will assist with transparency in the quality of hospital care and avoidance of duplication of services through broader use of health information technology. **Rep. Nielsen** stated that members other than those in the health care industry should be included in the HQPC.

MOTION:

Rep. Bilbao moved to send H489 to the floor of the House with a do pass recommendation. **Rep. Henbest** offered a substitute motion to send the bill to the amending order with the addition of a sunset date of July 2010. **Rep. Thayn** offered an amended substitute motion to readdress the bill

with amendments in time certain at the discretion of the Chair. The amended substitute motion passed on a voice vote.

ADJOURN: With no further business, the meeting adjourned at 4:01 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE BUDGET SUBCOMMITTEE

DATE: February 12, 2008

TIME: 4:15 p.m.

PLACE: Room 228

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives Shepherd(8), Marriott, Luker, Thayn, Henbest

**ABSENT/
EXCUSED:** Rep. Rusche

GUESTS: Cindy Shreiner, Administrative Assistant, Council for the Deaf and Hard of Hearing; Steven Snow, Executive Director, Council for the Deaf and Hard of Hearing; John Watts, Veritas Advisors

Chairman Block called the meeting to order and welcomed the committee members and guests.

Chairman Block invited **John Watts** to address the committee. **Mr. Watts** spoke about Idaho Community Health Centers and asked the committee to support funding for H159, which passed in 2007.

Chairman Block informed the budget subcommittee members that each member would be entitled to rank budget items according to their choice for priority. In a round-table discussion, the following ranking was voted upon by the committee members:

1. MMIS
2. EPICS
3. 12 Additional Child Welfare Staff
4. Idaho Health Data Exchange
5. Residential Care Rate Increase
6. Community Health Centers
7. RALF Rate Increase
8. Inpatient Psychiatric Facility at ISSH and Community Developmentally Disabled Housing Units

The priority of the committee for the Office of Drug Policy is funding for the prevention and treatment of substance abuse. Idaho has a significant need for this funding. It is estimated that there are 66,000 persons in the state in need of substance abuse treatment. The primary drugs of choice are alcohol and methamphetamine. Idaho is experiencing increasing numbers of drug arrests, incarcerations, foster care placements, suicides, homicides, and driving fatalities due to substance abuse. This is placing great burdens on the Departments of Health and Welfare, Corrections, Education, and health care systems in general.

ADJOURN: With no further business, the budget subcommittee adjourned at 5:46 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: February 14, 2008

TIME: 1:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Amber Corner, Catholic Charities of the Roman Catholic Diocese; Terry Curley, March of Dimes; Steve Millard, Idaho Hospital Association; Corey Surber, St. Alphonsus; Thomas Couch, USDHHS-CMS; Kathy Moore, West Valley Medical Center; Joe Caroselli, Idaho Elks Rehabilitation Hospital; Toni Lawson, Idaho Hospital Association; Vern Garrett, AACT-Idaho; Maribeth Connell, AARP; John Watts, March of Dimes; Jeremy Pisca, SARMC; Woody Richards, Intermountain Hospital; Mike Brassey, St. Luke's RMC; Jim Baugh, Co-Ad; Debbie Field, Office of Drug Policy

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

Chairman Block dispensed with the Approval of Minutes and announced that the sequence of the agenda items would be different from that listed.

Chairman Block invited various members of the committee to discuss the budget priority decisions. Starting with the first priority and working in descending order, **Chairman Block** discussed both MMIS and EPICS; **Rep. Thayn** described Child Welfare staffing; **Rep. Rusche** described the Idaho Health Data Exchange; **Rep. Luker** described the Residential Rate Increase; **Rep. Marriott** described the Community Health Centers; **Rep. Shepherd** described the RALF Rate Increase; and **Rep. Henbest** described the Inpatient Psychiatric Facility at ISSH and Community Developmentally Disabled Housing Units. **Chairman Block** also stated that an endorsement would be made to JFAC to support substance abuse treatment and prevention.

Rep. McGeachin inquired about the HCBS Rate Methodology, and why the RALF Rate Increase was prioritized above HCBS. **Rep. Luker** moved to place the HCBS Rate Methodology as the seventh priority, the RALF Rate Increase as the eighth priority, and the Inpatient Psychiatric Facility at ISSH and Community Developmentally Disabled Housing Units as the ninth priority. The motion passed by voice vote. **Rep. Nielsen** moved to send the budget priorities to the JFAC Committee, with the addition of the recent motion.

H443

Chairman Block invited **Rep. Fred Wood** to present H443. **Rep. Wood** told that Medicaid is a joint federal/state-funded health program for

individuals below specific federal poverty levels. For every dollar spent in Idaho's Medicaid program, Idaho puts up approximately 30 cents, which is matched by approximately 70 cents from the federal government. Medicaid pays hospitals well below their costs. By state rule, hospitals over 40 beds are paid 81.5% of costs for inpatients reported on annual cost reports, and hospitals under 40 beds receive 96.5% of costs for inpatients. Outpatient reimbursement is based upon a blended Medicare/hospital specific fee schedule and also pays hospitals far below the cost of caring for Medicaid outpatients.

Federal Medicare/Medicaid payment principles do not allow state Medicaid programs to reimburse hospitals more than Medicare would reimburse for the same service. This principle is called the "upper payment limit" or UPL. Idaho's Medicaid program reimburses hospitals significantly less than Medicare, creating a "gap" between what is reimbursed and what could be reimbursed. To increase reimbursement up to what could be reimbursed, the state would have to appropriate additional funds for the general fund to secure the federal match.

H443 provides that certain private hospitals are collectively assessed to provide the 30 cents which are necessary to "draw down" the additional federal Medicaid funds created by the upper payment limit gap. In this way, reimbursement to certain private hospitals can be enhanced without any cost to the state. It also creates a hospital assessment fund within Medicaid to which the private hospitals will contribute a percentage of their net patient revenue as defined in the Medicare cost report. The funds would then be used as the state match to access the additional federal Medicaid funds. When the federal funds are secured, they are paid to the contributing hospitals based upon the number of Medicaid patients they care for within a given year.

Rep. Thayne inquired if hospital reimbursement was based upon the number of patients seen. Yielding to the question, **Steve Millard** replied that reimbursement is based upon the number of days a patient is in the hospital. **Rep. Luker** asked **Mr. Millard** about the expected time frame for implementation since funds would not be distributed until a waiver is obtained. **Rep. Luker** also asked if the collected funds would be held until the waiver was secured. **Mr. Millard** replied that this requires approval from CMS. **Rep. Rusche** stated that it is not unusual to secure additional funding. **Rep. Rusche** inquired how many other states use the methodology. **Mr. Millard** replied that most (more than half of the 50 states) do.

MOTION:

Rep. Marriott moved that H443 move to the floor of the House with a do pass recommendation. The motion passed by a voice vote.

H466

Vice Chairman Nielsen invited **Reps. Block** and **Chavez** to present H466. The purpose of the legislation is to heighten public awareness, to educate, and to aid in prevention of Fetal Alcohol Syndrome (FAS) and other alcohol-related neurological disorders by way of sign placement. **Rep. Block** indicated that FAS is the number one preventable birth defect. Business owners would be provided with the signs but would not be required to post the signs.

In 2007, 25,000 babies were born in the State of Idaho. One in 75 babies

is born with FAS, for an approximate total within the state of 325 babies. Often they are born to mothers who are somewhat younger, less educated, single, and unemployed. FAS is totally preventable disease.

Terry Curley, Director of Program Services for the March of Dimes, spoke in support of the bill. He stated that 1 of 9 babies is born pre-term, and many pre-term births occur due to alcohol use.

Rep. Thayne asked **Rep. Chavez** if the legislation would achieve the intended goal. **Rep. Chavez** replied that 19 states currently have the legislation, and that 56% of women between the ages of 18 and 40 years old changed their behavior when exposed to signs warning of alcohol use. **Rep. Thayne** followed up by asking if FAS rates were lower in states that had adopted the legislation. **Rep. Chavez** replied that there had been no conclusive study, but that behavioral changes were expected within the targeted population. **Rep. Rusche** added that FAS diagnosis is often difficult to determine, and sometimes only manifests when a child reaches school. **Rep. Luker** asked if **Reps. Chavez** and **Block** had heard any additional negative information about the legislation. **Rep. Chavez** replied that they had not, and the Department of Health and Welfare had endorsed the legislation.

Rep. Luker asked if signs would be sent to alcohol retailers when license renewal applications are due. **Rep. Chavez** replied that two signs would be sent to retailers with the first license renewal; subsequent signs would be sent to alcohol retailers upon request.

Rep. Nielsen suggested that subsequent legislation could include the word "shall" in the directive to post the signs.

MOTION:

Rep. Rusche moved that H466 be sent to the House with a do pass recommendation. The motion passed by voice vote.

Vice Chairman Nielsen called for a brief recess. After the recess, **Vice Chairman Nielsen** indicated that the written testimony from **Amber Corner** regarding H466 would be included in the record.

H508

Rep. Block presented H508. The proposed legislation seeks to add or amend language within Idaho Code title 39, Chapter 3 to update definitions and procedures for treatment of substance abuse. **Rep. Block** indicated that various definitions would be updated, as current definitions are no longer accurate. The co-sponsor of the bill is **Rep. Jo An Wood**.

Rep. McGeachin inquired what the difference between "outpatient" and "intensive outpatient" (page 3, line 35) is. Yielding to the question, **Bethany Gadzinki** replied that "intensive outpatient" treatment refers to clinical treatment of 9 hours or more during a 7-day period; "outpatient" treatment is less than 9 hours within the same period. **Rep. Thayne** asked what differences will need to be made when implementing the policy. Yielding to the question, **Debbie Field** stated that there is a need to update the policy so that it follows the same definitions throughout the United States. **Rep. Nielsen** asked how billing would occur. **Ms. Field** indicated that billing takes place in 15 minute increments.

MOTION: **Rep. Rusche** moved that H508 be sent to the floor of the House with a do pass recommendation. The motion passed on a voice vote.

H507 **Vice Chairman Nielsen** invited **Rep. Block** to present H507. The proposed legislation seeks to add an exempted entity to Idaho Code Title 41, Chapter 3932. Currently, the application of a new substance use disorder treatment provider falls under a statute written to address managed care reform. Under this statute, the state has no ability to manage needed treatment capacity levels geographically. This has created a situation where there are too many providers in some areas and not enough in others.

The legislation would eliminate duplication related to substance abuse treatment. The legislation has no bearing on current providers, makes good business sense, and has no fiscal impact. The legislation would allow the Interagency Committee (a board composed of representatives from the Department of Health and Welfare, the Board of Education, the Department of Juvenile Corrections, the Department of Corrections, four legislators, members from the Idaho Association of Cities, and several concerned citizens) overseeing the Department of Health and Welfare to determine if new providers would be allowed to contract with DHW for services in certain regions of the state.

Discussion ensued if this legislation would limit the services provided in a free market economy. Those providers already operating would not be affected, explained **Ms. Gadzinski**. The statute currently states that allowing participation is required whether a provider is needed in a region or not, and the legislation would attempt to avoid current duplication practices throughout the state.

Rep. Marriott clarified that this is state money set aside to pay people for doing a service, and that it was not appropriate to limit that freedom by refusing to accept an application from a provider wanting to work in a particular region of the state.

Vice Chairman Nielsen invited **Vernon Garrett** to address the committee. He stated that there is an absence of language in the Statement of Purpose and in the legislation itself about how those who are in over-saturated areas will be dealt with. AACT-Idaho, whom **Mr. Garrett** represents, endorses client choice. Providers who are perceived as giving better treatment will gain clients; those that do not will tend to lose business. **Mr. Garrett** spoke in favor of the bill.

Ms. Field, Chairman of the Interagency Committee, stated that regulation of an agency must not occur without the agency's guidance. Many people, she said, currently need the service, and, in certain parts of the state, services are not available.

Rep. Nielsen inquired what was needed to repair a system that required this legislation. **Ms. Field** replied that in 2005, a grant of 21 million was received (7 million for 3 years) for treatment and recovery support services. The system took one year to set up, but now the network of providers is very uneven. DHW had to accept "any willing provider." Currently, there are many people needing treatment, and several providers do not have enough clients. The legislation will help to manage

the provider system better. According to **Ms. Gadzinski**, the legislation would affect those providers who are seeking state substance disorder program reimbursement, and would not apply to Medicaid. In considering an application, **Rep. Nielsen** asked, were requirements more stringent for applications in over-saturated areas and less stringent in areas needing providers? **Ms. Gadzinski** replied no.

Rep. Henbest reminded the committee that the legislation supported the Department of Health and Welfare's effort to manage a population they had been given money and statutory authority to manage, and that the legislation is a necessary tool. **Rep. Nielsen** asked if those providers who accept private pay were concerned about too many providers in a specific region, and if the legislation was an attempt to control the free enterprise system. **Rep. Loertscher** speculated that no action had been taken to determine who would be eligible and what services would be paid for, and that, if examined, it might be determined that many services currently provided are not useful.

MOTION: **Rep. Rusche** moved to send H507 to the floor of the House with a do pass recommendation. **Rep. Marriott** made a substitute motion to hold H507 in committee. The substitute motion passed on a roll call vote.

Chairman Block – nay
Vice Chairman Nielsen – aye
Rep. McGeachin – aye
Rep. Bilbao – nay
Rep. Loertscher – aye
Rep. Shepherd – aye
Rep. Luker – aye
Rep. Marriott – aye
Rep. Thayn – aye
Rep. Henbest – nay
Rep. Rusche – nay
Rep. Chew – nay

ADJOURN: With no further business, the committee adjourned at 4:43 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: February 18, 2008

TIME: 1:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Corey Surber, Manager, St. Alphonsus; Pete Kozisek, Family Physician; Heidi Low, ACS; Denise Checkovich, Executive Director, IPCA; Julie Robinson, Consultant, Idaho Voices for Children; Benjamin Davenport, Lobbyist, Evans Keane; Lee Lemoine, ICAN; Roxy Carr, ICAN; Kelly Buckland, SILC; Michael Dickens, SLRMC/ISHP; Mark Johnston, Executive Director, Idaho Board of Pharmacy; Jerad Davies, ICAN; Bret Noble, ICAN; Toni Lawson, Vice President, Idaho Hospital Association; Kristina Jonas, Idaho State Pharmacy Association; Kathie Garrett, Lobbyist, Idaho Academy of Family Physicians; Sen Joyce Broadsword

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

Chairman Block asked for approval of the budget subcommittee meeting minutes from Wednesday, January 30th. **Rep. Nielsen** moved to approve the minutes of the budget subcommittee. The motion passed on a voice vote.

Chairman Block asked for approval of the budget subcommittee meeting minutes from Monday, February 4th. **Rep. Nielsen** moved to approve the minutes of the budget subcommittee. The motion passed on a voice vote.

Chairman Block asked for approval of the budget subcommittee meeting minutes from Tuesday, February 5th. **Rep. Rusche** moved to approve the minutes of the budget subcommittee. The motion passed on a voice vote.

Chairman Block asked for approval of the standing committee meeting minutes from Wednesday, February 6th. **Rep. Nielsen** moved to approve the minutes of the standing committee. The motion passed on a voice vote.

Chairman Block briefed the committee on her presentation to the JFAC committee that morning, February 18th, and announced that the hearing for H510 would be postponed until a later date.

SCR126

Chairman Block invited **Sen. Joyce Broadsword** to present SCR126 to

the committee. This concurrent resolution would reject a pending rule of the Department of Health and Welfare pertaining to the Rules Governing Temporary Assistance for Families in Idaho (TAFI). This rule change aligns the methodology used to calculate income for self-employed individuals who apply for TAFI cash assistance with that used in the Food Stamp rules. Use of the same methodology will both simplify the process for determining income for self-employed individuals who are applying for TAFI and Food Stamps and reduce the opportunity for errors that may occur when different methods are used to determine eligibility for these two programs.

The effect of this resolution, if adopted by both houses, would be to prevent the agency rule from going into effect. The Department of Health and Welfare has requested that this rule be rejected.

MOTION: **Rep. Marriott** moved that HCR126 be sent to the floor of the House with a do pass recommendation. The motion passed on a voice vote.

HCR43 **Chairman Block** invited **Rep. Bilbao** to present HCR43. The purpose of the legislation is to reaffirm that children should have access to high-quality, comprehensive, affordable primary and preventive health care services and that parents are responsible to provide for their children's health and dental care, yet sometimes have trouble accessing affordable care.

The legislation was presented to the Health Care Task Force, who, along with several other organizations, voted to support it. A concurrent resolution, the legislation carries no fiscal impact to the State of Idaho, will give the Governor a sense of legislative support, and will aid the 19,000 uninsured children who live in families with incomes at 185% of the federal poverty level.

Rep. Thayn asked about "public and private outreach efforts" (line 44). **Rep. Bilbao** stated that an attempt would be made to get private groups interested in providing medical and dental services, and to promote available programs. **Rep. Nielsen** asked if there would be an unintended consequence for individuals who did not want to receive public assistance. **Rep. Bilbao** stated that the intended goal of the legislation is to emphasize how vitally important it is to obtain health care. **Rep. Marriott** asked how there could be no fiscal impact. **Rep. Bilbao** stated that the legislation would recognize that people need medical and dental care, and that DHW will be charged to promote existing programs. **Rep. Marriott** further stated that it seemed as though many were already aware of the program but had simply declined to enroll. **Rep. Bilbao** stated that it is the state's responsibility to ensure that eligible children receive health care at the lowest possible rate. **Rep. Thayn** stated that self-reliance, business experience, and education often help to lift people out of poverty, and that programs such as the proposed legislation often undermine the attitude toward doing this.

Corey Surber spoke in support of the bill. She stated that 43,500 children in the State of Idaho are uninsured, and that 19,000 are eligible for free or reduced health care coverage. The intent of the legislation, **Ms. Surber** stated, is to elevate the issue and to encourage the

legislature to take steps to make sure action is taken toward providing health insurance for children that are legally eligible for it.

Rep. Thayn asked for a brief explanation of how SCHIP is administered, and the typical amount of co-payments and premiums. Yielding to the question, **Mary Lou Kinney** stated that the co-payment is based upon income level. **Rep. Marriott** asked if financial benefit would be realized by supporting agencies if all 19,000 eligible children were to enroll in SCHIP. **Ms. Surber** said that the missions of the supporting organizations are to give everyone appropriate medical care, and to reduce the number of children who are likely to have to receive catastrophic care. **Ms. Surber** stated that there is currently approximately 12 million in the program to be used for children's health care coverage and, due to slow enrollment, quite a bit of this funding is still available. Many people may not know they are eligible. **Rep. Nielsen** reiterated that health care prevention is very important, and that people need to be educated. **Ms. Surber** responded that people need to be made aware of various health care choices, and yet be able to make their own decisions. **Rep. Marriott** asked **Ms. Surber** how she knew that people in Idaho did not know about this program. **Ms. Surber** stated that state-wide polling has taken place, and that people generally do not know that they are eligible.

Rep. Thayn asked how long individuals typically stay on SCHIP, and why they fail to continue in the SCHIP program. **Ms. Kinney** replied that reasons include finding a job where the employer offers health insurance, failure for people to re-enroll, and lack of knowledge about the program.

Pete Kozisek, a family physician, spoke in favor of the bill. **Rep. Marriott** asked what changes would be seen if more people enrolled in SCHIP. **Dr. Kozisek** stated that both social and community support services for health care are important for families to utilize before an emergency situation arises. **Rep. Thayn** inquired about the cost of both the program and health care costs in general. **Dr. Kozisek** stated that preventive funding up front will often defer eventual costs associated with medical care. Yielding to a question, **Heidi Low** stated that medical costs since 2000 have risen 87%; personal income during that time has risen 11%. **Denise Checkovich**, on behalf of the Idaho Primary Care Association, repeated that money invested in primary, preventive care is both smart and practical, and that outreach to support these uninsured children is important. **Kelly Buckland** also spoke in support of the bill. He stated that many individuals are disabled due to lack of preventive care. **Rep. Luker** asked **Mr. Buckland** to name some of these identified disabilities. **Mr. Buckland** replied that poor dental care might lead to a secondary disability.

Rep. Rusche stated to the committee members that this legislation is a clear signal to DHW that the legislature wants children who are eligible to be enrolled to enroll; that everyone pays higher costs for delayed medical care, and that health care costs increase due to general inflationary costs.

Rep. Loertscher reminded the committee about the use of advertising within the SCHIP program, that budget constraints exist, and that

taxpayers should not have to spend more on Medicaid. **Rep. Shepherd** added that he did not see the legislation as the solution to the problem.

Rep. Chew indicated support of the legislation. **Rep. Luker** stated that the resolution did not provide a specific plan, and that accountability and fiscal responsibility with state money is important. **Rep. Rusche** stated that the legislation does not call for mandatory health insurance or expand Medicaid; instead, it instructs DHW to find and enroll eligible children. **Rep. Thayn** said the fiscal impact statement is deficient; that it cannot help but impact state funds; that attitude changes occur when individuals rely upon entitlements rather than confidence and self-reliance; and that the initial issue of poverty should be addressed.

Rep. Burgogne added that it is more fiscally feasible to pay for preventive and primary care versus more expensive care later.

MOTION:

Rep. Rusche moved to send HCR43 to the floor of the House with a do pass recommendation. The motion failed on a roll call vote.

Chairman Block – aye
Vice Chairman Nielsen – nay
Rep. McGeachin – nay
Rep. Bilbao – aye
Rep. Loertscher – nay
Rep. Shepherd – nay
Rep. Luker – nay
Rep. Marriott – nay
Rep. Thayn – nay
Rep. Burgogne – aye
Rep. Rusche – aye
Rep. Chew – aye

Chairman Block invited **Dennis Mohatt** from the Western Interstate Commission for Higher Education (WICHE) to give the committee an update. WICHE is a 15-state organization whose mission is to expand educational access and excellence for all of the West's citizens. The WICHE Mental Health Program, established in 1955, both assists states in improving systems of care for mental health consumers and families, and advances the preparation of a qualified mental health workforce in the West. The organization operates the WICHE Center for Rural Mental Health Research. **Mr. Mohatt** described that mental health professionals are in short supply in many western states, and that mental health care in these rural regions is often both delayed by those seeking treatment as well as expensive. WICHE representative **Kyle Sargeant**, yielding to a question by **Rep. Thayn**, added that the best solution for adding mental health professionals to a region is to identify those individuals who may be suited to become mental health professionals already in the region.

ADJOURN:

With no further business, the committee adjourned at 4:17 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: February 20, 2008

TIME: 1:30 p.m.

PLACE: Room 148

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

**ABSENT/
EXCUSED:** None

GUESTS: Judy Cross; Lee Parsons; Rick Anderton; Russell Duke; Valerie Hall; Amelia Palmer; Carol Birdzell, Clarence W. Blea; Kyndal May; Rachel Lindsey; Susan Bradford; Kristin Hasselblad; Lori Newkirk; Pawel Zieba; Marlene Nelson; Terry Curley; Ryan Taylor; Jan Edmonds; Molly Steckel; Julie Taylor; Michelle Bartlett; Carolee Anderton; Paul J. Stark; Tracy Auer-Ryan; Holly Richardson; Chris Best; Erin Shaw McCarter; Gwendolyn Cameron; Connie Wolcott; Barb Rawlings; Scott Snyder; Stacy Seyb; Mary Monson; Dr. Andrew Jones; Tania M. Hansen; Kathie Garrett; Judith Nagel; Sandy Evans; Mark Johnston; Michelle Gardner; Therese Bishop; Russell Bartlett; Jennifer Knight; Toni Lawson; Buffie Man; Lyn Darrington; Neva Santos; Rep. Jim Clark; Taryn Magrini

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

Chairman Block welcomed the committee members and guests to the meeting, and dispensed with the Approval of Minutes.

H488

Chairman Block invited **Rep. McGeachin** to present H488. The purpose of the bill is to establish a framework for voluntary licensure of midwives in Idaho. The voluntary licensure provisions of the bill are intended to enhance maternity care options for Idaho's families and to provide a mechanism for validating the qualifications of midwives who seek this voluntary licensure.

Rep. McGeachin briefly described the following highlights of the legislation: voluntary licensure; the title of Certified Professional Midwife (CPM); the Scope of Practice; Medications; Informed Consent; the Board of Midwifery; the Formulary Committee; Powers and Duties of the Board; Qualifications for Voluntary Licensure; Unlawful conduct; and Enforcement penalties. The formulary committee would include a physician who practices obstetrics and gynecology; the CPM would have the minority vote on the formulary committee; and, through the rules process, a medication currently on the formulary list could be rejected.

Rep. McGeachin then yielded to **Michelle Bartlett**, a midwife from Idaho Falls. Ms. Bartlett stated that the Idaho Midwifery Council has worked hard to create the legislation, and that one standard for licensing is the

Certified Professional Midwife Council, a council accredited by the National Commission for Certifying Agencies (NCCA). **Ms. Bartlett** discussed that the medications allowed in H488 are standard for home birth and are not controlled substances. All CPMs will be required to complete additional courses in pharmacology for midwives and shock/IV therapy in order to be licensed and to be authorized to obtain and administer limited approved medications.

Rep. Marriott inquired about language used on page 2, line 52 of the bill. **Ms. Bartlett** replied that when a midwife works under a physician's authority, the physician can then give the midwife permission to follow out his prescribing orders. **Rep. Marriott** asked about the definition of a quorum for the formulary committee and the physician's role as part of that quorum. **Rep. McGeachin** replied that, by definition, a quorum means a majority (in this case, 3 out of 5 members), and that the physician must be one of the three. **Rep. McGeachin** handed out copies of the proposed amendment to the bill with the corrected language.

Rep. Rusche asked for further clarification of the formulary committee's role, as well as the "any other medication" wording on page 2, line 52. **Rep. McGeachin** replied that the board appoints the formulary committee, and the formulary committee can make recommendations to the board which the board can chose to use or not. The formulary committee is advisory to the board. The "any other medication" language is included in the scope of practice. Midwives can obtain and administer any other medicine approved by a licensed health care provider. They have authority through the legislation to obtain and administer medicine, and the formulary committee can make a further recommendation to the board regarding other medications. Yielding to the question, **Holly Richardson**, a licensed midwife from Utah, stated that the language on page 2, lines 52-53 refers to licensed health care providers, not midwives, and does not allow the midwife to prescribe. **Rep. Rusche** stated that use of the words "other than" might further ensure clarity.

Rep. Block asked if the legislation included a list of definitions and the difference of a licensed health care provider. **Ms. Richardson** replied that, in the State of Utah, definitions are provided in rules. **Rep. Rusche** asked about enforcement penalties if an unlicensed midwife uses the formulary. **Ms. Bartlett** replied that this would then be a felony.

Rep. Luker asked about the scope, specificity, and restrictions of the formulary. **Ms. Bartlett** replied that the legislation will keep midwives within the boundaries of their training to use certain medications, and that the formulary committee with a physician member will keep midwives apprised of changes and updates regarding various medications. **Rep. Luker** asked if language used on page 4, line 35 of the bill would be more appropriately stated "within the definition set forth in" followed by referral to subsection (f) (page 2, line 41). **Rep. McGeachin** asked **Rep. Luker** if his interest was to keep the formulary as defined as possible. **Rep. Luker** replied affirmatively, especially concerning subsection (f).

When medications are defined in a statute, **Ms. Bartlett** explained, the process becomes arduous for midwives. By having a formulary, midwives can stay up-to-date. **Rep. Luker** followed up by stating that the language

in the bill should be both flexible and defined, and asked if **Ms. Bartlett** would object to adding “in addition to” to the language of the bill. **Ms. Bartlett** replied that she did not have any objections to working to create solutions to the problem. **Rep. Nielsen** suggested also adding the word “appropriate” to the language to eliminate ambiguity, and that rules will help to define this. **Rep. Luker** countered by stating this wording creates ambiguity, and that he did not think it wise to leave up to rules something so ambiguous.

Rep. Bilbao inquired what would happen to lay midwives, and if they would come under the rules of the bill. **Rep. McGeachin** clarified that they would still be allowed to practice, and that lay midwives would not come under the rules of the bill. **Rep. Bilbao** asked if those lay midwives who would not come under the rules of the bill had been consulted. **Ms. Bartlett** replied that e-mails had been sent out to gather information, but that the reply from lay midwives had been minimal. **Rep. Bilbao** asked if lay midwives would be allowed or would want to become CPMs. **Ms. Bartlett** replied that lay midwives can provide documentation and can study, sit for, and pass a national exam. **Rep. Shepherd** asked how long the State of Utah has had a midwifery board, as well as the status in that state of lay midwives. **Ms. Richardson** replied that the board in Utah has existed for three years, and that licensed and unlicensed midwives work hand in hand in that state. **Rep. Marriott** inquired about the use of local anesthetics, and if they are topically applied or injected. **Ms. Bartlett** replied that local anesthetics are used to repair a laceration during or after birth, and that a midwife would be allowed to give either one. **Rep. Marriott** inquired how much training midwives receive in administering local anesthetics. **Ms. Bartlett** replied that this skill is part of CPM training.

Rep. Marriott inquired how “mental capability” (page 5, line 33) is defined. Yielding to the question, **Barbara Rawlings** said that the language is derived from other midwifery bills and is determined by the full board. **Rep. Marriott** further inquired about the signed informed consent agreement held for three years (page 3, line 44). **Ms. Bartlett** replied that this is standard language. **Rep. Bilbao** asked how the fetus is monitored (page 3, line 6). **Ms. Bartlett** that prenatal visits which include a urinalysis, blood pressure check, palpating the fetus, and listening with Doppler ultrasound are routine. **Rep. Bilbao** asked how a midwife could check if a baby had turned inside the mother’s womb. **Ms. Bartlett** replied that a midwife’s best tool is her hands, and that, if there were concern about a baby turning, a midwife could either utilize ultrasound to check or could refer to a physician. **Rep. Bilbao** asked if midwives are competent to deliver by Cesarean section. **Ms. Bartlett** replied that, in a 2005 study, emergency intervention and complication rates during birth are less than 4%. **Rep. Bilbao** asked what the procedure is if a woman prolapses. **Ms. Bartlett** replied that a woman would be instructed to get on her hands and knees, and that she would likely need a C-section. **Rep. Burgogne** asked about the minimum education requirements needed to participate in the North American Registry of Midwives (NARM), as well as the nature of the training through both NARM and the Midwifery Education Accreditation Council (MEAC). **Ms. Bartlett** replied that a high school diploma and an appropriate didactic course of study to pass an exam are needed, and that private courses accredited by

universities can be done through correspondence. **Rep. Burgogne** asked if malpractice insurance is generally available. **Ms. Bartlett** replied that this insurance is generally unavailable to those who practice outside of a hospital, that it is often too cost-prohibitive, and that it is not required for licensure for more health care professionals in Idaho. **Rep. Marriott** asked if the results of pap smears were sent out to pathologists. **Ms. Bartlett** replied affirmatively.

Rep. Luker asked about the wording of section 14 (page 2, line 27 through page 3, line 25, excluding subsection [f]). **Ms. Bartlett** replied that midwives are trained in the assessment of abnormal situations, that those midwifery skills listed in the section are within the current scope of practice, and that midwives currently practice these skills. **Rep. Luker** further asked if that included the items listed in subsection [h]. **Ms. Bartlett** replied that most midwives refer these medical tests to physicians. When asked by **Rep. Luker** if that would change under the new legislation and what other changes within the scope of practice that midwives currently do not practice would then be allowed, **Ms. Bartlett** replied that the bill would allow midwives to provide more complete care for pregnant women, and would also allow midwives to obtain lab testing, ultrasound, and medications. **Rep. Luker** asked about the training midwives receive for some of the more invasive practices of midwifery. **Ms. Bartlett** replied that these are part of skills assessment. A student midwife may not have done an injection, but can study to do one and then demonstrate those skills. Midwives are trained to use IVs, but do not take a specific class in IV training. **Rep. Luker** asked how the CPM certification takes into account any practical experience. **Ms. Bartlett** replied that there are many skills student midwives must master, including doing injections. **Rep. Bilbao** asked if midwives expect to be reimbursed through health care insurance. **Ms. Bartlett** replied that some already do, and that some insurance companies will be able to get reimbursed due to the fact that a midwife has a license.

Susan Bradford of the Idaho Perinatal Board spoke against the bill. **Dr. Bradford** stated that the legislation refers to newborns as “clients,” that the bill does not specify that a physician has to be an obstetrician, and that problematic deliveries often result from drug-using mothers. She described the hallmarks of high-risk pregnancies. She suggested that amendments to the legislation should include a change to the makeup of the formulary council, that licensure should not be voluntary, and that newborns should not be “clients.” **Rep. Marriott** added that the legislation seemed to be moving medical practice into the practice of midwifery.

Holly Richardson was invited to address the committee. **Ms. Richardson** shared with the committee the midwifery laws in the state of Utah. **Rep. Rusche** asked about the relationship between midwives, obstetricians, and pediatricians in the state. **Ms. Richardson** stated that it has changed the status of health care delivery in the state, and that there is a lot of cooperation among practitioners. **Rep. Chew** what would be the best standard of care for the state of Idaho based upon the practices **Ms. Richardson** has seen in the state of Utah. **Ms. Richardson** stated that the state of Utah has seen both an increased ability to collaborate as well as better working relationships among medical professionals. **Ms. Richardson** stated that drug-using mothers

are mandatorily transferred to a physician.

Gwendolyn Cameron, Kristin Hasselblad, Chris Best, Erin Shaw, Tracy Auer, Jennifer Knight, Ryan Taylor, Connie Wolcott, Valerie Hall, Rachel Lindsey, Barbara Rawlings, and Carolee Anderton spoke in favor of H488. **Tanya Hansen, Dr. Andrew Jones, Judy Cross, Dr. Lee Parsons, Dr. Scott Snyder,** and Dr. **Michelle Gardiner** spoke against H488.

ADJOURN: With no further business, the committee adjourned at 6:30 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: February 26, 2008

TIME: 1:30 p.m.

PLACE: Room 148

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

**ABSENT/
EXCUSED:** None

GUESTS: Hope Ryan; Paula Wiens; Carol Birdzell; Paul Stark; Clarence Blea; Stacy Seyb; Lynn Darrington; Julie Taylor; Taryn Magrini; Kim Jacky; Jan Edmonds; Sandy Evans; Carol Wiens; Teresa Acheson; Aubrey Stickley; Mark Johnston; Heidi Mikitish; Sewart Lawrence; David Christiansen; Kimberly Love; Judy Jones; Jenna Hess; Mary Monson; Aryn Davis; Dr. Penny Beach; Heather Scherer; Pawel Zieba; Derron Beach; Scott Snyder; Kyndal May; Cara Ward; Stacey Jardine; Janice Cook; Scott Gropp; Tiffany Chelta; Toni Lawson; Nanette Hiller; Molly Steckel; Kathie Garrett; Russell Duke; Russell Bartlett; Russ Newcomb; Heidi Low; Neva Santos

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

Chairman Block welcomed the committee members and guests to the meeting, and dispensed with the Approval of Minutes. She reminded the guests of proper protocol in a committee meeting and read the Rules of Decorum to the guests.

Chairman Block invited **Molly Steckel** of the Idaho Medical Association to speak to the committee. **Ms. Steckel** discussed and handed out a chart that compared Idaho H488 with the current Utah law, and the proposed changes to the Utah law. Comparing language in the bill versus language that is not in the bill, **Ms. Steckel** stated that licensure of midwives should be mandatory, not voluntary. She voiced concern about midwife training, the use of medications, the make-up of the board and the formulary committee, and the various proposed amendments to the bill.

Ms. Steckel stated that Idaho mothers do have a choice as to who attends to a birth – lay midwives, certified professional midwives, or physicians. She reiterated that the bill should be about the safety of Idaho mothers and children, that physicians typically provide the safety net when babies are delivered, and that statistics regarding delivery complications are usually lodged against a physician or a hospital if a midwife who has transferred care to a physician has been found negligent. **Ms. Steckel** stated that midwife licensure is voluntary under Utah law. **Rep. Henbest** inquired about the changes to the Utah law.

Ms. Steckel replied that there have been problems there with the board and its integrity. **Rep. Marriott** asked **Ms. Steckel** to explain the peer-review process. Yielding to the question, **Dr. Stewart Lawrence** stated that any medical professional is subject to peer-review beginning in the department in which the medical professional works and extending out to the entire medical staff as necessary when investigating cases with bad outcomes. **Rep. Rusche** asked if there is any requirement in the Utah law which states that physicians are required to be consulted before transfer from a midwife. In the changes that are pending to the Utah law, **Ms. Steckel** stated, mandatory consultation will be required.

Lynn Darrington, representing Regence BlueShield of Idaho, spoke in opposition to the bill. **Ms. Darrington** stated that the safety of the patient cannot be ensured under the current legislation. **Rep. Luker** asked if **Regence BlueShield** reimburses either naturopaths or acupuncturists. **Ms. Darrington** replied negatively.

Julie Taylor, representing Blue Cross of Idaho, stated that Blue Cross has not taken a formal position regarding the bill. **Ms. Taylor** stated that the issue of reimbursement for midwives is not stated in the legislation.

Russell Duke, representing the Central District Health Department, spoke in opposition to the bill. **Mr. Duke** stated that the 7-member Board of Health believes that midwife licensure should not be voluntary; that malpractice insurance should be required; that the list of approved procedures is too broad; that physician and hospital back-up support should be mandated; that there must be a standardization of care; and that the list of medications is too broad. **Rep. Luker** asked if the Board of Health had held a public meeting and if minutes were available from that meeting. **Mr. Duke** replied that the board had met this February, and that minutes are available. **Rep. Shepherd** asked about the make-up of the board. **Mr. Duke** replied that the board consists of a family physician; a family nurse practitioner; an attorney; a registered nurse who is also a county commissioner; a registered nurse in private practice; and two county commissioners. When asked by **Rep. Nielsen** if **Mr. Duke** was in favor of midwifery in general, **Mr. Duke** stated that the Board of Health has not taken a position regarding midwifery.

Dr. Clarence Blea of the Idaho Perinatal Project spoke in opposition to the bill. **Dr. Blea** stated that the model of midwives who align closely with physicians works in such places as Ireland and Great Britain and there it has been successful. **Rep. Chew** asked how H488 would affect midwives in a more rural setting. **Dr. Blea** stated that he feared the bill may lend itself to a more permissive attitude within the state of Idaho, that it may extend a patient's risk, and that the language in the bill is too loose. **Rep. Chew** asked how the language could be tightened. **Dr. Blea** stated that tightening the board is important, as are issues of oversight and education, and that there are dangers in the bill's current form regarding basic pharmaceutical agents.

Dr. David Christiansen, representing the Idaho Chapter of the American Academy of Pediatrics, spoke in opposition to the bill. **Dr. Christiansen** urged the committee members to consider if it was appropriate to certify midwives as described by the bill. **Rep. Luker** asked **Dr. Christiansen**

when an appropriate hand-off between midwife and physician should occur, especially in a rural setting. **Dr. Christiansen** replied that the selection process begins before the baby is born, continues until birth, and that appropriate handoff between midwife and physician should occur much sooner if a mother lives in a rural versus an urban area. He stated that he felt the bill does not have appropriate boundaries.

Stacy Jardine, an EMT, spoke in support of H488. When asked by **Rep. Luker** how long her EMT training took, **Ms. Jardine** stated one semester. **Rep. Luker** asked **Ms. Jardine** if she was trained in the use of anti-hemorrhagic agents, IVs, fluids, local anesthetics, or suturing. **Ms. Jardine** replied that she had no training in using anti-hemorrhagic agents or suturing, but had trained to administer IVs, use saline solution and some narcotics, and the local anesthetic lidocaine. She also stated that at all times she has physician backup.

Teresa Acheson, a certified professional midwife, spoke in support of H488. **Rep. Chew** asked **Ms. Acheson** if she was aware of the midwifery protocol that the state of Oregon uses. **Ms. Acheson** replied affirmatively. **Rep. Marriott** asked if **Ms. Acheson** carries oxygen for both the adult and the infant, to which **Ms. Acheson** also replied affirmatively. Yielding to the question, **Michelle Bartlett** replied that midwives certified by NARM must have adult and infant CPR, and both infant and neonatal CPR are included in the bill. **Rep. Marriott** asked if CPR training was performed on a mannequin. **Ms. Acheson** replied affirmatively. **Rep. Luker** inquired about the relationships between midwives, non-licensed midwives, and physicians in the state of Oregon. **Ms. Acheson** replied that, since midwives can be licensed in Oregon, medical relationships there have improved. **Rep. Luker** asked if **Ms. Acheson** performs episiotomies or administers intravenous fluids, Rh factor, or local anesthetics or vitamin K for newborns. **Ms. Acheson** replied that additional training through course work is required to perform these skills.

Stewart Lawrence, a neonatologist, spoke in opposition to the bill. **Rep. Nielsen** asked **Dr. Lawrence** what expectant mothers living in rural areas who were ready to give birth would do. **Dr. Lawrence** stated that lay midwives can work well with specialists in a cooperative way to ensure that care can be provided in these rural settings, and that there have to be very specific restraints to the scope of practice to enable lay midwives to practice under medical professionals. **Rep. Henbest** asked if **Dr. Lawrence** was aware of successful systems of care where integration between lay midwives and back-up support personnel existed. **Dr. Lawrence** replied that he did not know of any, but that he had extensive experience in working with nurse midwives.

Paul Stark, Russell Bartlett, Hope Ryan, Jenna Hess, Kim Jackey, Aryn Davis, Mary Monson, Tiffany Chelata, Paula Wiens, Carol Birdzell, Taryn Magrini, Kyndal May, Carol Wiens, Heidi Mikitish, Janice Cook, and John Knickerbocker spoke in support of H488. **Russ Newcomb, Neva Santos, Stacy Seyb, Sandy Evans, Judy Jones, Dr. Penny Beach, Heather Scherer, Pawel Zieba, and Dr. Scott Snyder** spoke against H488.

Chairman Block invited **Rep. McGeachin** to summarize H488. She stated that the legislation validates the scope of practice for midwives and does not go beyond the scope of practice beyond the essential NACPM documents. **Chairman Block** asked how the formulary council can make recommendations. Yielding to the question, **Michelle Bartlett** stated that the formulary council will make recommendations as to which anti-hemorrhagic agents can be used. **Rep. Marriott** asked who will write prescriptions and who they will write them to. Yielding to the question, **Michelle Bartlett** stated that this statute will allow midwives to take a prescription to a pharmacist who can provide the midwife with those medications. **Rep. McGeachin** discussed the IMA handout provided by **Ms. Steckel**. She stated that the bill is about patient safety, not about reimbursement. She clarified the difference between a CNM and a CPM and said that the legislation allows midwives to practice as they already do now. She reiterated that the certification process is voluntary, not mandatory.

MOTION:

Rep. Marriott made a motion to hold H488 until time certain of Thursday, February 28. **Rep. Loertscher** offered a substitute motion to send H488 to General Orders without amendments. **Rep. Bilbao** offered an amended substitute motion to hold H488 in committee until further agreement between midwives and physicians could be reached. The amended substitute motion failed on a roll call vote of 5 to 7.

Chairman Block – aye
Vice Chairman Nielsen – nay
Rep. McGeachin – nay
Rep. Bilbao – aye
Rep. Loertscher – nay
Rep. Shepherd – nay
Rep. Luker – nay
Rep. Marriott – nay
Rep. Thayn – nay
Rep. Henbest – aye
Rep. Rusche – aye
Rep. Chew – aye

Speaker Denney spoke to the committee about procedural concerns with the bill if it were sent to General Orders without amendments. He stated that anyone can bring an amendment to the bill, and the amendment(s) would then be debated in General Orders.

The substitute motion failed on a roll call vote of 6 to 6.

Chairman Block – nay
Vice Chairman Nielsen – aye
Rep. McGeachin – aye
Rep. Bilbao – nay
Rep. Loertscher – aye
Rep. Shepherd – aye
Rep. Luker – aye
Rep. Marriott – nay
Rep. Thayn – aye
Rep. Henbest – nay

Rep. Rusche – nay
Rep. Chew – nay

The original motion passed on a voice vote.

ADJOURN: With no further business, the committee adjourned at 6:30 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: February 28, 2008

TIME: 1:30 p.m.

PLACE: Basement – Supreme Court building, 451 S. State Street

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

**ABSENT/
EXCUSED:** None

GUESTS: David Ripley; Christ Troupis; Bryan Fischer; Brandi Swindell; Kelly Antonczak; Jan Edmonds; Sandy Evans; Douglas Barth; Fairy Hitchcock; Elysse Barrett; Glen Liberty; Burke Hays; Julia Piercey; Taryn Magrini; Hannah Saona; Teresa Acheson; Carol Birdzell; Jill Henggeler; Dave Goins; Becky Young; Steve Millard; Jason Herring; Jim Haugen; Molly Steckel; Stewart Lawrence; Tom Munds; Stacy Seyb; Judy Jones

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

Chairman Block welcomed the committee members and guests to the meeting, and dispensed with the Approval of Minutes.

Chairman Block invited **Susie Pouliot** of the Idaho Medical Association to speak to the committee regarding H488. **Ms. Pouliot** stated that the Idaho Medical Association had the opportunity to meet with the bill sponsor along with lobbyists and some members of the Health and Welfare Committee. The purpose of the discussion was to determine if there was middle ground where the various sides could agree. The Idaho Medical Association, which represents physicians, nurse practitioners, and physician's assistants, has found that the legislation is not acceptable. It was determined, **Ms. Pouliot** said, that the two sides were far apart so that to come up with amendments was not feasible, given the state of the legislation and the short time frame. IMA maintains opposition to the bill at this time. **Rep. Rusche** asked **Ms. Pouliot** if she and the physicians of the IMA had examined the amendments to H488. **Ms. Pouliot** commented that she had not seen or reviewed the proposed amendments. **Chairman Block** asked **Ms. Pouliot** if the IMA was willing to work with the midwives in the interim to address their concerns. **Ms. Pouliot** replied affirmatively.

Chairman Block invited **Michelle Bartlett** of the Idaho Midwifery Council and Idahoans for Midwives to present final testimony to the committee. She thanked the committee for their support and the IMA for the opportunity to have an open dialogue about the bill.

Rep. McGeachin concluded testimony by summarizing the amendments to the bill that would become corrections to title and clarified drafting

errors in the language of the bill for the committee.

MOTION:

Rep. Marriott moved to send H488 to general orders with the amendments and with the additional corrections to the drafting errors. **Rep. Loertscher** seconded the motion. **Rep. Bilbao** offered a substitute motion to hold the bill in committee until time certain at the discretion of the Chair. **Rep. Henbest** stated her concerns about the language of the bill. **Rep. Chew** said that she had prepared additional amendments to the bill, and was urged by **Rep. Nielsen** to present her amendments to the committee. **Rep. Chew** asked **Rep. McGeachin** if her amendments could be added to **Rep. McGeachin's** amendments. **Rep. McGeachin** replied negatively. **Chairman Block** added that the amendments each provided by **Rep. Chew** and **Rep. McGeachin** should remain separate. **Rep. Chew** made an amended substitute motion to send the bill to general orders with her amendments attached. As copies of **Rep. Chew's** amendments had not yet been prepared and distributed to the members of the committee, **Rep. Chew** withdrew her amended substitute motion. **Rep. Nielsen** voiced concern about holding the bill in committee since the legislative calendar was still quite full. **Rep. Bilbao** said he wanted time to read and understand the bill with amendments. **Rep. Henbest** reiterated her concern that the language of the bill was not carefully crafted. The substitute motion failed on a roll call vote of 5 to 7:

Chairman Block – aye
Vice Chairman Nielsen – nay
Rep. McGeachin – nay
Rep. Bilbao – aye
Rep. Loertscher – nay
Rep. Shepherd – nay
Rep. Luker – nay
Rep. Marriott – nay
Rep. Thayn – nay
Rep. Henbest – aye
Rep. Rusche – aye
Rep. Chew – aye

The original motion passed on a roll call vote of 9 to 3:

Chairman Block – aye
Vice Chairman Nielsen – aye
Rep. McGeachin – aye
Rep. Bilbao – nay
Rep. Loertscher – aye
Rep. Shepherd – aye
Rep. Luker – aye
Rep. Marriott – aye
Rep. Thayn – aye
Rep. Henbest – nay
Rep. Rusche – nay
Rep. Chew – aye

H464

Chairman Block invited **Rep. Nonini** to present H464. The bill seeks to make it illegal to coerce or otherwise force a woman or girl into aborting her baby. Research indicates that violence against pregnant women is a serious problem all across the nation. Many women report that they were

coerced into abortion and have suffered grievous emotional, psychological and spiritual harm in subsequent years. This legislation intends to empower all Idaho mothers to choose life for their pre-born children by preventing coercion in its most common forms. **Rep. Nonini** distributed letters written in support of the bill and stated that the Attorney General's opinion of the bill is that it is not unconstitutional and that the word "coercion" used in association with abortion is unprecedented. In 15 different places in Idaho Code, **Rep. Nonini** stated, the word "coercion" is used in legislative reference, but not in reference to abortion.

Chairman Block proceeded to read the guests in attendance the Rules of Decorum regarding legislative proceedings.

Christ Troupis, an attorney for Idaho Chooses Life, spoke to the committee. **Mr. Troupis** stated that the bill is the first of its kind in the nation (although Arkansas presented a similar bill which did not make it out of the House committee), and is nothing more than an application of constitutional rights. The concept of personal liberty protects a woman to be free from coercion. *Roe v. Wade* established that a woman can have an abortion and can determine what to do with her own body. Abortions can only take place with a woman's informed consent. When there is coercion, **Mr. Troupis** emphasized, there cannot be consent. Since coercion is already a crime, **Rep. Rusche** asked, why the law was needed? **Mr. Troupis** stated that in many cases a specific law is needed, and referenced the 15 Idaho laws which already address coercion. **Rep. Nielsen** asked **Mr. Troupis** if the law was enforceable. **Mr. Troupis** stated that the law would be both supportable and enforceable. **Rep. Henbest** stated that the law combines both threatened physical violence and also intent, and added that she thought the law would not be effective for doing what it intended to do. **Mr. Troupis** replied that the law will not be a panacea, and that it was drafted to take in the "fringes." If the life of one child could be saved, the bill would be worthwhile, he stated.

David Ripley spoke in support of H464. He stated that 64% of women polled who had an abortion believed they had been coerced into doing so. Informed consent implies that a woman cannot have an abortion without her consent, he stated, and the legislation will help to empower girls and women to tell them that coercing them is illegal. **Brandi Swindell** of Stanton Healthcare in Boise, spoke in support of the bill, and shared the story of an anonymous woman whom her clinic helped who was coerced by her boyfriend into having an abortion. **Kelly Antonczak**, appearing with **Ms. Swindell**, then told them committee of the abortion she had as a young woman.

Bryan Fischer Tom Munds, and **Jason Herring** spoke in support of H464. **Fairy Hitchcock** and **Taryn Magrini** spoke in opposition to the bill.

Burke Hays, a lobbyist for Planned Parenthood, spoke in opposition to the bill concerning the vague and broad language of paragraphs (c) and (d). **Mr. Hays** cited concern for the variety and the constitutionality of the bill, stating that the legislation covers only those who are pregnant who are considering abortion. **Rep. Rusche** asked **Mr. Hays** how much the state has had to spend to defend less than certain positions regarding

legislation that has ended up in court. **Mr. Hays** replied that the last reward was for \$400,000, and that one or two judgements before that. Total court costs were close to \$1,000,000.

Hannah Saona, of the ACLU, also spoke in opposition to the bill. **Ms. Saona** stated that H464 does little to protect women, attempts to criminalize constitutionally protected speech and expression, and would likely open up the state to costly litigation.

Rep. Nonini concluded his testimony by reiterating that many Attorneys General have stated that use of the word “coerce” or “coercion” is not unconstitutional. **Rep. Nonini** asked to read a statement from the Idaho Statesman. **Rep. Rusche** inquired if the selection was pertinent to the bill or if it castigated the issue. **Rep. Henbest** added that the Rules of Decorum would perhaps be tread upon if **Rep. Nonini** were allowed to read the selection, and that the Rules of Decorum should apply to all parties. **Rep. Nonini** then read a brief conclusive selection from the Weekly Standard.

MOTION:

Rep. Marriott moved to send H464 to the floor of the House with a do pass recommendation. **Rep. Rusche** stated that he had an amendment to the bill. **Rep. Loertscher** made a motion to move the previous question to end the debate. The motion, requiring two-thirds majority, passed 9 to 3 on a roll call vote:

Chairman Block – aye
Vice Chairman Nielsen – aye
Rep. McGeachin – aye
Rep. Bilbao – aye
Rep. Loertscher – aye
Rep. Shepherd – aye
Rep. Luker – aye
Rep. Marriott – aye
Rep. Thayn – aye
Rep. Henbest – nay
Rep. Rusche – nay
Rep. Chew – nay

The original motion passed on a voice vote.

ADJOURN:

With no further business, the committee adjourned at 4:31 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: March 4, 2008

TIME: 1:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Abbey Stickley; Benjamin Davenport; Kirtlan Naylor; Jim Baugh; Woody Richards; Bart Hill; Kathie Garrett; Martha Ekhoﬀ; Jim Liddell; Debbie Martin; Lindsey Braun; Christie Beattie; Erick Welch; Kathy Buehl; Julie Foot

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

Chairman Block asked for approval of the budget subcommittee meeting minutes from Wednesday, February 6. **Rep. Rusche** moved to approve the minutes of the budget subcommittee as written. The motion passed on a voice vote.

Chairman Block asked for approval of the budget subcommittee meeting minutes from Thursday, February 7. **Rep. Henbest** moved to approve the minutes of the budget subcommittee as written. The motion passed on a voice vote.

Chairman Block asked for approval of the standing committee meeting minutes from Friday, February 8. **Rep. Henbest** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.

Chairman Block announced that the sequence of the agenda items would be different from that listed.

H511

Chairman Block invited **Rep. Mathews** to present H511. The proposed legislation adds a new Chapter 20 to Title 39 of Idaho Code to establish a statewide multi-disciplinary, multi-agency Child Mortality Prevention Team (CMPT) to aid in the prevention of child deaths through the examination of relevant records. The bill would define the membership, organization, and duties of the Child Mortality Prevention Team and create in the State Treasury a child mortality prevention team fund. The legislation also amends Idaho Code concerning public records exempt from disclosure to include information reviewed by the Child Mortality Prevention Team.

Although the State of Idaho had a CMPT from 1997 to 2000 by Executive

order of the Governor, Idaho is currently the only state in the nation without a Child Mortality Prevention Team. The team would disseminate aggregate information about causes of unexpected child death that may aid in death prevention. The team would compile a report from a state-wide perspective. Policy changes could include seat belt laws, child safety restraints, Sudden Infant Death Syndrome (SIDS), suicide prevention, and firearm safety.

The estimated fiscal impact to establish the CMPT is \$43,550 and would be an ongoing cost.

Rep. Mathews stated H511 would codify into statute a state-wide multi-disciplinary, multi-agency group that will review childhood fatalities. Forty-nine out of 50 states already have a CMPT in place. The purpose of the bill is to allow for review of records relating to childhood deaths and to thus identify gaps in delivery of services delivered to children. **Rep. Henbest** then added that section 1 of the bill adds an exemption from disclosure that would be part of the CMPT. The goal of the legislation is not to review every child death, but to examine unexplained deaths and to design prevention strategies. Reports that the CMPT would compile would not include identifying characteristics regarding the death.

Discussion followed led by **Rep. Nielsen** regarding the confidentiality of an ongoing investigation as it related to the work of the CMPT, as well as problems which could arise if information regarding a death would be disclosed before a case was legally closed. **Rep. Henbest** stated that the discussion within the CMPT committee is confidential and would not be discoverable. **Rep. Marriott** asked if a current CMPT exists by Governor's Executive Order. **Rep. Henbest** replied that no Executive Order currently exists and that she had not approached the Governor for an Executive Order. **Rep. Thayne** asked if the state of Idaho would require a specific team to investigate child deaths. **Rep. Henbest** replied that it is impossible to extrapolate causes of death in other states under other circumstances to causes of death that occur within the state of Idaho. **Rep. Luker** asked how the board would determine which child deaths to review. **Rep. Henbest** referred to the definition of "reviewable child deaths" and replied that the board's goal is to prevent child deaths as well as to identify gaps and deficiencies that allow child deaths to occur.

Chairman Block invited **Kirtlan Naylor** to address the committee. **Mr. Naylor** spoke to questions posed by **Rep. Nielsen** and stated that the CMPT voluntarily "sunsetted" itself under the previous Governor's Executive Order as a result of issues concerning confidentiality and access to records. The current legislation will provide legislative immunity in order that team members will not be subpoenaed, since statutory immunity cannot be replicated by Governor's Order, and it would be rare for a member of the CMPT to be concurrently investigating a child death as also a member of law enforcement. The purpose of the bill, **Mr. Naylor** emphasized, is to prevent deaths that have already happened from re-occurring in other situations.

Rep. Marriott asked about the other accomplishments of the CMPT. **Mr. Naylor** answered that the CMPT has had an important function in educating parents, care-givers, teachers and decision-makers regarding

SIDS; firearm storage and safety; suicide prevention programs; water safety; child car safety restraint education; seat belt laws; risk-taking behaviors of young drivers; and carbon monoxide-detecting devices. **Rep. Bilbao** inquired about the suicide rate in the state of Idaho since 2000. Yielding to the question, **Michelle Britton** stated that the Department of Health and Welfare does track youth suicides, which typically have been high within the state. **Rep. Luker** asked where funding for the CMPT had come from in prior years under Executive Order. **Ms. Britton** replied that federal money was available at the time, combined with some pooled money from the Department of Health, and that those funds are now not available on an ongoing basis.

MOTION:

Rep. Chew moved to send H511 to general orders with changes to page 5, line 33 (inserting the word “child” between the words “reviewable deaths”), and to page 6, line 20 (striking “deaths of interest” and adding “reviewable child deaths”). **Rep. Rusche** seconded the motion. **Rep. Thayne** added concern about the bill, citing duplication of services and the ongoing appropriation needed to fund the CMPT. He speculated if the CMPT could function on a periodic rather than an annual basis. In response to a question from **Rep. Luker** regarding the data-gathering done by DHW, **Ms. Britton** stated that statistics are collected by DHW, but that the Department does not perform a review of the specifics regarding the data. She stated that the CMPT would examine the data differently than the DHW would. **Rep. Henbest** added that if the CMPT operated periodically rather than annually, the state would not learn from its interventions and successes, and that education and policy changes must be emphasized. **Rep. Luker** offered a substitute motion with a sunset clause of five years. **Rep. Loertscher** seconded the motion. The motion passed on a voice vote.

Chairman Block invited **Brent Reinke** of the Department of Correction to address the committee about the secure mental health facility. **Mr. Reinke** deferred to **Mary Perrien**, who described the pathways to admission to the Department of Correction secure mental health facility for inmates. **Rep. Luker** asked **Dr. Perrien** how many are currently committed to the facility. Deferring to the question, **Kathleen Allyn** replied that one was, but that the Department’s staff estimates that there are 25 to 26 individuals who are currently in State Hospital North or South or who have been discharged who would be treated in a secure facility if there were one. **Ms. Allyn** went on to describe that a secure facility would include a secure perimeter fence, perimeter security, and staff that have experience in working with a forensic population.

Jim Baugh, Executive Director of Comprehensive Advocacy, Inc. spoke in support of having the secure mental health facility. **Kathie Garrett** spoke in favor of placing a secure mental health facility on hospital grounds, and stated that those who require mental health treatment should not be mixed with an inmate population. **Martha Ekhoﬀ** spoke in opposition to building the facility on prison grounds and stated that people who have not committed a crime will feel stigmatized. **Kelly Buckland** read testimony of **Rick Huber** advocating for two separate facilities.

H489

Chairman Block invited **Rep. Rusche** to present H489. The legislation

would remove the sunset date from the Health Quality Planning Commission (HQPC), add "lay" reporting to the tasks of the Commission, and also adds the responsibility of utilizing language which laymen can understand to the HQPC charge.

The cost of supporting the HQPC is about \$35,000 annually, and is included in the base funding for the Department of Health and Welfare.

Dr. Julie Foot, Vice Chairman of the HQPC, spoke in support of H489. **Dr. Foot** stated that the work of the HQPC will provide efficiencies, lessen errors, and will result in cost savings and the elimination of duplication of services. **Dr. Barton Hill**, Chief Medical Officer at St. Luke's, also spoke in support of the bill and supplied the names of the members of the HQPC in response to a question from **Rep. Bilbao**. **Richard Armstrong**, Director of the Department of Health and Welfare, spoke in support of the bill, stating that having a state-wide electronic network that helps to deliver higher quality health care is important.

Rep. Rusche presented the amendment to H489 which includes language that the HQPC will sunset in the year 2010.

MOTION:

Rep. Henbest moved to send H489 to general orders with amendments attached. The motion passed on a voice vote.

H512

Chairman Block invited **Rep. Henbest** to present H512. This legislation directs the Director of the Department of Health and Welfare to register facilities for the storage and/or transport of human bodies and body parts intended for research or educational purposes. There exists a gap in the Uniform Donor Act in the regulation of bodies and body parts related to use of such parts for research and /or educational purposes. In 1998, a statute was repealed requiring registration with the Department of Health and Welfare by those who were storing bodies or body parts. The proposed legislation would both require registration with the Department of Health and Welfare and would give the Department the ability to require information concerning the location and scope of the business, adding a civil enforcement penalty for those who fail to register.

MOTION:

Rep. Loertscher moved to send H512 to the floor of the House with a do pass recommendation. The motion passed on a voice vote.

ADJOURN:

With no further business, the committee adjourned at 5:50 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: March 6, 2008

TIME: 1:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Tami Eide, Medicaid; Corey Surber, Saint Alphonsus; Toni Lawson, Idaho Hospital Association; Steve Millard, Idaho Hospital Association; Bill Roden, PHARMA; Elizabeth Criner, Pfizer; Kathie Garrett, Idaho Academy of Family Physicians; Woody Richards; Intermountain Hospital; Pam Eaton, Idaho Retailer's Association

Chairman Block called the meeting to order and requested a silent roll call. She welcomed the committee members and guest to the meeting, and announced that H510 would not be heard in committee at the request of the bill's sponsor.

HCR42

Chairman Block welcomed **Rep. Chew** to the committee to present HCR42. The resolution will urge the Idaho Department of Health and Welfare to work with the Food Safety Advisory Council to review current research on health risks pertaining to natural rubber latex use in food preparation and recommend guidelines to deal with such risks. **Rep. Chew** indicated that food handlers and law enforcement personnel often wear latex gloves, and between 10 and 18% of these individuals will develop latex allergies, along with 2 to 8% of the general population.

Rep. Thayn asked if there are regulations that prohibit the use of vinyl gloves, to which **Rep. Chew** replied no. **Rep. Rusche** drew an analogy to the portion of the population who develop peanut allergies. **Rep. Bilbao** asked why the CDC hadn't issued a warning about the use of low-quality latex gloves allowed to stay on the market for use by food services workers. **Rep. Marriott** asked how long it takes to acquire an allergic reaction to latex. **Rep. Thayn** asked if the Department of Health and Welfare (DHW) had been consulted about performing the study regarding latex allergies and to make recommendations. **Rep. Chew** replied that the DHW is willing to conduct the study.

Michelle Lesica spoke in favor of HCR 42.

MOTION: **Rep. Marriott** moved to send HCR42 to the floor of the House with a do pass recommendation. The motion passed by voice vote.

HCR40

Chairman Block invited **Rep. Chew** to present HCR40 – a concurrent resolution encouraging the Department of Health and Welfare to proceed

with the development of a Medicaid Medication Therapy Management (MTM) program. The State of Idaho is currently burdened when insured individuals are unable to manage their medication regimens. Designed to be a collaboration between physicians, pharmacists, and patients, an advantage of the program would be both cost-deferral and also decreased costs in general.

Medicaid recipients are often the sickest in the state with many chronic diseases that often result in duplication of medications. Patients sometimes receive medications from pharmacies other than their own, take samples of medicine, or pay for the medications with cash. **Rep. Thayne** speculated that perhaps there is currently a breakdown between pharmacists, physicians, and patients. **Rep. Chew** stated that pharmacists often do not have the time to counsel or follow-up with patients individually. **Rep. Bilbao** stated that perhaps the problem had become worse since the introduction of Medicare Part D. **Rep. Luker** asked how funding would be provided. Yielding to the question, **Rep. Henbest** stated that costs downstream are ultimately saved since duplications of medications could be discovered early, and that the state matching portion of approximately \$140,000 would be generated from drug company recovery monies from the Medicaid Fraud Control Unit which would go toward the general fund.

Rep. McGeachin asked if the concurrent resolution would make redundant the work of the Health Quality Planning Commission (HQPC). **Rep. Henbest** replied that the HQPC deals with e-prescribing that will be implemented years from now. **Rep. Rusche** reiterated that the HQPC is a board that will focus upon the electronic exchange rather than the management of medical data. While the HQPC will develop a plan to improve patient safety in the system, the concurrent resolution is an opportunity to improve Medicaid patient care and costs, the ability of a pharmacist to manage a patient's medications, and is more specific and detailed than what the HQPC will do.

Rep. Marriott inquired about the fiscal impact of the resolution. **Rep. Henbest** stated that the cost would be borne by Medicaid, and that savings within the Medicaid budget would be realized. **Rep. Block** asked if the \$140,000 is currently residing in the general fund and if something else the funds are now being used for would need to be replaced or cut back. As the money is being recovered, it goes to the general fund, **Rep. Henbest** stated, and is currently being spent. She added that the resolution does not create the program; instead, DHW would design the program which would then go through rule-making. Program expansion would be seen in 2009 and a budget line-item would appear in 2010.

Tammy Eide spoke in favor of HCR 42. Currently, **Ms. Eide** stated, there is much waste and pharmacist shortage issues. She stated that one additional FTE would help the staff shortage. **Chairman Block** asked **Ms. Eide** if funds would be available, or if money from the general fund would need to be requested. **Ms. Eide** replied that money has not been put into the budget for the MTM program this year. **Rep. Luker** stated his reluctance to endorse a resolution if the DHW already has authority to implement the MTM already. **Rep. Henbest** replied that DHW typically hesitates to expand a program without the endorsement of the legislature.

Chairman Block asked if the Governor had endorsed the resolution. **Rep. Henbest** replied that she had not spoken to the Governor.

Bill Roden, representing PHARMA, stated that he was not in opposition to the resolution, but questioned if DHW needs the program. He stated that using penal or monetary penalties for funding seemed questionable, and that some duplication of services may occur. In response to a question from **Rep. Rusche** regarding similar programs within the pharmacy industry, **Mr. Roden** stated that most have programs which he did not object to. **Rep. Nielsen** stated that the individual should pay for part of the bill. **Mr. Roden** stated that Medicaid patients deserve the best medication available. **Rep. Thayn** stated that a return on investment should be realized. **Rep. Henbest** reiterated that HCR 42 is a resolution that encourages DHW to proceed to make a model.

Elizabeth Kriner, of Pfizer, spoke against HCR42, stating that the bill seemed unnecessary and did not provide ample detail.

MOTION:

Rep. Henbest moved that HCR42 be sent to the floor of the House with a do pass recommendation and with a clarification to the fiscal note. **Rep. Loertscher** offered a substitute motion to hold HCR42 in committee. He defended his motion by stating that expansion of programs was unnecessary and sometimes un-welcomed by DHW, and that passage of HCR42 could interrupt the work of MMIS. **Rep. Rusche** spoke in favor of the original motion by stating that the resolution would give no additional benefits or cover additional people. **Rep. Luker** stated his support for the substitute motion, stating that the legislation lacked definition. The substitute motion passed 9-3 on a roll call vote:

Chairman Block – aye
Vice Chairman Nielsen – aye
Rep. McGeachin – aye
Rep. Bilbao – aye
Rep. Loertscher – aye
Rep. Shepherd – aye
Rep. Luker – aye
Rep. Marriott – aye
Rep. Thayn – aye
Rep. Henbest – nay
Rep. Rusche – nay
Rep. Chew – nay

HCR41

Chairman Block invited **Rep. Henbest** to present HCR41. The proposed legislation urges the Idaho Department of Health and Welfare to use portions of the Medicaid Disproportionate Share Hospital (DSH) funds to help individuals retain private health insurance. Currently, funds that come from the Federal Government are matched by State of Idaho Medicaid in a 70/30% ratio and are distributed to hospitals as additional compensation for their care of Medicare, Medicaid, and indigent patients. The total for FY 2009 is 25.5 million – 18 million from the Federal Government and 7 million from the State of Idaho. President Bush has recommended to CMS to allow for some funds to be used for premium assistance programs for those who qualify for Title 21. The Department

of Health and Welfare has the ability to distribute those funds to hospitals. It is anticipated that 420 people would enroll if this were allowed. This would cost \$500,000 but would not be drawn from the general fund.

Currently, a person who wants to apply for Medicaid under Title 21 (CHIP program) must prove that they have gone without health insurance for 6 months. **President Bush** has stated that it is allowable for states to use Title 19 disproportionate funds to leverage premium assistance for such individuals so they are not uninsured for 6 months. Disproportionate hospital funds are monies which come back to DHW and are matched at a 70/30 rate which are then sent back out to the hospitals, who apply for the funds and receive proportionate reimbursement based upon the number of Medicaid, medicare, and uninsured patients that they service.

Steve Millard, representing the Idaho Hospital Association, spoke against the resolution. He stated that, while well-intended, concerns exist that there is not a program that has been identified which this legislation will fund. He stated that 217 million is to be cut from the Idaho budget over the next five years. The balanced budget act of 1997 dramatically cut the DSH payments. In the future, there may be substantially less money to draw from. He agreed that the more people that can be covered the better, but argued that hospitals should not have to fund it.

If DSH money goes to the hospitals, **Rep. Shepherd** asked, how does DHW have anything to say about taking the funds away? **Mr. Millard** stated that the federal government has stated that they cannot do that. **Rep. Henbest** followed up by stating that the federal government makes an allotment which goes to DHW, then out to the hospitals. DHW can say where the money then goes since they have both federal and state money. **Rep. Rusche** asked if hospitals would receive a windfall from the upper payment limit. **Mr. Millard** replied that it was more of a supplemental cost – roughly 15 million. DSH payments for 2007 are roughly 19 million. **Rep. Rusche** asked if that money would be better spent in hospitals for the very sick or in preventive and primary care for a larger number of people. **Mr. Millard** replied that primary and preventive care is key to keeping hospital costs down, and that hospitals will continue to see patients regardless.

Woody Richards of Intermountain Hospital also spoke in opposition to the resolution. He stated that under-compensating hospitals by taking away DSH funds will make them less effective, and discussed the differences between worker's compensation, Blue Cross/Blue Shield, and Medicaid. He stated concern about the program use and the amount needed to fund the resolution.

MOTION:

Rep. Marriott moved to hold HCR41 in committee. **Rep. Bilbao** stated that he could not support the legislation. **Rep. Henbest** stated that the legislation would be one way to help the uninsured. **Rep. Rusche** stated that the resolution is a reasonable solution to the problem created by the CHIP legislation. **Rep. Luker** stated that there needs to be more discussion on the issue. The motion passed on a voice vote, with **Reps. Henbest, Rusche, and Chew** voting against the motion.

Chairman Block asked for approval of the standing committee meeting minutes from Tuesday, February 12. **Rep. Thayn** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.

Chairman Block asked for approval of the budget subcommittee meeting minutes from Tuesday, February 12. **Rep. Henbest** moved to approve the minutes of the budget subcommittee as written. The motion passed on a voice vote.

Chairman Block asked for approval of the standing committee meeting minutes from Thursday, February 14. **Rep. Thayn** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.

Chairman Block asked for approval of the standing committee meeting minutes from Monday, February 18. **Rep. Rusche** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.

ADJOURN: With no further business, the committee adjourned at 4:58 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

- DATE:** March 7, 2008
- TIME:** 1:30 p.m.
- PLACE:** Basement – Supreme Court Building
- MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Marriott, Thayn, Henbest, Rusche, Chew
- ABSENT/
EXCUSED:** Reps. Bilbao, Loertscher, Shepherd (8), Luker
- GUESTS:** Kerry Uhlenkott, Right to Life of Idaho; Julie Lynde, Cornerstone; Kay Painter, Operation Outcry; Marilyn Scott, Twin Falls PCC; Jason Herring, Right to Life of Idaho; Tyler Mallard; Shelley Shannon; Mike Stoddard; Doug Barth, Executive Director, Cornerstone Institute; Michael Kane, Southwest District Health; Gene Gunderson, Southwest District Health; Kathie Garrett, Idaho Academy of Family Physicians; Julia Piercey, Planned Parenthood; Burke Hays, Planned Parenthood
- With a quorum present, **Chairman Block** called the meeting to order and requested a silent roll call. She welcomed the committee members and guests to the meeting.
- Chairman Block** asked for approval of the standing committee meeting minutes from Wednesday, February 20. **Rep. Nielsen** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.
- S1384** **Chairman Block** invited **Michael Kane** to present S1384. The purpose of the bill is to clarify that Public Health Districts are not political subdivisions of the state similar to counties or cities, but are rather independent public bodies similar to special purpose districts. This is important because to the extent a Public Health District is interpreted to be a political subdivision, the ability to finance a public health project is jeopardized due to a recent Idaho Supreme Court interpretation of Article VIII, Section 3 of the Idaho Constitution. **Mr. Kane** stated that there will be no fiscal impact to the general fund of the State as a result of this bill.
- MOTION:** **Rep. Nielsen** moved to send S1384 to the floor of the House with a do pass recommendation. The motion passed on a voice vote.
- H559** **Chairman Block** invited **Rep. McGeachin** to present H559. Existing law under section 18-609, Idaho Code, requires the Department of Health and Welfare to publish printed material for the purpose of providing information to pregnant patients considering an abortion. This bill requires the Department of Health and Welfare to place that material on a secure website. The bill also requires physicians or their agents when setting an abortion-related appointment to advise the patient of the website address.

Rep. McGeachin showed to the members of the committee several brochures that women can review and which chronicle every stage of a developing fetus. The intent of the legislation is to put the same information on a website, which would go become effective on January 1, 2009. **Rep. McGeachin** spoke about amending the fiscal statement to include "Option 1" – use of photographs required by statute to the website – at a cost of \$27,000, and which would not require amending the statute.

Discussion ensued regarding Internet security and the potential for hackers to tag or track the Department of Health and Welfare (DHW) secure website to determine who had visited the site. Yielding to the question, **Dick Schultz** of DHW stated that the Department does not track who visits the website for information, and concurred that Internet security is important. **Rep. Rusche** inquired what an "abortion-related appointment" is. **Rep. McGeachin** replied that it is a consultation to talk to a physician or a physician's agent regarding an abortion. **Rep. Rusche** inquired if this would involve lab work, ultrasound, or a consultation in a physician's office, and if **Rep. McGeachin** would agree to clarify language regarding such appointments. **Rep. McGeachin** replied that a phone call or a contact visit with a physician during which the physician would provide the woman with the Internet address to read information about an abortion in the same manner that the booklets are currently read would be the goal of the legislation.

Kerry Uhlenkott spoke in support of H559, and stated that the legislation would allow for a mother to view the information in private. She stated that currently 9 states have website requirements, that 3 have been legally challenged, and that the legislation of all 9 states is in effect today. **Rep. Rusche** asked **Rep. McGeachin** if she and the sponsors of the bill had reviewed the legislation with the Idaho Medical Association, the Idaho Academy of Family Physicians, or ACOG as to how the information would be conveyed in an office setting and suggested including a tested "script" that might be read to a woman caller or client seeking information about an abortion. **Rep. McGeachin** replied that the office worker would be required by law to give the woman the website address. Currently, **Dick Schultz** stated, physicians are required to report an abortion, and are also required to disclose that counseling has been provided to a woman regarding having that abortion, but statistics are not kept regarding who had considered having an abortion yet decided to carry a pregnancy to term. A woman who elects to have an abortion must sign an informed consent form and state that she has read either the booklets or the information on the website.

Rep. Henbest urged the committee to consider inserting language into the bill that states that the website is a secure site, that the confidential information is neither to be collected or maintained so that women are not targeted for doing potential harm to their baby by visiting the website. **Rep. Nielsen** asked **Dick Schultz** if the security of the DHW website had ever been breached. **Mr. Schultz** replied that DHW does not track anyone who visits the website, and that the legislation would prevent employees from within DHW from tracking hits to the website. **Rep. Thayne** asked if an information technology specialist from DHW could return to talk to the committee about such security issues.

Julie Lindy, Kay Painter, Marilyn Scott, and Jason Herring spoke in support of the bill. **Burke Hays**, of Planned Parenthood, suggested changes to the language in section 3(b) to ensure that security breaches would not occur from within DHW.

MOTION:

Rep. Marriott moved to send H559 to the floor of the House with a do pass recommendation. **Rep. Henbest** offered a substitute motion to send H559 to general orders with the following changes:

Page 1, line 41 – strike the word “no,” insert the word “any”

Page 1, line 42 – insert the words “confidential and not” between the words “be” and “collected”

Page 2, line 4 – insert the words “or security breached” between the words “altered” and “other”

Rep. Thayn offered an amended substitute motion to hold H559 until time certain at the call of the Chair when an IT specialist could return and talk to the committee about website security issues. The amended substitute motion failed on a voice vote. The substitute motion failed on a voice vote. The original motion passed on a voice vote. **Rep. Marriott** agreed to add “Option 1” to the amended fiscal statement of H559. The motion carried by voice vote.

ADJOURN:

With no further business, the committee adjourned at 3:17 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: March 10, 2008

TIME: 1:30 p.m.

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: Michael McPeek, Deputy Attorney General; Kathie Garrett, Partners in Crisis of Idaho and AACT Idaho; Mond Warren, Bureau Chief, IDHW; Loa Perin, AARP; Marilyn Sword; Jim Baugh, Co-Ad; Kathleen Allyn, IDHW; Sara Stover; DFM; Kelly Buckland, SILC

With a quorum present, **Chairman Block** called the meeting to order and requested a silent roll call. She welcomed the committee members and guests to the meeting, and dispensed with the Approval of Minutes.

S1426 **Chairman Block** invited **Sen. Stegner** to present S1426. **Sen. Stegner** explained that this legislation is the recommendation of the Sub-Committee on Mental Health of the Health Care Task Force and is the result of a study of the involuntary commitment statutes of Idaho. The Sub-Committee on Mental Health held hearings and took testimony this past year on the status of the involuntary commitment process and laws in Idaho and determined that they were no in need of any major overhaul. This legislation makes adjustments to the involuntary commitment process in an attempt to improve the law. The changes broaden the definitions of “likely to injure himself or others” and “gravely disabled” and defines “holding proceedings in abeyance” as an alternative to a commitment order. It adds flexibility to the court in the commitment process and enhances treatment options for the patient. Additionally, it also allows jurisdiction to the district court of a county where a patient is found, or the county of residence of the patient. The bill establishes a new procedure regarding the outpatient commitment process that allows for a court to consider involuntary outpatient treatment rather than involuntary inpatient commitment. Further, the bill repeals former outpatient commitment statutes. There is no known fiscal impact to the general fund as a result of the passage of the bill. **Sen Stegner** than passed out copies of an amendment to S1426 that amends sections 1 and 3 of the bill.

Kathleen Allyn spoke in support of S1426. **Ms. Allyn** clarified that the bill includes a new commitment category which allows for earlier intervention and before criminal conduct occurs. Two designated examiners – at least one of whom is a psychiatrist, licensed physician or licensed psychologist – must certify that the person to be committed lacks insight into his need for treatment, is unable or unwilling to comply with

treatment, and, if untreated, poses a substantial risk to physically, emotionally, or mentally deteriorate to the point that the person will become dangerous to himself or others. The legislation also modifies the outpatient process to provide a faster and more effective response to non-compliance, making the standard for outpatient commitment the same as for inpatient commitment. Finally, **Ms. Allyn** concluded, the proposed amendments to S1426 clarify the findings that must be made by a court to involuntarily commit someone because of mental illness and specifically require that findings for commitment be based on the individual's psychiatric history, clinical observation, or clinical evidence.

Rep. Rusche asked how often involuntary commitment occurs in Idaho, and if changes to the number of commitments or just the timing of those committed to the system would change. **Ms. Allyn** replied that approximately 70 commitments are made each month on average, and that there is likely to be a change in timing based upon the fact that people will be committed earlier and the committed time shorter. **Rep. Luker** voiced concern about committing someone whose lifestyle choices were perhaps different from the norm. **Ms. Allyn** replied that the decision to commit someone would be a clinical decision that involves a person being a danger to themselves or others. **Rep. Luker** asked how the interests of an individual are represented when there is no spouse or next of kin. **Ms. Allyn** replied that a guardian would be appointed. Yielding further to the question, **Rob Lewis** stated that the guardian is typically a public defender.

Kathie Garrett spoke in support of S1426. **Jim Baugh**, of Co-Ad, voiced concerns about the language of the bill, and stated that, if the amendments are adopted, Co-Ad would have a neutral stance. **Rep. Nielsen** asked if the designated examiners who determine commitment status work for the state or privately. **Mr. Baugh** stated that designated examiners are specified by DHW, but most work privately. **Rep. Luker** asked **Mr. Baugh** if either definition of "likely to injure himself and others" and "gravely disabled" was of more concern than the other. **Mr. Baugh** stated his concern about the wording of the terms "gravely disabled."

MOTION:

Chairman Block announced that she had to attend a Senate Education meeting. S1426 was temporarily tabled.

S1377

Vice Chairman Nielsen invited **Mike McPeek**, acting as General Counsel to the Board of Pharmacy and speaking in the absence of Mark Johnston, Executive Director of the Board of Pharmacy, to present S1377. The bill would eliminate the bond requirement for wholesale drug distribution licensure and clarify when the designated representative would be required to submit a description of any lawsuits in which such business which employed the designated representative over the past 7 years were named as a party. Due to the existing bond requirement, smaller wholesalers have elected not to seek licensure in Idaho, eliminating the availability of certain products and potentially raising wholesale costs of other drugs. The legislation will help to keep counterfeit prescriptions out of the supply chain while allowing small businesses to do business in Idaho.

Rep. Nielsen asked about the enforcement ability of the law. **Mr.**

McPeek stated that the existing statute allows the Board of Pharmacy, when they find violations, to revoke, suspend, or restrict a license limited to \$2,000 per violation.

MOTION: **Rep. Rusche** moved to send S1377 to the floor of the House with a do pass recommendation. The motion passed by a voice vote.

S1340 **Vice Chairman Nielsen** invited **Mond Warren** to present S1340. This bill will give the Department of Health and Welfare (DHW) the necessary statutory authority to investigate client eligibility fraud within their public assistance programs and to work toward protecting their limited program dollars and resources. **Rep. Nielsen** required further explanation of the five-year rule on page 2, section 3. **Mr. Warren** stated that it would be a crime if documentation was destroyed within a period of five years.

MOTION: **Rep. Luker** moved to send S1340 to the floor of the House with a do pass recommendation. The motion passed on a voice vote.

S1341 **Vice Chairman Nielsen** invited **Mond Warren** to present S1341. He stated that this bill will give DHW the necessary statutory authority to investigate client eligibility fraud within DHW programs. DHW currently operates a welfare fraud investigations unit that aggressively pursues fraud by clients receiving program benefits. The current statute only addresses fraudulent conduct in federal assistance programs. The proposed changes to section 4 of the bill redefine public assistance to include state assistance programs such as the Aid to the Aged, Blind, and Disabled (AABD). Section 5 was removed last year and referenced outdated federal regulations relating to federal benefits only. The proposed changes update DHW's authority to investigate benefit fraud within its programs and distinguishes that these activities shall be those which do not fall within the authority of the Medicaid Fraud Control Unit.

Rep. Luker asked about the fiscal impact of the bill. **Mr. Warren** stated that no fiscal impact is anticipated because there are activities that are currently ongoing.

MOTION: **Rep. Rusche** moved to send S1341 to the floor of the House with a do pass recommendation. The motion passed on a voice vote.

S1363 **Vice Chairman Nielsen** invited **Toni Pinelli**, of the Idaho Association of Counties, to present S1363. The purpose of the bill is to clarify the handling of indigent reimbursements. It would allow for the portion of funds received that are to be reimbursed to the catastrophic (CAT) fund to be put into a trust and then sent to the CAT fund without being budgeted. Funds that would be distributed to the county indigent fund would be allowed to be utilized as long as they were budgeted as provided by law. This codifies practice currently utilized by many counties.

The indigent law was amended in 1996 to specify that an application may be filed on an indigent person within 30 days of receiving necessary medical services. Idaho Code, Section 31-3506 (2)(a) dealing with obligated counties has some inconsistencies in that one section deals with "preceding application" and another section uses the terminology "preceding incurrence." Any delay in the filing of an Application for

County Aid should not determine which county would be the “obligated county.” This would clarify that statute by eliminating the conflicting terminology. There would be no impact on the state general fund or any taxing districts.

MOTION: **Rep. Loertscher** moved to send S1363 to the floor of the House with a do pass recommendation. The motion passed on a voice vote.

Vice Chairman Nielsen returned to S1426. **Kelly Buckland** spoke in support of the amendments to the bill.

MOTION: **Rep. Henbest** moved to send S1426 to general orders with amendments attached. **Rep. Rusche** seconded the motion. The motion passed on a voice vote.

ADJOURN: With no further business, the committee adjourned at 3:32 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

*H591 was moved to the end of the agenda pending a necessary Health and Welfare Committee adjournment time of 3:30 p.m. Upon adjournment of the committee, H591 had not yet been heard.

The House Health and Welfare Committee reconvened at the conclusion of the afternoon House floor session to discuss H591. By voice vote, H591 was sent to general orders with amendments attached.

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: March 12, 2008

TIME: Upon adjournment

PLACE: Borah Building – 2nd floor conference room

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

**ABSENT/
EXCUSED:** None

GUESTS: Kitty Kunz; Terry L. Burke; Terry Murphy; Carol Murphy; Deborah Johnson; Ken Chambers; Debra Ellen Wade; Tiffany Noteman; Karen Sassadeck; Larry Sassadeck; Dave Edmark; Tori Edmark; Clinton Miner; Delores Barker; Luann Lee; John Lee; Glen Mahoney; Jason Parker; Gary Shohet; Dave Leroy; Crystal Spicer; Gay Doman; Morgan Barkourl; Carol Day; Charles Wricher; Cindy Schmillen; Barbara Hedges; Jeff McGinnis; Scott Nelson; Kim Karlfeldt; Michael Karlfeldt; Susan K. Crane; Steve L'Abbé; Andrew K. Smith; Elaine Rust; Angie Cox; Bekah Cox; Alli Rust; Laura Cox; Annette Pascoe; Philip M. Schmiten; George Gersema; Karie Jonak; Brenda Grogan; Sue Smith; Gary Orchard; Joann Haynes; Lon Stewart; Sara Rodgers; H. Dewain Lee; Paul Venable; Kathie Garrett; Michael Morgan; Boyd Landry

Chairman Block called the meeting to order and welcomed the committee members and guests.

Chairman Block asked for approval of the standing committee meeting minutes from Tuesday, February 26. **Rep. Henbest** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.

Chairman Block asked for approval of the budget subcommittee meeting minutes from Thursday, February 28. **Rep. Henbest** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.

Chairman Block asked for approval of the standing committee meeting minutes from Tuesday, March 4. **Rep. Henbest** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.

Chairman Block asked for approval of the standing committee meeting minutes from Thursday, March 6. **Rep. Henbest** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.

Chairman Block read the Rules of Decorum to the guests at the meeting.

Chairman Block invited **Kris Ellis** to present S1425. **Ms. Ellis** stated that the Idaho Chapter of the American Association of Naturopathic Physicians (IDAANP) is comprised entirely of members who have naturopathic practices in Idaho. Prior to the passage of the naturopathic act in 2005, all parties were in agreement on the bill including the Coalition of Natural Health – who represent those who do not wish to be licensed, the Idaho Medical Association, and other associations. The initial board was appointed by **then-Governor Kempthorne**, with two members replaced by **then-Governor Risch**. In 2006, the board promulgated rules that were basically agreed to by all parties. Prior to the publication of the rules on September 22, 2006, the chairman of the board directed **Rayola Jacobson** of the Idaho Bureau of Occupational Licenses (IBOL) to pull the rules for the October bulletin.

Subsequent to that time, the board held negotiated rule-making sessions as well as public hearings regarding adoption of rules. On November 16, 2007, the board was removed from IBOL for failure to sign a contract, failure to promulgate rules, and for voting to terminate the legal counsel of IBOL.

Rules that were then presented by the board this year failed to meet the parameters of the statute according to the Attorney General's office, Legislative legal counsel, and the Senate Health and Welfare Committee.

Ms. Ellis then described the five suggested amendments to S1425, which will give the Governor the opportunity to appoint whom he chooses to the board and will give all licensed naturopathic physicians an opportunity to serve on the board. **Rep. Henbest** confirmed that the amendments reflect that board members serve at the Governor's pleasure, and that nominations would not have to be received from just the one association. **Ms. Ellis** replied that, except for the addition of section 2 of the amendment, no licenses could be issued until rules are passed. **Rep. Luker** asked if the Governor had plans to re-constitute the board. **Ms. Ellis** replied that there are currently 2 vacancies on the board, as the chairman has resigned and another board member's term expired on February 1, 2008.

Kitty Kunz spoke in opposition to S1425. **Rep. Thayn** asked **Ms. Kunz** if she had seen S1425 as amended. **Ms. Kunz** replied that she had not. **Rep. Luker** asked her to explain the practice of the 150 members of the Idaho Association of Naturopathic Physicians (IANP), including how many members were licensed and how many practice under the Smith decision. **Ms. Kunz** replied that she did not have those figures but, yielding to the question, **Karie Jonak** stated that there are 15 who are licensed, and that the rest practice under the Smith decision. **Rep. Luker** asked if she would feel constrained or unable to submit name suggestions if the Governor can fill board vacancies without any recommendations from IANP. **Ms. Kunz** replied that the association would feel restricted. They feel their association is there to determine the legitimacy of those applying. The association would like to have more say in who submits their names. **Rep. Luker** stated that, currently, the Governor is restricted and can receive recommendations from just the IANP. **Ms. Kunz** replied that the IANP considered approaching the IDAANP, but the invitation was withdrawn. If the legislation stays the same, she argued, the IANP would

reach out to the other association.

Rep. Henbest asked if all Idaho naturopaths belong to one or the other organization, or if some belonged to neither organization. **Ms. Kunz** replied that some do not belong to either association. **Rep. Rusche** asked about the standards for membership in the IANP. Yielding to the question, **Ms. Jonak** stated that such things as schools, curriculum studied, test scores, applications, transcripts, and work performed out of state or the country would be considered. **Rep. Bilbao** asked where in the Northwest a student of naturopathy could attend school and what the curriculum studied would include. **Ms. Jonak** stated that there are 14 different residency schools as well as some distance-learning schools, and that the suggested curriculum is that which is stated in the statute.

Joann Haynes, of the IDAANP, spoke in support of the amendments, stating that the Governor should be able to appoint board members from more than one association. **Rep. Henbest** asked **Dr. Haynes** if she had been disassociated from the IANP, and how she had been disassociated. **Dr. Haynes** replied that she had served a one-year term on the board when she was a member of the organization. She felt disassociated through lack of inclusion and not being sent e-mails from the organization. **Rep. Thayne** asked **Dr. Haynes** if she had a license to practice. **Dr. Haynes** replied that she is currently licensed in Idaho, and maintains licensure in Oregon. **Rep. Thayne** asked what she could do with or without a license. **Dr. Haynes** replied that her prescriptive rights were different in the state of Oregon.

Terry Burke spoke against S1425. He stated that he was concerned he could lose his license if the bill's amendments are approved. **Rep. Luker** asked **Dr. Burke** if he had any more or less ability to prescribe with his current license. **Dr. Burke** replied that he felt he was being held up by the legislation. **Rep. Thayne** asked **Dr. Burke** if the test his association had developed (USNLE) was recognized by the United States Department of Education. Yielding to the question, **Dr. Jason Parker** replied that the test did not have to be recognized by the Department of Education. **Rep. Henbest** asked **Dr. Burke** how he could lose his license by a change in the board. **Dr. Burke** stated that he had filed a suit to prevent his license, which is now called "voidable," from being taken. **Rep. Henbest** asked if the test was created for the purpose of filling a gap to prove something for the sake of licensure. **Dr. Burke** replied that there is not a practical portion of the exam; because of this, a new exam with a competency section has been created. **Dr. Burke** stated that he expects this exam to be the national exam that other states will use, although only two other states have approached the association about using the exam. Currently, in the field of naturopathy, according to **Dr. Charles Wricher**, there are two licensing exams, including the new one.

Rep. Chew asked if all practitioners would be allowed to take the exam, if some would elect not to take the exam, or would be excluded from taking the test. Yielding to the question, **Mr. Parker** said that the state board would determine if a practitioner is competent to serve the residents of the state. **Rep. Luker** asked if the Naturopathic Physicians Licensing Examinations (NPLEX) test is limited to the graduates of the four accredited naturopathic schools in the United States. **Mr. Parker**

answered yes and stated that approximately 8 people would be eligible to take the NPLEX test. **Rep. Luker** asked when licenses are renewed. Yielding to the question, **Dr. Wricher** stated that licenses are still valid even though renewal dates had passed. **Reps. Henbest** and **Rusche** then asked several questions regarding the psychometric validity of the exam developed by **Dr. Nunn**, as well as the passing grade needed. **Mr. Parker** gave the committee the qualifications of **Dr. Nunn**, and stated that he was not sure what the passing grade needed to be.

Sara Rodgers spoke in support of the bill. **Rep. Thayn** asked **Dr. Rodgers** if she felt the USNLE exam was an inferior test. **Dr. Rodgers** replied that she was suspect of any test where students are able to submit questions to a test that they will then have to answer. **Rep. Thayn** asked **Dr. Rodgers** if she felt her training was superior to that of other naturopaths. **Dr. Rodgers** stated that she respected all those who practice the profession, and that the bill differentiates between naturopathic doctors and naturopathic physicians. **Rep. Thayn** asked **Dr. Rodgers** if she felt the two naturopathic organizations could eventually be compatible and licensed under the same board. **Dr. Rodgers** stated that members of the two organizations can continue to practice, but that when prescribing pharmaceutical medications, the public needs to be protected and a stop-gap measure must be implemented. Currently, she stated, the people who are most qualified to serve cannot be on the board.

Terry Murphy spoke against the bill. **Mr. Murphy** stated that there needs to be in the legislation a clause for those who have practiced naturopathy for an already extended period of time. **Rep. Luker** asked if there was something in the bill that would prevent **Mr. Murphy's** naturopathic doctor from providing services different from what the doctor was currently providing. **Mr. Murphy** emphasized that naturopaths who have been practicing for 20 years or more should not have to be "re-schooled." **Rep. Luker** stated that, presently, there are only 15 naturopathic licenses that have been issued, and that most have been working under a "grandfather" clause. He asked **Mr. Murphy** if he had information that had caused him to think that the issue of licensure would affect his doctor. **Mr. Murphy** stated that his naturopathic doctor had not attended one of the four accredited schools in the United States, and that it would be hard for her to go back to school. **Rep. Henbest** stated that these doctors can still provide natural health services, and that they would not be licensed and would not be able to call themselves naturopathic physicians. She stated that **Mr. Murphy's** doctor could continue to do what she is currently doing, even without licensure. **Mr. Murphy** stated that the bill would be disruptive financially to his naturopathic doctor.

Larry Benton spoke in support of S1425 as amended. **Mr. Benton** directed the committee to the unofficially engrossed bill, saying that the amended S1425 bill would allow the Governor to pick the members of the board, and that names from either group can be considered. Review of rules can take place that are acceptable to both groups. **Rep. McGeachin** asked for clarification of the language "members shall serve at the pleasure of the governor" and "the governor may remove any member of the board for cause. . ." **Mr. Benton** stated he was unable to clarify the difference in the language. **Rep. Thayn** inquired if the language on line 25 of the draft not officially engrossed amendment was

to protect either one association or the other. **Mr. Benton** stated that the goal of the amendment was not to protect one group or the other. He then added that negotiated rule-making in the future would serve the interests of both associations.

Rep. Nielsen asked if it was a good idea to take out the right to make nominations to the board by the people involved. **Mr. Benton** replied no. **Rep. Nielsen** then stated that board members must be licensed, and since there were just 15 in the state who were licensed, if it would be difficult to find four or five who would be willing to serve on the board and who could get along. **Mr. Benton** replied that the majority are from the IANP, and that either in statute, through legislative intent, or through an amendment to the bill, it was important to state that either association can send nominations to the Governor. In the past, the board has been comprised of one lay member and two members from each association.

Boyd Landry spoke against the bill. He stated that he had helped to write the language of the 2005 bill, that the current statute is well-written, that it is common for an association to recommend names to a board, and that the Governor can indeed remove a board member for cause. **Rep. Bilbao** then suggested that the board should consist of one lay member and two individuals from each of the two naturopathic associations. **Mr. Landry** countered by stating that, since the two associations did not hold equal membership, the make-up of the board should be appropriately reflected, and that the Governor can appoint to the board whom he wants.

Scott Nelson, Glen Mahoney, Dewain Lee, Carol Murphy, and Debra Johnson spoke in opposition to S1425.

Clinton Miner spoke in opposition to S1425. **Rep. Nielsen** asked **Mr. Miner** about the suggested qualifying test for licensure. **Mr. Miner** stated that candidates for licensure have to meet the requirements outlining both the level and substance of their education. If these requirements are met, the statute has specific details about the test, and the board has to then determine if that test both procedurally and substantively qualifies one to become a naturopathic physician. **Rep. Rusche** inquired if **Mr. Miner** helped to draw up that legislation that failed to pass muster with DHW and the Attorney General. **Mr. Miner** replied no. **Rep. Chew** asked what would happen to those individuals who currently provide natural health care services in light of the proposed legislation. **Mr. Miner** replied that they will be able to continue to practice, but those who will be affected will be the naturopathic physicians.

Annette Pascoe suggested the committee vote no on the bill or table it until further notice. **Rep. Henbest** stated that the statute has been both manipulated and degraded. She suggested getting rid of the statute and starting all over again. **Ms. Pascoe** shared her concern with the new bill, suggesting that the field of naturopathic study would be limited if narrowed to only four accredited programs within the United States.

MOTION:

Rep. Rusche moved to adjourn the meeting. The motion failed on a voice vote. **Rep. Marriott** moved to table S1425. **Rep. Luker** offered a substitute motion and passed out an amendment to the draft not officially

engrossed amendment bill with the following changes:

Page 1, lines 23-24: strike “members shall serve at the pleasure of the governor.”

Page 2, line 9: add after the word “Legislature” the following: “or allowed by Executive Order of the Governor.”

Rep. Loertscher moved that the motion made by **Rep. Luker** also include that the Governor be allowed to appoint members of the Idaho Chapter of the American Association of Naturopathic Physicians.

The substitute motion passed by voice vote, with **Rep. Rusche** dissenting.

ADJOURN: With no further business, the committee adjourned at 6:46 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: March 18, 2008

TIME: Upon adjournment

PLACE: Basement – Supreme Court Building

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

**ABSENT/
EXCUSED:** None

GUESTS: Russ Barron, DHW; Kandee Yearsley, DHW; George Thomas, DHW; Brenda Groglin, IAMP; Karie Jonak, IANP; Kitty Kunz, IANP; Karen Sassadeck; David Leroy; Kathie Garrett, Idaho Academy of Family Physicians; Joie Hood; Gay Donan, ICNH; Michelle Morgan, ICNH; Larry Benton; Kris Ellis

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

Chairman Block asked for approval of the standing committee meeting minutes from Wednesday, March 12. **Rep. Nielsen** moved to approve the minutes of the standing committee as written. The motion passed on a voice vote.

S1343

Chairman Block invited **Kandee Yearsley**, Child Support Bureau for the Department of Health and Welfare, Division of Welfare, to present S1343. **Ms. Yearsley** explained that this bill will revise the definition of reasonable cost to mean that health insurance is considered reasonable if the amount paid by the obligated parent does not exceed 5% of his or her gross monthly income. By adopting the federal definition of 5% of gross income standard when insurance is available to either parent, there will be established criteria to determine if the parents are required to enroll their child in an available health insurance plan.

Rep. Loertscher asked if 5% does not cover health care costs, who pays the difference. He also asked what the scenario would be if children are not Medicaid-qualified. **Ms. Yearsley** replied that the child support program was currently requiring parents to participate in a health insurance program if they could afford it. If their income was less than the limit, that would not necessarily create an environment for them to become eligible for Medicaid.

Rep. Luker inquired about the fiscal impact of one million dollars and where that money would come from. **Ms. Yearsley** replied that they are not requesting \$1 million from the budget. The legislation will primarily impact non-custodial parents with low-income households. In Idaho, she stated, either custodial or non-custodial parents may be required by the

court to obtain health insurance for the child. As a state, Idaho is looking for ways for the non-custodial parent to pay. Although 5% may be an arbitrary number, it is still based on a reasonable expectation of what health insurance may cost an individual. **Rep. Rusche** asked **Ms. Yearsley** if a parent would be allowed to purchase an individual health insurance policy for a child, which is typically inexpensive. **Ms. Yearsley** said that if a parent can obtain health insurance outside from that provided by an employer, the Child Support Bureau requires them to obtain it. The primary goal of the legislation, she reiterated, is to adopt a reasonable cost definition. A non-custodial parent could have the child on private health insurance even if the custodial parent still qualifies for Medicaid, for example.

Rep. Thayne asked if a worker is required to take health insurance offered by an employer if, for example the premium was 50% of the gross monthly income. **Ms. Yearsley** replied affirmatively. **Rep. Marriott**, however, countered by stating that there seemed to be some problems with the definition of the "plan sponsor" section of the bill (page 3, line 8).

MOTION:

Rep. Rusche moved to send S1343 to the floor of the House with a do pass recommendation. **Rep. Loertscher** moved to hold S1343 until time certain at the discretion of the Chair until answers to certain questions about the bill could be answered by the Attorney General. The substitute motion passed on a voice vote.

S1425

Chairman Block stated that the Governor and the Senate had some concerns with the amendment that had been previously brought before the committee. **Chairman Block** asked if any member of the public in attendance at the committee meeting had an amendment for the committee to consider. No additional amendments were presented to the committee. The page passed out copies of the amendment with drafted language that had been adopted by the committee at the meeting on March 12 and sponsored by **Rep. Luker**. **Rep. Luker** stated that perhaps there are some other issues that the committee should consider. **Rep. Rusche** stated that if S1425 was held in committee, the legislation would remain where it had been when the rules were rejected, and no progress would be made. **Rep. Bilbao** stated that the amendment he had been handed was the first time he had seen the document. **Chairman Block** put the committee at ease for a brief time.

Speaker Denney was summoned to address the committee regarding parliamentary procedure for S1425 if it were voted to be held in committee. **Speaker Denney** stated that it returns to the possession of the committee if so voted. When held in committee, it may be addressed again.

Rep. Henbest said that holding S1425 puts the committee back to square one and said she would not support the original motion. **Rep. Luker** said that the amendment makes sense in that both naturopathic groups (IANP and IDAANP) can forward names to the Governor for consideration for board membership, and that the amendment would assist with the current disarray within the board. **Rep. Nielsen** stated that **Rep. Luker's** concern was a valid one, but that it was incorrect to state that the committee would be back to square one. If both groups do not work together, he said,

neither group will obtain licensure, which allows naturopaths an avenue to take their expertise and use it legally. The original statute did not require licensure in order to sit on the board. **Rep. Loertscher** stated that the naturopaths used to all belong to one association; a small group then decided to withdraw from the association. The Legislature is now caught in the middle and are now supposed to fix the problem since some people did not want to be part of the association any longer. There is nothing wrong with the original statute, **Rep. Loertscher** said, and if they are serious about licensure, they will work a lot harder to get rules in place in the interim. **Rep. Henbest** told the committee that the individuals who left the original association had not been disassociated but were instead voted out. To do nothing, she stated, does not solve anything. **Rep. Nielsen** stated that he had received e-mail from 2 individuals who had stated that members had left the original association. He agreed with **Rep. Loertscher** and said that the naturopaths need to solve the problem, or else no one else will have a license.

MOTION:

Rep. Marriott moved to hold S1425 in committee. **Rep. Luker** offered a substitute motion to hold S1425 until time certain at the discretion of the Chair. The substitute motion failed on a voice vote and a show of hands. The original motion passed 8-4 on a roll call vote:

Chairman Block – nay
Vice Chairman Nielsen – aye
Rep. McGeachin – aye
Rep. Bilbao – aye
Rep. Loertscher – aye
Rep. Shepherd – aye
Rep. Luker – nay
Rep. Marriott – aye
Rep. Thayn – aye
Rep. Henbest – nay
Rep. Rusche – nay
Rep. Chew – aye

H488AA

Chairman Block invited **Rep. McGeachin** to speak about H488AA. She explained that, in a letter dated March 7 from **S. Kay Christiansen**, Division Chief, Contracts and Administrative Law Division, an explanation had been given in H488AA that “neither defines nor restricts the scope of practice for unlicensed individuals referred to as direct entry midwives. Except for the authority to administer medication (except oxygen), unlicensed individuals are entitled to perform all of the functions set forth in the definition for licensed direct entry midwives.” **Rep. McGeachin** then yielded to Assistant Attorney General **Bill von Tagen**.

Mr. von Tagen stated that the Attorney General has no position on the bill, and only provides legal advice. He offered an opinion of how a court may interpret the bill. He stated that the bill is silent on the definition of what a direct entry midwife is allowed to do. When there is no definition in statute, courts typically rely on a common law or dictionary definition of the term. **Mr. von Tagen** read the dictionary definitions of both the terms “midwife” and “midwifery.” He went on to state that there are four administering drugs that have been prescribed by a physician, a court may conclude that an unlicensed direct entry midwife can do everything

that a licensed direct entry midwife can do, with the exception of administering drugs. Secondly, under the common law definition, the only thing a midwife can do is assist a woman in delivering a child. A third possibility is that the court could also take a look at the legislative history, from which it would conclude that this legislation was borrowed from a Utah statute, and it might look to the Utah definition of a direct entry midwife. Under this scenario, the court would, as a practical matter, reach the conclusion that the activities that a direct entry midwife could engage in are essentially the same as those set forth in the first scenario above. Under a fourth scenario, the court might simply examine the activities currently engaged in by direct entry midwives in the state of Idaho, and would conclude that unlicensed direct entry midwives are limited to the activities presently being engaged in by midwives in Idaho.

Rep. Henbest stated that, by omitting the word “licensed,” the bill would exempt the actions of midwives from medical, nursing, or nurse midwife licensure violations.

Rep. McGeachin stated to the members of the committee that it wasn't the intent for the scope of practice to apply to any midwife out there, whether or not she had a credential. She told the committee members that it was her choice to pull H488AA back to committee because the bill was being interpreted to do something that was not originally intended.

Rep. Nielsen asked **Mr. von Tagen** if he had detected any other problems within the bill. **Mr. von Tagen** stated that it was not his desire to enter into the policy-making realm, but instead to find out what the proponents wanted to accomplish, subsequently putting the language into legal terms.

MOTION: **Rep. McGeachin** moved to hold H488AA in committee. The motion passed on a voice vote.

ADJOURN: With no further business, the committee adjourned at 5:53 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary

MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: March 20, 2008

TIME: Upon adjournment

PLACE: Room 228

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

**ABSENT/
EXCUSED:** None

GUESTS: David Leroy; Scott Keim, DHW; Kandace Yearsley, DHW; Russ Barron, DHW

With a quorum present, **Chairman Block** called the meeting to order and requested a silent roll call. She welcomed the committee members and guests to the meeting, and dispensed with the Approval of Minutes.

S1343 **Chairman Block** invited **Kandee Yearsley** to present various clarifications regarding S1343 to the committee. **Ms. Yearsley** stated that the federal government is mandating that states define "reasonable cost." The federal government has provided guidance in accordance with federal law which states that "cash medical support, or private health insurance is considered reasonable in cost if the cost to the obligated parent does not exceed 5% of his or her gross income, or a reasonable alternative income-based numeric standard defined in the child support guidelines. The legislation the Department of Health and Welfare (DHW) is proposing adopts the federal standard of 5% of the gross, or pre-tax, income.

Ms. Yearsley clarified the change to Idaho Code which would occur. The 5% of an obligor's income calculation is only related to the portion of the insurance cost which is directly related to adding the child or children, and has no impact on the cost to insure the parents. If the parent is required to enroll the child in available health insurance, only the cost of adding the child/ren would be considered. A state employee might, for example, pay between \$88 and \$98 per month to insure two parents and children. Of this amount, the cost to add the children is between \$15.50 to \$25.50. The 5% amount that would be considered toward the calculation would be for the child/ren's amount, not the total family amount. Thus, in order for the obligor not to have to enroll the child/ren in the health insurance plan, the parent could not make more than \$300 per month.

The ability for a judge to impose a percent different from 5% falls under section 32-706 (page 1, line 12), which includes the wording ". . . after considering all relevant factors and which may include." The terms "reasonable cost" fall under the definition of "may include."

Rep. Henbest asked if, in the fiscal note, some children who are currently

covered under private insurance may be allowed to go off the insurance, subsequently allowing them to become eligible for CHIP or Medicaid. There is currently no method to determine whether children enrolled in private insurance would be eligible for Medicaid if a parent's income was less than 5%, and whether that would create an environment for children to become eligible for Medicaid. **Rep. Nielsen** asked if a judge is still allowed to determine "reasonable cost." **Ms. Yearsley** replied affirmatively. **Rep. Nielsen** wondered if a judge would ever mandate that a family with a very low income would be required to purchase health insurance. **Rep. Luker** asked if the state would be penalized if "reasonable cost" was not defined. **Ms. Yearsley** replied that the state currently has reasonable cost; it must, however, be defined by the end of this legislative session.

MOTION: **Rep. Rusche** moved to send S1343 to the floor of the House with a do pass recommendation. The motion passed on a voice vote.

S1425 **Chairman Block** spoke briefly about S1425. **Rep. Marriott** moved the House Health and Welfare Committee to take up S1425 again. The motion passed on a voice vote. **Chairman Block** invited **Rep. Roberts** to address the committee. He passed out an amendment to the bill, as well as an un-proofed draft not officially engrossed copy of the bill to the members of the committee. **Rep. Roberts** apologized to the Chairman and the committee members that the amendment had not been prepared in time for the previous meeting date. He stated that the amendments to S1425 would garner the support of most on the issue of the bill. The language is a modified version of the original bill. The amendment states that members of the naturopathic board serve at the pleasure of the Governor. He described how suggestions to the Governor for appointments to the board will be made from both the Idaho Association for Naturopathic Physicians (IANP) and the Idaho Chapter of the American Association of Naturopathic Physicians (IDAANP) (page 1, lines 26 - 34). No licenses will be issued until rules are developed, he added.

Rep. Nielsen asked if anything would prevent the Governor from picking individuals from just one association. **Rep. Roberts** replied that nothing would prevent him from doing that. **Rep. Chew** asked if political changes in the Governor's office would affect the board. **Rep. Roberts** replied that many boards would be affected with a political change in the Governor's office, and that the amendment addresses replacements to the board.

Rep. Thayn stated that he had a desire to see the legislation move forward, and said that he viewed it as a chance for the two naturopathic associations to work together. **Rep. Henbest** reiterated that the bill isn't perfect – it represents a compromise – but to do nothing is to not address the problem. **Rep. Nielsen** voiced concern that there was a statute but no rules to go along with it. **Rep. Roberts** reminded the committee that the purpose of the legislation is to bring together the people that the Governor appoints, allowing them to work on rules together over the summer and to bring those rules back to the 60th Legislature next year. **Rep. Nielsen** asked if the new members who are going to sit on the board have to be licensed. Even though licenses have been issued, he continued, by what basis have they been issued? **Rep. Luker** said that he did not like the original bill S1425, and that the amendment both allows

the Governor to make appointments, selecting from both associations. He voiced concern about whether the board should issue more licenses and should perhaps put a moratorium on issuing further licenses.

Rep. Nielsen worried that, if nominations are limited to those with licenses, the Governor would only have 15 individuals to choose from. He suggested adding language that says that until rules are formulated, the board can be constituted of both licensed and unlicensed naturopaths, allowing for a broader board member selection. **Rep. Roberts** reminded the committee that, if the bill goes to general orders, any representative can put forth additional amendments. **Rep. Nielsen** countered that a perception typically exists that the amendment the committee has supported sways other legislators.

Yielding to a request to address the committee by **Chairman Block**, **Dennis Stevenson** stated that he did not know of any other boards that license members strictly from the statute alone without having rules in place, and that he had never seen this happen in state government in this way.

Rep. McGeachin spoke in opposition to the amendment, stating that there was nothing in the language that stated there should be equal representation on the board from both associations, and that there would be potential for one association to be shut out altogether. **Rep. Marriott** told **Rep. McGeachin** that the language of the bill protects the board since the Governor will appoint persons upon expiration of terms; it does not allow the governor to remove board members frivolously. **Rep. Shepherd** then asked the committee members to consider the language about members serving "at the pleasure of the Governor." **Rep. Thayn** responded by stating that, if the issue is so explosive, with so much distrust, then there is a serious problem. If both groups do not work together, he said, then their actions will not likely be ratified next session.

Rep. Loertscher stated that this issue will not go away until something is done with it, that both associations need to work together, and that he would oppose the amendment. **Rep. Luker** said that the current law ties the Governor's hands to pick appointments from one group, and that there would be a problem with leaving the law like it currently is. The Governor, he said, will have to ponder whom he appoints and bear the consequences of his board appointment(s). The amendment is an incentive for both parties to work together, he added.

Rep. Nielsen asked **Mr. Stevenson** if temporary rules could allow for the issuance of licenses. **Mr. Stevenson** replied that executive order would allow that, but that it would be potentially problematic, and that someone could possibly challenge the ruling.

MOTION:

Rep. Thayn moved to send S1425 to general orders with the amendment attached. **Rep. Rusche** seconded the motion. The motion passed 9-3 on a roll call vote:

Chairman Block – aye
Vice Chairman Nielsen – aye
Rep. McGeachin – nay

Rep. Bilbao – aye
Rep. Loertscher – nay
Rep. Shepherd – nay
Rep. Luker – aye
Rep. Marriott – aye
Rep. Thayn – aye
Rep. Henbest – aye
Rep. Rusche – aye
Rep. Chew – aye

ADJOURN: With no further business, the committee adjourned at 3:02 p.m.

Representative Sharon Block
Chairman

Laurie Kaden
Secretary