

House Health & Welfare Committee

Minutes
2010



MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 14, 2010

TIME: 1:42 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielson, Representatives McGeachin, Loertscher, Shepherd (8), Luker, Marriott (Anderson), Thayn, Boyle, Gibbs, Thompson, Wood (27), Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Dennis Stevenson, Department of Administration; Randy May, Department of Health and Welfare; Martin Bilbao, Connolly & Smyser; Steven Shaw, Connolly & Smyser; Kathie Garrett, Partners in Crisis; Jim Baugh, Disability Rights Idaho; Robert Vande Merwe, Idaho Health Care Association

The meeting was called to order at 1:42 p.m. by Vice Chairman Nielsen.

Vice Chairman Nielsen welcomed the members and guests and thanked Rep. Anderson for stepping in for Rep. Marriott.

Vice Chairman Nielsen introduced **Dennis Stevenson**, Administrative Rules Coordinator for the Department of Administration and invited him to present a summary of the rules process. He explained that the changes to the rules are driven by changes in state and federal laws. The rules can be changed at any time as long as the agency can show the change would be a logical outgrowth of the initial rule. He noted that pending rules do not go into effect until this body approves them. They can be lumped into one group and all be approved, or a single rule could be entirely rejected or any subsection or part of a rule could be rejected. This committee also has the right to review the final rules should they wish. Temporary rules expire at the end of the legislative session unless extended.

In response to questions, **Mr. Stevenson** explained that the online text of the rule directly corresponds with the information provided in the Department of Health and Welfare's rule book.

Chairman Block welcomed the committee members and guests to the new room and thanked everyone for their attendance. The Chairman introduced the secretary, **Sarah Hendrick**.

She explained that those rules handled by the germane committee have the potential for controversy. The rest of the rules will be covered by three subcommittees chaired by Representatives Nielsen, McGeachin and Shepherd (8). She thanked them for serving as chairmen and noted that the committee has 66 rules this year with a deadline of the end of January.

**DOCKET #:
16-0322-0901**

Chairman Block invited **Randy May**, Deputy Administrator in the Medicaid Division of the Department of Health and Welfare, to present **Docket #16-0322-0901**. He explained that these pending rules govern residential care of assisted living facilities in Idaho. He noted that these changes stem from HB 146 of the 2009 legislative session. Its intent was to provide guidance for private pay clients in assisted living facilities. This rule change now requires the resident to be assessed before placement, a clear explanation of services that will be provided, rates for services and identifies assessments the facility will use and who will conduct them.

In response to questions, **Mr. May** explained that the complaints while few in number were a particular concern to providers, the Ombudsman for the Elderly and the Department. The billing system was such an elaborate process that clients were unable to determine what they were paying and for what services.

In response to questions, **Mr. May** stated that waived services allows some clients to live in community facilities that are often less restrictive and cost less than placing them in an institutional facility or nursing home.

Robert Vande Merwe, Executive Director of the Idaho Health Care Association, was recognized to respond to further questions. He stated that providers and advocates were satisfied with the outcome of this rule. After three years they believe this is as close to perfect as it can be.

MOTION:

Rep. Durst moved to approve **Docket # 16-0322-0901**. During discussion of the motion in response to questions **Mr. May** stated that how the rate goes up in relation to additional care is at the crux of the issue. Families have to agree before the rate is raised. However they now have five days to find a new facility if they do not agree to the new terms. **Motion passed on voice vote.**

Chairman Block introduced the page, **Emily Hurst**, and thanked her for her help to the committee.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 2:15 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 18, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielson, Representatives McGeachin, Loertscher, Shepherd (8), Luker, Marriott (Anderson), Thayn, Boyle, Gibbs, Thompson, Wood (27), Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Eddie Van Hout; David McFate; Jeff & Lori Wakelam; Karleen J Lemmon; Layce Murray; Kristine McFate; Darla Harris; Kimberly Blessing; Tabitha Jolley; Maribeth Connell, AARP/CCTF; Kathie Garrett, Partners in Crisis; Ed Hawley, Administrative Rules; Marilyn Sword, Executive Director Idaho Council on Developmental Disabilities; Katherine Hansen, IADDA; Ike Kimball, Health and Welfare; Brenda Dilbeck; Susan Higgins; Kathy R Miller; Robert J Miller; Susan J Rohnert; Howard Rohnert; Susie Cummins, Health and Welfare; Paul Leary, Deputy Administrator of the Division of Medicaid; Natalie Peterson, Bureau Chief for the Division of Medicaid Long-Term Care Program

The meeting was called to order at 1:30 by Chairman Block.

DOCKET #: **16-0310-0902** **Paul Leary**, Deputy Administrator of the Division of Medicaid, presented **Docket No. 16-0310-0902**, which relates to the reduction in service limits for Medicaid covered Developmental Disability services. As a response to feedback from families and stakeholders the Department began redesigning its benefits to children with developmental disabilities through the Children's System Redesign. This is a joint effort between Medicaid and Family and Community Services and includes families, advocates, providers, the Department of Education and the Department of Health and Welfare. The goal is to implement the program in July 2011 which will focus on: a balance between services and natural supports, a variety of Medicaid benefits that address needs of disabled children, services that result in good outcomes, a family-directed service option and a system of care that recognizes the importance of families, providers, schools and the community.

In response to committee questions, **Mr. Leary** stated that he is unaware of any opposition to the rule.

In answer to committee questions, **Mr. Leary** said that it is the intent of Medicaid to present a comprehensive set of rules at the 2011 Legislative session

In response to questions, **Mr. Leary** stated that Medicaid continues to see a growth in the provider community and he is unaware of any issues regarding access to services.

Katherine Hanson, Executive Director of Community Partnerships of Idaho, **testified in support of Docket No. 16-0310-0902**. Ms. Hanson said that she is grateful the changes are temporary and not permanent as there has not been enough time to fully study the impact this rule change might have on individuals and the state. The impact has begun to be studied jointly with Medicaid but she would like to see more information regarding how this change will affect the lives of people throughout the state as well as businesses.

MOTION: **Rep. Luker** moved to approve **Docket No.16-0310-0902**. **Motion passed on voice vote.**

DOCKET #: **16-0310-0905** **Natalie Peterson**, Bureau Chief for the Division of Medicaid Long-Term Care Program, presented **Docket No. 16-0310-0905**, which is an amendment in response to the federal audit conducted by Centers for Medicare and Medicaid Services (CMS) on the Personal Care Service (PCS). In order to comply with CMS recommendations the Department will change the following: 1 Update the current PCS rules to reflect changes in payment methodology from a daily rate to the 15-minute increment rate, 2 Clarify the rules that govern adult PCS and children PCS and 3 Clarify PCS medication rules. At Department meetings held throughout the state, concern was expressed regarding potential reimbursement reductions and how care might be impacted via the assessment. No changes were made based on the comments received. This was to maintain consistency with regards to CMS direction.

In response to committee questions, **Ms. Peterson** stated that most concerns were based on the change from a daily rate to the 15-minute increment reimbursement. This change was to better assess the needs of the individual child and ensure that the hours match the needs.

In response to questions, **Ms. Peterson** said that the savings in state funds are based on the aggregate of services provided and the change from a 24-hour increment to a 15-minute increment.

In answer to committee questions, **Mr. Leary** said that the federal audit identified situations in which the state should not be paying for PCS. That information will be used in the assessments and then more specific information regarding savings will be available.

In response to committee questions, **Ms. Peterson** noted that there will be no increase in staff or time related to authorizing prior requests.

In response to questions, **Mr. Leary** stated that there is the possibility that Idaho could be subject to monetary penalties for failure to comply with the findings of the federal audit.

Chairman Block requested that those wishing to speak keep their testimony to three minutes or less in order to finish in time for the subcommittee meetings.

Eddy Van Hout, a PCS provider, **testified in opposition to Docket No. 16-0310-0905**. He said that the assessment tool is at the heart of the changes to PCS services. The assessment determines how many

services a child qualifies for and the rate at which those services are reimbursed. This assessment does not work for 24-hour care providers. The changes need to be fair and communicated clearly. The impact on accessibility to services after these changes is unknown. His group of PCS providers is still willing to continue to meet with Medicaid to evaluate the assessment tool and come to a fair answer.

In response to questions, **Mr. Van Hout** stated that the age restriction categories leave out very young children.

In response to committee questions, **Ms. Peterson** said that the assessment tool takes into account different age and developmental milestones children should reach and medical or cognitive exceptions are taken into consideration with the individual child.

In answer to committee questions, **Mr. Leary** said that the assessment was established using prior assessments from other states in conjunction with our nurses. It is not a valid assessment until the Department begins using it and individual child assessments have not yet been completed.

David McFate, a PCS provider, **testified in opposition to Docket No. 16-0310-0905**. He said that as a provider he gives way more than 15-minute increments of care. It is a 24-hour job. If this change goes into effect and reduces his income by a significant amount he is not sure if his family will be able to continue to provide for the child currently under his care.

In response to committee questions, **Mr. McFate** stated that the change to 15-minute increments would reduce his payments by about two-thirds.

Jeff Wicklum, a PCS provider, **testified in opposition to Docket No. 16-0310-0905**. He currently has two children he cares for. When they first came to his family the oldest child was 18 months. Based on the new assessment tool the provider would receive nothing for children from birth to two years of age. He provides care 24 hours a day and 168 hours a week. Currently he is reimbursed around \$547.40 a week which translates to \$3.25 an hour. These new changes would result in even less of a reimbursement.

In response to questions, **Mr. Wicklum** said that he did not believe the children he currently provides care for would have been taken care of if this rule had been enacted prior to their birth. If people are not reimbursed for this care they are not going to do it.

In response to committee questions, **Mr. Wicklum** stated that his family would not get paid for certain things because of the age bracket restrictions that have been covered in the past.

In answer to committee questions, **Mr. Wicklum** said that after providing foster care for high needs children the Department asked if his family would take on children with even bigger needs. He is now the legal guardian for both children.

Karleen Lemmon, a PCS provider **testified in opposition to Docket**

No. 16-0310-0905. She has had experience as a service coordinator, a parent of a young adult with disabilities and as a foster parent. She is currently a foster parent to an emotionally disturbed and disabled seven year old. If the pay is cut significantly she questioned what would happen to children like him. She stated that placement in a group home would be practically impossible.

Layce Murray, a PCS provider, **testified in opposition to Docket No. 16-0310-0905.** She has been a traditional foster parent for many years and provides care to a nine year old with autism. She said that she does not believe the new assessment will properly address the emotional impact on children that currently receive care. She stated that she does not believe the fiscal impact statement provided by the Department is accurate. It does not account for moving costs if children have to be placed elsewhere. If PCS providers want a break they have to pay out of their own pocket. There are no holidays and no sick leave when you provide care for one of these children. It is a full time job and there is often nowhere else for them to go. The state will pay much more in crisis care than any potential savings they might see for Medicaid.

Christine McFate, a PCS provider, **testified in opposition to Docket No. 16-0310-0905.** She stated that the testimony today has been a very small insight into what it is like providing for these children. They have needs way beyond what can be handled in foster care. She stated that with the new assessment no child will qualify for the 35-40 hours a week marker. The assessment will not address children's needs accurately. These changes will not save the state any money. She stated that these children improve because of the family structure that is provided. In group homes, hospitals and institutions they are not allowed to treat the children as family. This change will cost more money than it is projected to save.

Marilyn Sword, Executive Director of the Idaho Council on Developmental Disabilities, stated that her organization does not have an official position but she would like to leave the committee with some questions to think about. She questioned what the financial impact of institutionalization would be. She also stated that if Medicaid no longer pays for therapeutic foster care she wasn't sure where the money would come from. A collaborative effort between Medicaid and families and community services is critical if families are going to make this work and not simply give up. She noted that typically it has been a change in law that then precipitates a rule change but that is not the case here.

In response to committee questions, **Ms. Sword** said that Medicaid does have a draft of legislation relating to personal assistance services and defining personal care for children.

In response to questions, **Mr. Leary** said that the statute in place currently was written with adults in mind and not children.

In response to questions, **Mr. Leary** stated that the intention of this rule was to clarify what Medicaid should pay for and should not. According to the audit Medicaid is paying for personal services that don't meet the PCS rules or the state plan.

In response to questions, **Leslie Clement**, Medicaid Division Administrator, stated that it is hard to know where therapeutic foster care will be dealt with in the future. It is likely that some families will find that things they currently provide are not covered by Medicaid in the future. However, it is also likely that some payments will be enhanced under this new rule. There is the risk of federal fines if this rule is not accepted.

In response to committee questions, **Ms. Peterson** said that this is a policy on budget savings. No assessment has ever been conducted to fully identify the needs and this new assessment should not be thrown away. There are five months to roll out the assessment before it will be realigned with the new reimbursement methodology. If a child has a medical necessity for a service Medicaid has to pay for it even if it is beyond the coverage limits of the program. The Early Periodic Screening, Diagnosis and Treatment (EPSDT) benefit will cover the additional medically necessary services and added reimbursement would be authorized if the needs were high enough. Children that receive 24 hour PCS care do so through the EPSDT.

In response to questions, **Ms. Clement** stated that the intent is to have an assessment that accurately captures the needs of the individual child and reimburses for those needs.

MOTION: **Rep. Durst** moved to reject **Docket NO. 16-0310-0905**.

ROLL CALL VOTE: **Chairman Block** requested a **roll call vote**. By a vote of **6 aye and 8 nay**, the motion **failed**. Voting in the affirmative: **Reps. Anderson, Wood (27), Rusche, Chew, Durst, Saylor**. Voting in the negative: **Reps. Block, McGeachin, Shepherd (8), Luker, Thayn, Boyle, Gibbs, Thompson**.

MOTION: **Rep. McGeachin** moved to approve **Docket No. 16-0310-0905**.

SUBSTITUTE MOTION: **Rep. Wood (27)** made a substitute motion to hold **Docket No. 16-0310-0905 to time certain**, until the next meeting date of Wednesday, January 20, 2010, in order to further explore the budgetary implications. **Motion carried on a voice vote**.

Chairman Block stated that in the interest of time, **Docket No. 16-0305-0903** would be held until the next meeting Wednesday, January 20, 2010. The subcommittees will begin upon adjournment of the meeting.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 3:29 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE MCGEACHIN RULES SUBCOMMITTEE

DATE: January 18, 2010
TIME: 3:45 p.m.
PLACE: Room EW40
MEMBERS: Chairman McGeachin, Representatives Luker, Thayn, Thompson, Saylor
**ABSENT/
EXCUSED:** NONE

GUESTS: Peggy Cook, Department of Health and Welfare; Rosie Andueza, Department of Health and Welfare; Christine Tiddens, Catholic Charities of Idaho; Reyne Watson; Cassandra Schiffler; Vivian Parrish, Idaho Interfaith Round Table Against Hunger; Karent Vauk, The Idaho Food Bank; Tabitha Jolley, Freedom Resource Center; Kathy Gardner, Idaho Hunger; Bob Parrish; Judy Halverson, United Methodist; Nancy Farell, Idaho Community Action Network (ICAN); Ida Adams, ICAN; Libby Davison, ICAN; Tina Townsend, ICAN; Robert Lawrence, ICAN; Ralph Lewis, ICAN; Marilyn Casey, ICAN; Breland Draper; Cara Sherburne; Ashby Sherburne; Patricia Correa, ICAN; Marisela Mendoza, ICAN; Adriana Magana, ICAN; Yoance Magana, ICAN; Rose Galaviz, ICAN; Adriana Deleon, ICAN; Delene Farias, ICAN; Sara Fines, ICAN; Gabriela Lopez, ICAN; Crystal Ramirez, ICAN; MaryLou Lopez, ICAN; Eduardo Magana, ICAN; Jose Magana, ICAN; Lionel Mendoza, ICAN; Isac Leon, ICAN; Zaira Dapedes, ICAN; Alejandro Vazquez, ICAN; Jesus Picuzo, ICAN; Asuzena Ochoa, ICAN; Lulu Nunez, ICAN; Florencio Torres, ICAN; Paulo Jauregui, ICAN; Estephania Jauregui, ICAN; Juan Torres, ICAN; Ricardo Maciel, ICAN; Alex Escobedo, ICAN; Veronica Y. Mojarra, ICAN; Alicia Mojarra, ICAN; Helenn Angulo, ICAN; Jose Armando Ocaranza, ICAN; Gustavo Lopez, ICAN; Jackie Yarbrough, The Idaho Foodbank; Cameron Steed, ICAN; Bridget Morrisroe-Aman; Rowena Pineda, ICAN; Maricela Rios, Law Office of Kathryn Railsback; Susie Rios, ICAN; Aimee Santos-Lyons, ICAN; Cristian Magallon, ICAN; Adam C. Ramirez, ICAN; S. Michelle Larsen; Tiffani Leslie, ICAN; Edith Bales, ICAN; Retta Green, ICAN; Donna Kemper, ICAN; Diana Corcorran, ICAN; Roxy Carr, ICAN; Amanda Corcorran, ICAN; Carmaletta Allen, ICAN; Barbie Girard, ICAN; Marty Webster, ICAN; Mayra de Alba, ICAN; Miriam Bario, ICAN; Alondra Alvarado, ICAN; Jose Alvarez, ICAN; Mariela Mendivi, ICAN; David Proctor, Idaho Foodbank; Andrea Poen, ICAN; Becca Corcorran, ICAN; Romina Ceron, ICAN; Norman Mendez, ICAN

The meeting was called to order at 3:45 p.m. by Chairman McGeachin.

DOCKET NO **Peggy Cook**, Department of Health and Welfare, presented **Docket No.**
16-0301-0901: **16-0301-0901**, which is a pending rule regarding eligibility for health care assistance for families and children. This docket contains several rule changes to align Idaho's regulations with federal regulations.

Afghan and Iraqi nationals who work as translators for the US government can receive short term benefits. As well, the definition of a newborn child

deemed eligible for Medicaid is changed by removing the requirement that the infant live with the biological mother. Previously in the rule, exclusions were listed individually. The rule will now read that income is excluded in Idaho if it is excluded under federal law. This will eliminate the need to make continual changes to the language as federal law is changed. This docket will also allow families to receive transitional Medicaid for 12 months instead of 6 months after employment is found, and eliminates certain quarterly reports.

The purpose of Docket No. 16-0301-0901 is to bring Idaho into compliance with new federal regulations.

In response to questions, Ms. Cook stated that the parts of the rule change that affect the Idaho General Fund are cumulative from all rule changes, and there are not individual changes she can cite that would have a fiscal impact to the state. She does not have an itemization with her but could provide one to the committee.

MOTION: **Representative Luker** moved to **hold Docket No. 16-0301-0901 to time certain**, until the next meeting date of Wednesday, January 20, 2010, in order to gain clarification on the fiscal impact statement. **Motion carried on a voice vote.**

DOCKET NO 16-0304-0902: **Rosie Andueza**, Program Manager for the Department of Health and Welfare, Division of Welfare, presented **Docket No. 16-0304-0902**, which is a temporary rule with an effective date of June 1, 2009. This rule removes the asset test as one of the requirements for food stamps eligibility at the time of application for food stamps, due to the current economic climate. This change will be effective for a period of twelve months beginning June 1, 2009, and will allow individuals with very low incomes who would otherwise be eligible for benefits, if not for the ownership of some assets, to access necessary food assistance. This policy change aligns with the economic stimulus efforts of the American Recovery and Reinvestment Act of 2009.

In response to questions, Ms. Andueza stated with this rule, 10 temporary positions were created, causing an increase in cost to the state of Idaho. She stated that the food stamps program itself is federally funded. Federal regulations allow each state the option of removing the asset test. The temporary positions as well as the proposed rule will expire in May of 2010. She stated that eligibility for the food stamps program is based on an income of 130% or less of the federal poverty level for the general population. Elderly and disabled persons can go up to 200% of gross federal poverty level, however their net income must bring them below 130%. This is a federal regulation and is not controlled at the state level. This is not a change in how eligibility is determined.

Russ Barron, Administrator for the Division of Welfare, stated that there will be no request for additional funds for this program during this year.

Christine Tiddens, Legislative Advocate Intern for Catholic Charities of Idaho, testified **in support of Docket No. 16-0304-0902**. She stated that food stamps are a vital source of nutritious food for many families with hungry children, and that under the asset test, families that owned a tractor for farm work, or an ATV for hunting, would be disqualified and unable to

receive assistance. She stated that it will be harder for families struggling with unemployment or underemployment to recover from the economic downturn if they have to choose between assets and food, and that having food to eat is a basic human right. She urged the committee to remain mindful of those most vulnerable and fragile due to poverty as they make decisions.

Reyne Watson testified in support of Docket No. 16-0304-0902. As a recent college graduate she found herself with a very limited income. She receives food stamps and is grateful for the help so that she can survive, and she looks forward to the day when she can support herself completely. She believes the asset test is a barrier to those who are in real need of assistance. She stated that practical help provides a way for citizens to have basic needs met while starting out, or while struggling with financial difficulty.

Cassandra Shiffler spoke in support of Docket No. 16-0304-0902. She receives food stamps and says she is proof that the program is not for those who are lazy. She was her high school valedictorian and went on to college and graduated. She has held several jobs including those outside her field, even doing construction and landscaping, in order to support herself in a tough economy. She stated she is not proud to admit she needs help and is receiving food stamps, and has continued to look for opportunities to leave the program, however, right now being able to receive assistance has helped her to have food to eat.

Vivian Parrish, of the Idaho Interfaith Round Table Against Hunger, spoke in support of Docket No. 16-0304-0902. She stated that the food stamps program is a safety net for our nation's families in distress and that removal of the asset test is considered by the USDA to be a "Best Practice". She stated that the combined efforts of faith groups, charities, and local government make a huge difference. 24 states have permanently removed the asset test from eligibility requirements for food stamps assistance, and in October of 2008, the Summit on Hunger made the removal of the asset test one of their next steps for hunger relief.

Tabitha Jolley, of the Freedom Resource Center of Idaho, testified in support of Docket No. 16-0304-0902. Freedom Resource Center is one of the largest food pantries in Idaho. During the recent economic downturn, they have been seeing a different kind of recipient than they are used to. Some who are asking for help have never asked for food or help before and are totally humiliated to be there. Some have nice clothes or nice cars, but might be living in those cars, or might have a vehicle that is about to be repossessed. Not all communities have food pantries but many Idaho stores do accept food stamps, and this is a major part of small stores' incomes. The use of food stamps brings economic stimulus to communities where small grocery stores are able to accept them, and this resource is especially important for families who are living where there is no local food bank.

Karen Vauk, of the Idaho Food Bank, testified in support of Docket No. 16-0304-0902. The Idaho Food Bank is the largest provider of food in the state. In May of 2009, they projected an increase in distribution of 15%, but have already met and exceeded projections with five months left in the fiscal year. This year they projected an increase in holiday meat distribution of 20%, but they saw an increase of 75%. The Idaho Food Bank has 227

partner agencies. Families can seek help through the food bank and network of agencies, as well as through the food stamps program. It is believed that if the asset test was put back in place, there would be such an increase in demand on the food bank and the network that they would not be able to meet the need. In Wilder, 100% of school children qualify for free or reduced price school lunches. Removing the asset test helps families with immediate short term needs and avoids forcing them into even lower levels of poverty.

Marilyn Casey, of the Idaho Community Action Network, Pocatello Branch, is speaking for **Ralph Lewis**, who **supports Docket No. 16-0304-0902**. He is a disabled Korean war veteran. Marilyn stated that a lot of people need food stamp assistance until they are able to find work. This is not coming from the state's fund and will be covered by the federal government. She, on behalf of Ralph Lewis, asked the committee to recommend approval.

MOTION:

Representative Thayn moved to **recommend Docket No. 16-0304-0902 to the full committee for approval**, but stated his concerns that although the food stamps program is federally funded, the federal government had to borrow money last year. He stated that individuals have an obligation to produce. His motion to recommend approval of the docket is because most of the time period for this docket has already occurred. Representative Thayn stated that there is an alternative. Instead of eliminating the asset test, the asset requirement could be raised.

Representative Luker stated that he supports the motion, but also has reservations. He stated that he agrees with Representative Thayn that Idaho could increase asset limitations rather than eliminating them. The program should be to feed people who are without means, not those who are saving.

Chairman McGeachin stated she recognizes that we are in very difficult days in the State of Idaho. Unemployment has greatly increased and the legislature has very difficult decisions to make. It is necessary to balance the state budget and to take care of the needs of the people.

Representative Saylor stated that budgets reflect priorities. He was troubled by a comment that eliminating the asset test allows participants to increase savings, however, he stated he would support the motion.

Motion carried on voice vote.

**DOCKET NO
16-0304-0903:**

Rosie Andueza, Program Manager for the Department of Health and Welfare, Division of Welfare, presented **Docket No. 16-0304-0903**, which is a pending rule. Approximately 30% of Idaho food stamps recipients are elderly or disabled. The passage of the 2007 Farm Bill allowed states to simplify reporting requirements for this population. Idaho simplified reporting beginning in October, 2009. This docket also includes a new allowable expense called the Telephone Utility Allowance, which allows a standard deduction for families whose only out-of-pocket utility expense is for telephone service. The net result is a slight increase in that family's food stamp allotment. The third piece of this docket is a change in calculations that have been done when a family applies for benefits during the middle of the month. As a result of the change in calculations, some families will receive an additional \$2.00 in food stamps during their initial month of eligibility. These changes were made effective in October 2009 by temporary

rule, and the Department of Health and Welfare is asking that the changes be ratified.

MOTION: **Representative Luker** moved to **recommend Docket No. 16-0304-0903** to the full committee for approval. **Motion carried on a voice vote.**

DOCKET NO 16-0304-0904: **Rosie Andueza**, Program Manager for the Department of Health and Welfare, Division of Welfare, presented **Docket No. 16-0304-0904**, which is a pending rule. In November, 2009, Idaho implemented a new automated eligibility determination system, replacing the system that had been in place since 1986. In some instances, opportunities to reduce cost were discovered through the use of the new system. The rule change contained in the docket reflects the simplification of the new process. The rule took effect October 1, 2009 as a temporary rule and now needs to be ratified.

MOTION: **Representative Luker** moved to **recommend Docket No. 16-0304-0904** to the full committee for approval. **Motion carried on a voice vote.**

ADJOURN: There being on further business to come before the committee, the meeting was adjourned at 4:55 p.m.

Representative Janice K. McGeachin
Chairman

Mary Tipps
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE
NIELSEN RULES SUBCOMMITTEE**

DATE: January 18, 2010

TIME: 3:47 p.m.

PLACE: Room EW42

MEMBERS: Chairman Nielsen, Representatives Loertscher, Wood, Boyle Rusche

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

GUESTS:

The meeting was called to order at 3:47 p.m. by Chairman Block.

Chairman Block announced that she would be serving as subcommittee chair for Rep. Nielsen.

DOCKET #: **16-0309-0804** **Paul Leary**, Deputy Administrator of the Division of Medicaid, presented **Docket No. 16-0309-0804**, which requires handwritten or computer printed Medicaid prescriptions contain at least one of three industry features from each of the three categories of tamper resistance. He stated that prescriptions that are phoned, faxed or ePrescribed are exempt from these requirements.

MOTION: **Rep. Rusche** moved to recommend approval of **Docket #16-0309-0804** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0309-0901** **Sheila Pugatch**, Principal Finance Specialist in the Division of Medicaid, presented **Docket No. 16-0309-0901** which reduces the maximum reimbursement percentage of allowed costs from 96.5% to 91.7% and reduces the minimum reimbursement percentage of allowed costs from 81.5% to 77.4%.

In response to questions, **Ms. Pugatch** said that hospitals understand the Department is requesting a decrease in reimbursements and they are willing to support the change because of budget impacts.

In response to questions, **Ms. Pugatch** stated that hospitals are able to receive additional payments through upper limit calculations.

MOTION: **Rep. Wood** moved to recommend approval of **Docket No. 16-0309-0901** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0309-0902** **Sheila Pugatch**, Principal Finance Specialist in the Division of Medicaid, presented **Docket No. 16-0309-0902** which removes payment of DSH monies to out-of-state hospitals. She stated that hospitals serving a disproportionate share of low income patients must qualify by meeting or exceeding a specific disproportionate share threshold and having at least two obstetricians on staff. This rule change removes the requirement of

the obstetrician providing services to Medicaid participants in order to receive DSH monies.

MOTION: **Rep. Wood** moved to recommend approval of **Docket No. 16-0309-0902** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0309-0903** **Dave Simnitt**, Program Manager in the Division of Medicaid presented **Docket No. 16-0309-0903** which applies to school-based services covered in the Medicaid Basic Plan. This removes the requirement that community Medicaid providers must have a contract with a school prior to delivering services in a school setting. He stated that this change ensures the school-based services are in compliance with legal findings and are consistent with licensure and certification requirements for the staff providing the Medicaid services.

In response to questions, **Mr. Simnitt** said that he was not aware of any negative findings regarding schools and non-qualified providers.

MOTION: **Rep. Rusche** moved to recommend approval of **Docket No. 16-0309-0903** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0309-0904** **Paul Leary**, Deputy Administrator of the Division of Medicaid, presented **Docket No. 16-0309-0904** which pertains to the Preventive Health Assistance benefit available to children on the Children Health Insurance Program. He said that currently these children are limited to a total of 200 points for the insurance program. Parents can use wellness points to offset premium costs for their kids. Other changes remove the limitations for participants who receive both behavior and wellness assistance.

MOTION: **Rep. Wood** moved to recommend approval of **Docket No. 16-0309-0904** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0310-0903** **Sheila Pugatch**, Principal Finance Specialist in the Division of Medicaid, presented **Docket No. 16-0310-0903** which caps incentive payments to nursing homes at \$9.50 per patient day and decreases the inflator add-on by 1%.

MOTION: **Rep. Rusche** moved to recommend approval of **Docket No. 16-0310-0903** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0310-0904** **Sheila Pugatch**, Principal Finance Specialist in the Division of Medicaid, presented **Docket No. 16-0310-0904** which changes the annual inflation index applied to increasing the daily rate paid to intermediate care facilities for the mentally retarded.

MOTION: **Rep. Wood** moved to recommend approval of **Docket No. 16-0310-0904** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0310-0906** **Dave Simnitt**, Program Manager in the Division of Medicaid presented **Docket No. 16-0310-0906** which removes the requirement for community providers to have a contract in place with a school prior to delivering services in a school setting. This change ensures that Medicaid rules comply with legal findings and reflect current practice.

MOTION: **Rep. Rusche** moved to recommend approval of **Docket No. 16-0310-0906** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0313-0901** **Dave Simnitt**, Program Manager in the Division of Medicaid presented **Docket No. 16-0313-0901** which deals with consumer-directed services for participants on a developmental disabilities waiver. He stated that the changes are supported by participants, providers, advocates and other stakeholders. He said that the changes will increase choices for participants by increasing the pool of providers of financial management services. Under new authority, Idaho is no longer limited to a single, statewide contractor. Participants can choose who will provide their financial management services, negotiate a monthly rate and change providers if they are not happy. Those who are satisfied with their current provider will not have to change.

MOTION: **Rep. Wood** moved to recommend approval of **Docket No. 16-0313-0901** by the full committee. **Motion carried by voice vote.**

Chairman Block announced that the next subcommittee meeting would be Wednesday, January 20th at 3 p.m. or upon adjournment of the full committee meeting.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 4:14 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE SHEPHERD RULES SUBCOMMITTEE

DATE: January 18, 2010

TIME: 3:52 p.m.

PLACE: Room E403

MEMBERS: Chairman Shepherd, Representatives Anderson, Gibbs, Chew, Durst

**ABSENT/
EXCUSED:** NONE

Guests: Corwin Sutherin, Occupational Therapy Board; Shirlie Meyer, Residential Car Administrators; Bill Arnold, Ph.D, State Psychology Board; Carrie & Avery Gilstrap, Bureau of Occupational Licenses; Jack Zanybnisky, OD, Idaho State Board of Optometry; Shannon Gaertner Ewing, State Board of Chiropractic; Cherie Simpson, Maria & Selena Sanchez, Bureau of Occupational Licenses; Brandi Staples; Roger Hales, Bureau of Occupational Licenses; Richard Budzich, Idaho Division of Financial Management; Tana Cory, Bureau of Occupational Licenses; Benjamin Davenport, Risch Pisca; Susan Oldenkamp; Ryan Fitzgerald, Principle Strategic Advisors; Linda Jackson, Idaho Occupational Therapy Association; Gayle Chaney, SHS Board; Andrew Seitz, SHS Board; Molly Steckel, IMA; Scott Grawit; Podiatry Board.

Chairman Shepherd called the meeting to order at 3:52 p.m.

Roger Hales, State Bureau of Occupational Licenses, said he is here to present the rules on behalf of the various boards, and will introduce others that were also here as we come to their rules.

Docket No. 24-0301-0901 **Mr. Hales** said this is the Rule for the State Board of Chiropractic and introduced the Chairman of the Board, Shannon Gaertner Ewing. He said the substance of rule is to add the website address and they revised the definition that deals with direct supervision of an intern. He said a physician must be physically present in the building to oversee an intern.

Mr. Hales said there are clarifications for a temporary permit, and that it gives a person a limited time to practice while waiting to take the exam.

In answering questions from the committee, Mr. Hales said there are no exemptions for missing the exam, and that the failure rate of the test is 18%, that the test is given at the same time and date around the country and is only administered twice a year. He said there is a large number of students taking the test and they are given three chances to pass the test before they are required to go back to school for further education. He said this rule issues a temporary permit to the student to practice until the test can be passed.

MOTION: **Rep. Gibbs** made a motion to recommend approval of **Docket No.**

24-0301-0901 by the full committee. **Rep. Anderson** seconded the motion. By a voice vote the **motion carried**.

Docket No. 24-0601-0901 **Roger Hales**, introduced Corwin Sutherin and Lynda Jackson. Mr. Hales said last year the Legislature pass H 261, which moved therapist from the Board of Medicine and put in them with the Board of Occupational Therapy. These rules create a standard set of subsections, establish the contact information, revise definitions, and create supervision levels depending on the nature of skills of the licensee, and establish record keeping. This also added rules to set fees for Occupational Therapy.

MOTION: **Rep. Chew** made a motion to recommend approval of **Docket No. 24-0601-0901** by the full committee. **Rep. Anderson** seconded the motion. By a voice vote the **motion carried**.

Docket No. 24-1001-0901 **Mr. Hales** introduced Dr. Jack Zanybnisky, and said the rule makes changes to the definitions of contact and eyeglass prescriptions. He said the prescriptions have to last at least a year unless there is some medical condition that would change it.

Larry Benton, Optometry Association, said they are **in support** of this rule.

MOTION: **Rep. Chew** made a motion to recommend approval of **Docket No. 24-1001-0901** by the full committee. **Rep. Gibbs** seconded the motion, by a voice vote the **motion carried**.

Docket No. 24-1101-0901 **Roger Hales**, introduced **Dr. Scott Grawit** from the Board of Podiatry, and said the first change in this rule is updating the code of ethics, it also adds the website address, and is making changes to the endorsement scenario. He said there are changes in the code that deals with surgical residency and that if a person has graduated before 1993, they don't have to have a surgical residency. They have to fill all other requirements and anyone graduating after 1993 is still required to have the surgical residency requirement.

MOTION: **Rep. Anderson** made a motion to recommend approval of **Docket No. 24-1101-0901** by the full committee. **Rep. Chew** seconded the motion, by a voice vote the **motion passed**.

Docket No. 24-1201-0901 **Mr. Hales** said this rule was created on behalf of the Board of Psychologist, for inactive licenses. It allows a psychologist to take a hiatus without having to do continuing education. The rule establishes a small fee to do this. He said the application fee or endorsement fee clarifies in rule what the policy is and that a psychologist cannot practice when in this inactive status.

Mr. Hales said a new section has been added dealing with rehabilitation, and it identifies the nature of the programs. He said the rule clarifies various types of continuing education, and includes online education and other forms of education.

MOTION: **Rep. Durst** made a motion to recommend approval of **Docket No.**

24-1201-0901 by the full committee. **Rep. Gibbs** seconded the motion, by a voice vote the **motion carried**.

Docket No. 24-1201-0902 **Mr. Hales** said this rule deals with the Psychology Examiners docket, and out of state psychologist to be able to practice in Idaho for 30 days under special circumstances.

MOTION: **Rep. Gibbs** made a motion to recommend approval of **Docket No. 24-1201-0902** by the full committee. **Rep. Durst** seconded the motion, by a voice vote the **motion carried**.

Docket No. 24-1501-0901 **Mr. Hales** said the rule deals with the Board of Professional Counselors & Marriage & Family Therapists, he said it adds the website address. Mr Hales said the Board is strengthening educational requirements as it relates to these counselors. He said additionally the rule clarifies who can supervise an intern and that supervision requirements must be met.

Mr. Hales also said this rule clarifies a fee as related to an exam and there is a small change to endorsement provision for a foreign country, that they must have similar requirements for licencing, that there are changes to continuing education requirements, and some requirements have been policy and not actually in rule.

MOTION: **Rep. Durst** made a motion to recommend approval of **Docket No. 24-1501-0901** by the full committee, **Rep. Chew** seconded the motion, by a voice vote the **motion passed**.

Docket No. 24-1601-0901 **Mr. Hales** said there is a brief change to this rule, it adds the web address, and states that a dentist must be present when an intern is interacting with a patient.

MOTION: **Rep. Durst** made a motion to recommend approval of **Docket No. 24-1601-0901** by the full committee, **Rep. Gibbs** seconded the motion, by a voice vote the **motion passed**.

Docket No. 24-1701-0901 **Mr. Hales** said this rule change is a fee decrease for the Board of Acupuncture, that all the money is held by the Bureau of Occupational Licenses and it reduces the application fee and other fees by \$75.

MOTION: **Rep. Gibbs** made a motion to recommend approval of **Docket No. 24-1701-0901** by the full committee. **Rep. Chew** seconded the motion. By a voice vote the **motion carried**.

Docket No. 24-1901-0901 **Mr. Hales** said this rule deals with Residential Care Administrators, and introduced Shirlie Meyer, to answer any questions. He said the rule adds the website address and the board is adopting a rule to allow the termination of an application file if it is inactive after 12 months and a license is not issued.

Mr. Hales said the rule also applies to the Nursing Home Administrators

Board, that they are entitled to a Residential Care Licence when they apply and pay a fee and also pass an exam. Mr. Hales said they would also be able to grant to a Residential Care Administrator the Nursing Home Administrator License.

Mr. Hales and **Ms. Meyer** said in answering questions, that there is a 1 year leadership or management experience requirement and that facilities are different sizes, that a nursing home is a medical model, and that a residential care facility is more of a social model.

In answering questions, **Mr. Hales** said there is a 30 day written notification when an application is inactive for 12 months, also that twelve months inactivity of an application is fairly rare and that a worst case scenario would be the person would have to reapply.

MOTION: **Rep. Anderson** made a motion to recommend approval of **Docket No. 24-1901-0901** by the full committee. **Rep. Durst** seconded the motion. By a voice vote the **motion carried**.

Docket No. 24-2301-0901 **Mr. Hales** said this rule deals with a small fee increase for the Board of Speech and Hearing Services. That other changes include cleaning up the web address, and clarifying what a person has to do to reinstate their license, that they are trying to provide flexibility to the licensee, and clarifying a provisional permit. Mr. Hales said the rule is clarifying other provisions and raising the annual renewal fee by \$25 dollars, from \$100 to \$125. Mr. Hales gave a little history of the board and that they are a new board and it is common to acquire more start up debt. They are currently \$44,000 in debt, also that this board has suffered a law suite that has moved through the court system over the passed 4 years. He said they are almost finished with the law suite and won't have the attorney fees. Mr. Hales also said that later fees may come back down and they can further review the expenses to the full committee if needed.

MOTION: **Rep. Gibbs** made a motion to **recommend approval of Docket No. 24-2301-0901** by the full committee.

In answering questions, **Mr. Hales** said that the licensee would need to have a license in both states if they live on the boarder and want to service both states. He also said that the supervisor needs to be in this state. He also said that it would take the Board approximately 3 years to get out of debt and it would be a possibility to come back and reduce the fee.

Rep. Anderson seconded the motion, by a voice vote, the **motion carried**.

ADJOURN: The meeting adjourned at 5:08 p.m.

Representative Paul Shepherd
Chairman

Susan Werlinger
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 20, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielson, Representatives McGeachin, Loertscher, Shepherd (8), Luker, Marriott (Anderson), Thayn, Boyle, Gibbs, Thompson, Wood (27), Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Bethany Gadzinski, Bureau Chief for Health and Welfare; Sherry Johnson, Program Specialist for Health and Welfare; Jim Baugh, Executive Director for Disability Rights Idaho; Dana Gover; Katherine Hansen, Community Partnerships of Idaho; Marla Fund; Layce Murray; Tabitha Jolley; Brenda Dilbeck; David McFate; Heidi Low, American Cancer Society & Cancer Action Network; Alissa Wakefield; Lee Lay, National Rational Party; Bev Barr, Rules Specialist for Department of Health and Welfare; Kathie Garrett, Advocates for Addiction Counseling and Treatment; Kristine McFate; Susan Rohnert; Bunni Farnham; Wesley Farnham; Alena Torrey; Russ Barron; Scott Tiffany, Bureau Chief for Health and Welfare; Steve Bellomy Bureau Chief for Health and Welfare; Lyn Darrington, Business Psychology Association; Michelle Britton, Division Administrator for Family and Community Services

The meeting was called to order at 1:30 p.m. by Chairman Block.

MOTION: **Rep. Wood** moved to approve the minutes of Thursday, January 14, 2010 as written. **Motion carried by voice vote.**

DOCKET #: **16-0720-0901** **Bethany Gadzinski**, Substance Use Disorder Bureau Chief, presented **Docket No. 16-0720-0901** which implements formal standards for recovery support services, tightens who can provide services to publicly funded clients, revises the application process for program approval and adds fees for the initial application, and broadens where clinical supervision can take place. Some of the major changes are as follows: All clinicians providing services must have a background check. The lease and insurance can be provided later in the approval process. All providers must be co-occurring capable. A program with multiple facilities only needs to provide long distance supervision and a minimum of one onsite supervision session monthly. Currently there is no fee to submit an application to provide services; the change will require providers to pay for 5% (\$100) of the costs. After a six month provisional certification is complete a 12 or 24 month certification can be granted depending upon the level of compliance. All clinicians must hold a license or certification but current clinicians will be grandfathered in. The time line for completion of an individualized treatment plan has been increased from within 7 days to within 30 days. Finally, the staff ratio for outpatient services has been increased from one counselor per 30 clients to one

counselor per 50 clients.

In response to committee questions, **Ms. Gadzinski** stated that the minimum liability requirement for agencies is not a change in rule or new to what treatment providers have had to do for the past ten years. The Attorney General's office did review the rules and other agencies were a part of the rule-making process.

In response to questions, **Ms. Gadzinski** stated that the background check requirement was added because the providers are working with vulnerable adults. Most providers already do it as a matter of procedure.

In answer to committee questions, **Ms. Gadzinski** said that the 5% fee charge on new applications was an attempt to begin the process of having providers be somewhat accountable for what the application process costs the Department. They did not want to overburden providers and with the current economic climate it would not be fair to add more than a \$100 fee.

In response to questions, **Ms. Gadzinski** explained that the change of 30 days for completion of treatment plans was negotiated with providers and based upon the reality of how quickly a good treatment plan could really be created. It takes more than a single meeting with a client and realistically it could take up to a month to get the correct plan in place.

In response to committee questions, **Ms. Gadzinski** clarified that the requirement for clinicians to hold a license or certification does have a true grandfather clause and all current providers that have been certified by the Department are qualified.

In answer to committee questions, **Ms. Gadzinski** said that these changes will not result in a loss of jobs. There is less money to treat clients and staff has already been laid off as a result. She noted that funding comes from private sources as well as from the state and federal governments. The state funds specifically are a combination of general and dedicated funds.

MOTION: **Rep. Rusche** moved to approve **Docket No. 16-0720-0901**. **Motion carried by voice vote.**

DOCKET #: **Bethany Gadzinski**, Substance Use Disorder Bureau Chief for the Division of Behavioral Health presented **Docket No. 16-0603-0901** which is a chapter repeal to avoid duplication with **Docket No. 16-0720-0901** that has been approved.

MOTION: **Rep. Thayne** moved to approve **Docket No. 16-0603-0901**. **Motion carried by voice vote.**

DOCKET #: **Bethany Gadzinski**, Substance Use Disorder Bureau Chief for the Division of Behavioral Health presented **Docket No. 16-0603-0902** which is an extension regarding licensing requirements. She stated that because of the approval of **Docket No. 16-0720-0901** which does not take effect until July 1, 2010 this temporary rule is needed to ensure there

is no lapse in licensing requirements in the interim.

In response to committee questions, **Paul Leary**, Deputy Administrator of the Division of Medicaid, clarified that this is a temporary rule that is currently in effect until May 1. **Docket No. 16-0720-0901** will not take effect until July 1. This rule needs to be in place until the new rule takes effect. The agency will repeal this rule once **Docket No. 16-0720-0901** takes effect.

MOTION: **Rep Thompson** moved to approve **Docket No. 16-0603-0902**. **Motion carried by voice vote.**

DOCKET #: **Chairman Block** stated that **Docket No. 16-0310-0905** was before the committee on Monday, January 18. Further clarification from **Natalie Peterson** with the Division of Medicaid was requested before a decision could be reached. She stated that no further testimony from the public would be heard today.

Natalie Peterson, Bureau Chief Medicaid Long-Term Care Program of the Division of Medicaid, responded to questions from the committee regarding **Docket No. 16-0310-0905**. She stated that the rule was being amended in response to the federal audit on Personal Care Services (PCS). The state incorrectly made payments of up to \$3.7 million for therapeutic foster care. She noted that the assessment tool was developed using assessments from Oregon, Vermont, Washington and Nevada as references. In practice the assessment would be used by regional nurses as they reviewed the individual child to determine what care should be reimbursed. After the assessment a Notice of Decision is mailed to each participant's parent or guardian. The Department has both formal and informal appeals processes that can be used. She noted that the reimbursement methodology is the only thing that has been changed.

In response to committee questions, **Ms. Peterson** stated that the intent of the assessment is to provide for the medical needs of the child. At a later time there may be discussion of what natural supports can be provided. Some support given by 24 hour PCS providers is not necessarily directly related to medical needs. Other services may be provided for but outside of the PCS care funding.

In answer to committee questions, **Ms. Peterson** said that documentation should occur as the care is given. That may result in daily documentation or it may not. There will be different frequencies for different types of care. She stated that under the current payment structure \$78.20 a day is the reimbursement rate for one child. The assessment tool will come up with the hours that are medically necessary to care for that child and that will be reimbursed based upon an hourly rate of \$13.34. There is the potential that some payments will increase for children currently receiving care.

In response to committee questions, **Ms. Peterson** explained that the people conducting the assessment are Rn's that have been specifically trained on how to do so. Currently there is no consistency when assessments are done and this new tool will enhance the process.

In response to questions, **Michelle Britton**, Division Administrator for Family and Community Services, stated that the Department provides care in a number of circumstances. If there is a situation where a provider can no longer care for a child because they are not being adequately reimbursed, Health and Welfare has an obligation to find an alternative. Children will not be left without a home or provider. She noted that Medicaid offers a lot of options and it is not all up to PCS to cover every issue a child may have. PCS has certain responsibilities and other services should deal with the social and emotional issues.

In answer to committee questions, **Mr. Leary** explained that the way the audit was set out the Department has to review all potential inappropriate payments. If the rule is passed and they can show the auditors that steps have been taken based upon their findings in the past he believes they may have to pay back only a small portion of the \$3.7 million in inappropriate funds. Within the federal guidelines Health and Welfare wants to make sure it provides all the allowable services it can for children.

In response to questions, **Ms. Peterson** said that the intent is to begin utilizing the assessment tool at the beginning of February and refine it as it is being used.

MOTION:

Rep. Wood moved to accept **Docket No. 16-0310-0905** with the stipulation that an interim report to the Health Care Task Force be required in six months time regarding the effects of the implementation of this rule.

Rep. Rusche said that the CMS audit was pretty directive and has to be enforced according to the rule. He noted that he was hesitant to impede the Department's ability to do that. He encouraged the Department to have ongoing discussions with families regarding the intense mental and behavioral issues these children have.

Rep. Nielsen stated his concern about replacing the daily flat rate with a 15 minute incremental system. This will affect the care being given to a child if the provider's time is taken up with administrative duties and paperwork. He noted that he is not as concerned with the federal government's standards as he is about the care these children will receive. Efficiency is good but not at the expense of the child's care.

Rep. Durst said that Health and Welfare should be about keeping the best interest of the child in mind. Regardless of federal mandates and requirements it is more important to do what is right by the children.

Motion carried by voice vote. Rep. Nielsen and Rep. Durst requested that they be recorded as voting nay.

Chairman Block announced that in the interest of time, **Docket No. 16-0305-0903** would be held until the next meeting Friday, January 22, 2010. She stated that the subcommittees would be meeting following adjournment of the meeting today.

ADJOURN:

There being no further business to come before the committee, the

meeting adjourned at 3:24 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE MCGEACHIN RULES SUBCOMMITTEE

DATE: January 20, 2010

TIME: 3:00 p.m.

PLACE: Room EW05

MEMBERS: Chairman McGeachin, Representatives Luker, Thayne, Thompson, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Peggy Cook, Department of Health and Welfare; Dieuwke A. Spencer, Bureau Chief, Department of Health and Welfare; Kathy Turner, Program Manager, Department of Health and Welfare; Mitch Scoggins, Program Manager, Department of Health and Welfare, Joe Turner, citizen; Christine Hahn, James Colburn, Christopher Ball, Department of Health and Welfare

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

DOCKET NO. 16-0301-0901: **Peggy Cook** was recognized to explain **Docket No. 16-0301-0901**, which is a pending rule regarding eligibility for health care assistance for families and children. Ms. Cook said she had explained the docket at a previous meeting, but would be happy to explain it again for Chairman Block who was sitting in for the Subcommittee Chairman, Rep. McGeachin..

The docket contains several rule changes to align Idaho's regulations with federal regulations. Afghan and Iraqi nationals who work as translators for the U.S. government have been able to receive short-term benefits. This change would extend the Afghani special immigrant benefits to eight months. It would amend "deemed newborn" (a newborn child deemed eligible for Medicaid for the first year of life) to remain eligible regardless of mother's eligibility or whether living with birth mother.

It would align citizenship and identification documentation requirements with federal regulations for deemed newborns and tribal members. It would exclude income as required and defined in federal law and delete the reporting requirements and income test from Transitional Medicaid.

This rulemaking is necessary to bring Idaho into compliance with new federal regulations.

Representative Luker asked questions at the previous meeting concerning the fiscal impact statement. Ms. Cook came before the committee today to answer those questions..

Costs were estimated using an average of \$265.51 per month per person as projected by the Division of Medicaid for the families and children coverage groups. The figures were obtained through ad hoc reports of the total number of participants in each category who applied for or received family Medicaid benefits in the most recent 12-month period. These figures were rounded to the nearest \$100.00. Actual expenditures by individual

participants were not obtained. No additional funding will be requested for these rule changes.

Extending Afghani special immigrant eligibility to 8 months will cost \$700 to the general fund and \$2500 to federal.

Fiscal impact of "Children's Health Insurance Program (CHIP) Reauthorization of 2009" sections 113 and 221 will cost \$116,100 to state general fund and \$440,900 to federal.

For deemed newborns exempt from documenting U.S. citizenship, the cost is \$2,000 to state general fund and \$7,300 to federal. Ms. Cook said that in some instances, leaving the child with the birth mother would not be in the best interests of the child.

MOTION: **Representative Luker moved to recommend Docket No. 16-0301-0901 to the full committee for approval. Motion carried on voice vote.**

DOCKET NO. 16-0210-0901: Representative McGeachin took over the chairman's seat and recognized **Kathy Turner** to explain **Docket No. 16-0210-0901**.

Ms. Turner said she is Program Manager with the Office of Epidemiology, Food Protection, and Immunization within the Division of Public Health. This docket includes two new sections, clarifying language for specific diseases and a correction to the 2008 chapter rewrite.

The first new section is Section 522, which is currently a temporary rule mandating laboratories report novel influenza A to Idaho Public Health authorities and requires physicians to report hospitalized cases. The rule provides Public Health with authority to investigate cases without mandating investigation of every reported infection.

The second new section is Section 068 designed to prevent the spread of health hazards from dead human bodies. The Department of Health and Welfare shall have jurisdiction to regulate, control and supervise the preservation, embalming, handling, transportation and burial or disposal of all deceased human bodies.

Clarifying updates were made to the chapter regarding the nomenclature for the agent causing cryptosporidiosis and complications of E. Coli infection and reducing the time a person must stay home with mumps.

MOTION: **Representative Thompson moved to recommend Docket No.16-0210-0901 to the full committee for approval. Motion carried on voice vote.**

DOCKET NO. 16-0212-0901: **Mitch Scoggins** was recognized to explain **Docket No. 16-0212-0901**. Mr. Scoggins said he is the Coordinator for the Children's Special Health Program in the Bureau of Clinical and Preventative Services in the Division of Public Health. This docket concerns rules governing procedures and testing to be performed on newborn infants. Through testing on each newborn, the Idaho Newborn Screening Program diagnoses about 30 infants per year as having one of the over 40 conditions on the screening panel. About half of the conditions for which screening is done can kill an infant in the first 30 days of its life and many others can cause permanent brain

damage.

This pending rule does not change any policy or procedure. It merely aligns the rule with currently accepted medical practice. Additional changes have been made to update the procedures listed in the rule to bring them in line with recommendations of the Clinical Laboratory Standards Institute.

A new section, 050, "Use and Storage of Dried Blood Specimens" has been added to clearly define that the only acceptable use of an infant's dried blood specimen is for newborn screening.

MOTION: **Representative Luker moved to recommend Docket No. 16-0212-0901 to the full committee for approval. Motion carried on voice vote.**

DOCKET NOS. 16-0225-0901, 16-0225-0902: Chairman McGeachin recognized **Dr. Christopher Ball**, Acting Chief of the Bureau of Laboratories, to explain **Docket No. 16-0225-0901** and **Docket No. 16-0225-0902**.

Dr. Ball said these two dockets are companion dockets. The first docket, 16-0225-0901 is a proposed repeal of the existing chapter and the second, docket 16-0225-0902, is a proposed rewrite of these rules.

A review of the existing rule found it to be outdated and in need of several changes. For example, the rule includes tests that are no longer performed, like newborn screening, and it does not have a dedicated section for the clinical tests that comprise about half of the services offered by the laboratory.

Docket 16-0225-0902 eliminates the services that are no longer performed by the State Lab. Additionally, the rewrite modernizes the format to comply with the requirements of the Office of Administrative Rules, the Department's plain language standards, and includes the new analytical techniques and services offered by the Bureau's Clinical and Environmental sections.

Based upon fiscal year 2008 testing volumes, the new fee structure will result in about \$130,000 of additional receipt funding. This funding will be used to offset the Bureau's increasing operating costs, enable preventive maintenance and maintain the personnel budget. By implementing the new fee structure, additional general funds will not be needed.

A question was asked regarding a common environmental lab test and what the fee change would be. Dr. Ball said for a sulfate and water test, the fee would change from \$18.50 to \$19.00.

MOTION: **Representative Thompson moved to recommend Docket No. 16-0225-0902 to the full committee for approval. Motion carried on voice vote.**

MOTION: **Representative Sayler moved to recommend Docket No. 16-0225-0901 to the full committee for approval. Motion carried on voice vote.**

ADJOURN: Prior to adjourning, Chairman McGeachin said there would be meetings scheduled on Friday, January 22, in order to stay on target to get through

all of the rules by the end of next week. There being no further business to come before the committee, the meeting was adjourned at 4:10 p.m.

Representative Janice McGeachin
Chairman

Betty Baker
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE
NIELSEN RULES SUBCOMMITTEE**

DATE: January 20, 2010

TIME: 3:34 p.m.

PLACE: Room EW42

MEMBERS: Chairman Nielsen, Representatives Loertscher, Wood, Boyle Rusche

**ABSENT/
EXCUSED:** NONE

GUESTS: Scott Tiffany, Bureau Chief for Health and Welfare; Steve Bellomy Bureau Chief for Health and Welfare; Lyn Darrington, Business Psychology Association; Sandra Evans, Executive Director Idaho Board of Nursing; Nancy Kerr, Executive Director Idaho Board of Medicine

The meeting was called to order at 3:34 p.m. by Chairman Nielsen.

DOCKET #: **16-0701-0901** **Scott Tiffany**, Bureau Chief for Mental Health in the Division of Behavioral Health, presented **Docket No. 16-0701-0901** which provides a sliding fee schedule for children's mental health, and substance use disorders. He stated that the rule change modifies the definition of "family household." The revised definition includes step parents and step children and excludes adult siblings for income and counting purposes. The change allows a step father's income to be considered when determining the percentage of charges a family is responsible for.

MOTION: **Rep. Wood** moved to recommend approval of **Docket No. 16-0701-0901** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0739-0801** **Scott Tiffany**, Bureau Chief for Mental Health in the Division of Behavioral Health, presented **Docket No. 16-0739-0801** which establishes minimum qualifications and an appointment process for Designated Examiners. He stated that the rule change clarifies the criminal history and background check requirement. Previously a check was required every two years following the initial one year appointment. The revision requires the background check only once, provided the reappointment application is received at least 60 days prior to the expiration date of the previous appointment. He said that the requirement to submit a copy of the applicant's professional license as part of application was also added.

In response to questions, **Mr. Tiffany** clarified that the background check was previously required twice: upon initial application and upon renewal. This rule change will require the background check only once if the renewal is completed at least 60 days prior to expiration of the appointment.

MOTION: **Rep. Rusche** moved to recommend approval of **Docket No. 16-0739-0801** by the full committee. **Motion carried by voice vote.**

DOCKET #:
16-0506-0901

Steve Bellomy, Bureau Chief for Audits and Investigations in the Division of Management Services, presented **Docket No. 16-0506-0901** which deals with criminal background check requirements. He said that four categories of service for which a background check will be required are being amended. Volunteers will now be required to submit to a background check. Three new felonies will be added to the list of disqualifying crimes. Finally, changes were made to clarify references to other rules and Idaho Code.

In response to questions, **Mr. Bellomy** stated that when a specific program passes a requirement for a background check in order to do it the authority must exist under the Division of Management Services rules. He noted that temporary rules are initiated to allow for background checks to occur immediately until the rules can be amended. If this pending rule is approved it will replace the temporary rule.

In response to questions, **Mr. Bellomy** said that the five year exemption refers to individuals that fail a background check. Those individuals will be denied employment for five years.

MOTION:

Rep. Wood moved to recommend approval of **Docket No. 16-0506-0901** by the full committee. **Motion carried by voice vote.**

DOCKET #:
22-0101-0901

Nancy Kerr, Executive Director for the Board of Medicine, presented **Docket No. 22-0101-0901** which allows the Board to collaborate with other medical regulatory authorities in Idaho and other states and allows for the sharing of investigate information with them.

In response to questions, **Ms. Kerry** clarified that the sharing of information would only be allowed with other medical regulatory agencies in Idaho and other states.

MOTION:

Rep. Wood moved to recommend approval of **Docket No. 22-0101-0901** by the full committee. **Motion carried by voice vote.**

DOCKET #:
23-0101-0901

Sandra Evans Executive Director for the Board of Nursing, presented **Docket No. 23-0101-0901** which revises existing rules addressing definitions and methods of validating an applicant's declared state of primary residence. She stated that as part of the Nurse Licensure Compact, which allows participating states to mutually recognize each others' RN and LPN licenses, a nurse can hold a single licensure issued by their state of residence and practice in other states participating in the Compact. The rule change clarifies the definition of "primary state of residence." It also allows the US Military Form No. 2058 or a US Government W-2 Form to serve as acceptable evidence of the primary state of residency.

MOTION:

Rep. Rusche moved to recommend approval of **Docket No. 23-0101-0901** by the full committee. **Motion carried by voice vote.**

ADJOURN:

There being no further business to come before the committee, the

meeting adjourned at 4:07 p.m.

Representative Pete Nielsen
Chairman

Sarah Hendrick
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE
SHEPHERD RULES SUBCOMMITTEE**

DATE: January 20, 2010

TIME: 3:00 p.m.

PLACE: Room EW 32

MEMBERS: Chairman Shepherd, Representatives Marriott (Anderson), Gibbs, Chew, Durst

**ABSENT/
EXCUSED:** NONE

GUESTS: Mark Johnston, Matt Murray, and Glenn Luke, Board of Pharmacy; Pam Eaton, Idaho Retailers Association and Idaho Retail Pharmacy Council

Meeting was called to order at 3:37 p.m. by Chairman Shepherd.

Docket No. 27-0101-0901 **Mark Johnston**, Director of the Idaho State Board of Pharmacy, presented **Docket No. 27-0101-0901**, which deals with a duty to provide current contact information to the Board of Pharmacy within ten days of any change. Mr. Johnston explained that the Board has sometimes had in difficulty finding licensees during disciplinary actions; he noted other states have had similar difficulties. Mr. Johnston said the Board has not received any negative comment on this rule.

Responding to committee questions, Mr. Johnston said noncompliance with this rule would result in a complaint being filed against the licensee. He said the Board would not consider formal discipline unless there was a negative outcome as a result of failing to provide the new contact information.

MOTION: **Rep. Gibbs** moved to recommend approval of **Docket No. 27-01010-0901** by the full committee; **Rep. Chew** seconded the motion. **Motion carried on voice vote.**

Docket No. 27-0101-0903 **Mr. Johnston** then presented **Docket No. 27-0101-0903**, which requires licensees to provide timely updates on changes in pharmacy hours of operation. The Board has received some complaints about pharmacies not being open during posted business hours, and this is an attempt to address that problem. If pharmacies want to change their hours, they will need to provide seven days' notice to the Board. If they want to close for a holiday, they will simply need to post signage for seven days in advance, but no notice to the Board is required.

In answer to questions from the committee, **Mr. Johnston** said that by statute, the Board can impose a maximum \$2,000 fine per occurrence for a pharmacy's violation of this rule. If the violation is by an individual, that person's license can be restricted, revoked or suspended.

Pam Eaton, representing the Idaho Retail Pharmacy Council, was recognized to respond to a question about whether this requirement would open up pharmacies to possible legal liability if a patient was unable to obtain life-saving drugs during previously-posted regular pharmacy hours. Ms. Eaton said her organization has been involved in the development of this policy and has agreed

to these rules. She said other states have similar language in place.

Mr. Johnston responded to a concern about whether this amounts to a government intrusion into private business, and whether the regulation could be extended to doctor's offices and other care facilities. He said it is the Board's duty to protect the life and health of the citizens of Idaho, and implementation of this rule helps assure that protection.

MOTION: **Rep. Durst** moved to recommend approval of **Docket No. 27-0101-0903** by the full committee; **Rep. Anderson** seconded the motion. **Motion carried on voice vote.**

Docket No. 27-0101-0905 **Mr. Johnston** presented **Docket No. 27-0101-0905**, which was brought by the pharmacists, with additional support from physicians who recognize the benefit of this change. Mr. Johnston said a doctor typically writes a prescription for a 30-day supply, with the possibility of two refills, for a total of 90 days' worth of medication. This rule change will allow pharmacists to provide, in one prescription, up to a 90-day supply of certain drugs that are not controlled substances.

MOTION: **Rep. Anderson** (Marriott) moved to recommend approval of **Docket No. 27-0101-0905** by the full committee; **Rep. Gibbs** seconded the motion. **Motion carried on voice vote.**

Docket No. 27-0101-0906 **Mr. Johnston** presented **Docket No. 27-0101-0906**. He said the Board of Pharmacy has always held that pharmacists can practice only in a pharmacy, but more recently pharmacists find themselves working at health fairs, nursing homes and other venues. There are even some pharmacists on call at state hospitals. In today's environment, pharmacists can log on to a computer to get information and make decisions. Mr. Johnston said the Board wants to legitimize the practice of pharmacy outside a licensed pharmacy. He said they took into consideration a number of factors, including the necessity for confidentiality and proper documentation for any health care decisions that are made.

Asked why the Legislature is involved in dictating rules on record retention, Mr. Johnston said it is sometimes necessary to access records during the course of future investigations for potential fraud, misdealings, or misfilled prescriptions.

MOTION: **Rep. Chew** moved to recommend approval of **Docket No. 27-0101-0906** by the full committee; **Rep. Durst** seconded the motion. **Motion carried on voice vote.**

Docket No. 27-0101-0907 **Mr. Johnston** presented **Docket No. 27-0101-0907**, which reflects some changes to the Wholesale Drug Distribution Act. This rule adds repackagers who are authorized distributors of record for FDA registered manufacturers to the definition of normal distribution channel. Rep. Chew noted that this rule will cut down on the amount of necessary paperwork.

MOTION: **Rep. Chew** moved to recommend approval of **Docket No. 27-0101-0907** by the full committee; **Rep. Anderson** seconded the motion. **Motion carried on voice vote.**

Docket No. **Mr. Johnston** presented **Docket No. 27-0101-0908**, a prescription transfer rule.

27-0101-0908 He said this rule clarifies that a pharmacy may transfer a prescription to another pharmacy without first having to fill it. The rule also clarifies the recordkeeping responsibility of the receiving pharmacy. Mr. Johnston noted that sometimes a prescription is inadvertently called in to the wrong pharmacy; in the case of Albertson's, for instance, there are four separate locations on State Street in Boise. Previously, the pharmacist receiving the called-in prescription would have to first fill the prescription before transferring it, and then void it. The rule will also allow information that was previously required to be on the back of a prescription to be entered into the pharmacy's database in lieu of writing the information on the hard copy of the new prescription.

Mr. Johnston said the final change in this docket was made because of a change at the federal level. He noted that most chain stores have a shared database that will allow someone to refill a prescription at any of the chain's locations; controlled substances such as cough medicine, however, were not allowed to be filled in this manner. Mr. Johnston said the DEA now allows prescriptions for controlled substances to be filled from the database information. All documentation requirements still need to be met.

MOTION: **Rep. Durst** moved to recommend approval of **Docket No. 27-0101-0908** by the full committee; **Rep. Chew** seconded the motion. **Motion carried on voice vote.**

Chairman Shepherd asked the Pharmacy Board representatives if they would be willing to attend the full committee meeting, and they indicated they would do so.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 4:15 p.m.

Representative Paul Shepherd
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 22, 2010

TIME: Upon adjournment of the 10:30 a.m. caucus

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd (8), Luker, Marriott (Anderson), Thayn, Boyle, Gibbs, Thompson, Wood (27), Rusche, Chew, Durst, Sayler

**ABSENT/
EXCUSED:** Representatives Nielsen, Loertscher, Wood (27)

GUESTS: Susie Cummins, Medicaid Program Specialist in the Division of Welfare; Mary Jones, Program Manager in the Division of Family and Community Services; Scott Tiffany, Bureau Chief for Mental Health in the Division of Behavioral Health; Cameron Gilliland, Bureau Chief in the Division of Health and Welfare; Christine Pisani, Program Specialist for the Idaho Council on Developmental Disabilities (ICDD); Marilyn Sword, Executive Director ICDD; Jim Baugh, Executive Director of Disability Rights

The meeting was called to order at 11:36 a.m. by Chairman Block.

DOCKET #: **16-0305-0903** **Susie Cummins**, Medicaid Program Specialist for the Division of Welfare, presented **Docket No. 16-0305-0903** which affects cash assistance and Medicaid for the aged, blind and disabled. She stated the beginning January 2009 the Department paid at least \$53 a month to individuals who qualify for the full Supplemental Security Income (SSI) payment. This allows the state to continue to meet the federal maintenance of effort requirements based on the monthly payment rather than an annual expenditure. She also noted that beginning March 2009 the cash aid payment was capped at \$53 per person. This has resulted in a savings of approximately \$1.1 million in one year. This rule change does not affect a person's Medicaid eligibility but does allow the state to save money on a program that is paid solely with state dollars.

In response to committee question, **Ms. Cummins** stated that the \$53 amount is based upon what the state paid in 1983. The \$1 million less being spent is not money paid on a service but rather a cash aid payment and no services are being cut. This payment is designed to supplement SSI payments. Those that qualify will most likely be receiving more SSI than they have been in the past. Some will receive lower cash payments but this is because they do not have a high housing cost. If they do start paying for housing they can apply for the higher SSI monies.

MOTION: **Rep. Thayne** moved to approve **Docket No. 16-0305-0903**. **Motion carried by voice vote.**

DOCKET #: **16-0404-0901** **Mary Jones**, Program Manager for the Infant Toddler Program in the Division of Family and Community Services presented **Docket No. 16-**

0404-0901 which provides for family cost participation in the Infant Toddler Program through a system of sliding fees for selected services. Three public meetings were conducted, an electronic survey was distributed to community partners and then a workgroup representing diverse stakeholders drafted language for the rule. The rule supports a system of payment where cost for services are shared between the Infant Toddler Program, families and third parties payers including Medicaid and private insurance. Previously, costs for early intervention services have been at no cost to families. This pending rule provide policies and procedures to administer the program, sets income guidelines for determining payment obligations and outlines procedures for income verification. No child will be denied early intervention services because of the family's inability to pay. The six services that will be charged for are: audiology services, occupational therapy, physical therapy, psychological services, special instruction or developmental therapy and speech language pathology services. All other early intervention services will continue to be provided with no cost to the users.

The sliding fee schedule is based on family size, income and ability to pay. The fee percentage increases at lower rates for families in lower income brackets and at higher rates for families in higher income brackets. The rule includes a cap to ensure that no family is charged more than 3% of income and adjustments to family income can be made based on health insurance premiums, medical expenses and child care expenses. Voluntary contributions from any family not otherwise subject to fees are allowed. All children with Medicaid eligibility will not be charged a fee. If a family refuses to provide income information they will be charged for 100% of the fees that they use. Services will continue regardless of a family's payment status.

In response to committee questions, **Ms. Jones** stated that each family service plan is individualized and she does not believe there is an average cost for services. She clarified that part of the assessment process includes determining a family's ability to pay. A set fee is agreed upon with the family and that is when they become accountable for payments. Arrangements for payment plans can be made. In regards to parents with shared custody of a child, fees would be determined based upon who is decided to be the responsible party. Divorce decrees and other legal documentation would be used to determine the responsible party if necessary.

Ms. Jones stated with respect to health insurance benefits the program uses a hierarchy approach. After fees are assessed towards the insurance then the remaining fees are dealt with in regards to what a client could afford to be responsible for.

In answer to questions, **Ms. Jones** said that approximately 3,700 children were served by the Infant Toddler Program last year. Children from birth to 36 months are eligible and approximately 60% of the children enrolled in the program are Medicaid eligible. She noted that the basic message from families has been to request they not charge fees for early intervention services. However, insurance payments are being credited and the program has tried to address their issues as best they can.

Christine Pisani, Program Specialist with the Council on Developmental Disabilities, **testified in opposition to Docket No. 16-0404-0901**. She said that they have a long history with the Infant Toddler Program and support it and value the early intervention services it offers. However, they are concerned with the payment requirement and believe it may serve as a deterrent to families seeking services. If the costs keep families from enrolling children it may end up costing the state in the long run. The cost estimates for system enhancements are \$15,000-\$20,000. In this economic climate one can understand the rationale for proposing fees but the possibility that families will postpone or stop seeking services is why she must oppose this rule change.

In response to committee questions, **Ms. Pisani** stated that it is her belief that the rules were instigated based upon legislative action taken in 2009.

Ms. Jones clarified that technically the intent language did not include fee rules but her understanding was that it was based on a request from JFAC. She said that the program is rather uncertain of the amount of money that will be collected as they do not currently collect income information from families. The only information they have is that currently 60% of the families participating are Medicaid eligible. The payments received will go back into the program to help offset the direct costs for purchase of services as this program pays the specialists to work directly with the children. This is a way to cover any additional increasing costs without giving up matching funds from the federal government.

Ms. Pisani noted that she has only anecdotal evidence from families regarding their inability or unwillingness to pay for services. The Council has a 23 member board which has opposed this rule as a body but she does not have specific numbers regarding the opposition to the change. Imposing this fee is a hurdle that families with disabled children should not have to face.

In response to committee questions, **Ms. Jones** explained that educational law allows schools to serve families without proof of citizenship and the same would apply to the Infant Toddler Program. A family declaration of income would be acceptable in determining ability to pay.

Jim Baugh, Executive Director for Disability Rights, **testified in opposition to Docket No. 16-0404-0901**. He said that while the Program has done a good job of making co-pays congruent with a family's effort to pay and there is a minimal chance of producing hardship on families he still believes it is bad policy. There is abundant research that shows that intervening in the life of a child at the earliest possible age is exceedingly important. Conditions that are severely impairing can be changed by early intervention. The best public policy would be to do everything possible to not discourage parents and help them participate in this program.

In response to committee questions, **Ms. Jones** stated that the program is voluntary and they cannot force services on families. Program workers do take the opportunity to do outreach to families not participating every

three months but beyond that there is not much that can be done. The staff and service coordinators are very dedicated and will make attempts to track children and offer questionnaires to those families that are currently not eligible or have declined services.

MOTION:

Rep. McGeachin moved to approve **Docket No. 16-0404-0901** with the request that the Infant Toddler Program report back to the committee in one year. She said that she had fully considered the points that were made but this is based on direction from the legislature and as such she will be voting for this rule change.

Rep. Rusche stated that the services are immensely valuable and that the state will end up paying for it later through remediation services in schools if these children do not get this help.

Rep. Boyle said that she believes it is not appropriate to charge the parents of handicapped children for taking care of their child and getting them the services they need. The state will not save money in the long run.

Rep. Luker noted that it is a difficult situation because of the potential for losing some children. However we won't know if this is going to work or not until it is tried. This is a difficult financial situation and only six of the 18 services are being assessed a fee. The state cannot keep paying for everything and this seems to be a reasonable way to do this.

Rep. Saylor stated his appreciation for the work of the Infant Toddler Program. In many ways this is a very good rule. However in this case, the children will bear the impact of their parent's actions and is not acceptable.

**ROLL CALL
VOTE:**

Rep. Rusche requested a roll call vote. By a vote of **7 aye and 6 nay**, the motion **passed**. Voting in the affirmative: **Reps. Block, McGeachin, Shepherd (8), Luker, Anderson, Thayn, Gibbs**. Voting in the negative: **Reps. Boyle, Thompson, Rusche, Chew, Durst, Saylor**.

**DOCKET #:
16-0750-0902**

Scott Tiffany, Bureau Chief for Mental Health in the Division of Behavioral Health, presented **Docket No. 16-0750-0902** which provides guidelines for licensing Detoxification and Mental Health Diversion Units. This rule creates the opportunity for the creation of a new substance use disorder and mental health facility in Ada County. Attention was paid to ensure that it could be replicated in other portions of Idaho in the future. The rule outlines policies and procedures, staff qualifications and responsibilities and building construction and physical standards.

In response to committee questions, **Mr. Tiffany** clarified that the intent of the insurance requirement is to have an insurance policy or money in lieu as a security policy.

In answer to questions, **Mr. Tiffany** stated that the rule change will only affect the new facility in Boise. If subsequent facilities are opened in the future these rules would apply then as well.

MOTION:

Rep. Luker moved to approve **Docket No. 16-0750-0902. Motion**

carried by voice vote.

Chairman Block announced that the McGeachin Subcommittee would be meeting at 1:30 to review administrative rules.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 1:00 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE
MCGEACHIN RULES SUBCOMMITTEE**

DATE: January 22, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman McGeachin, Representatives Luker, Thayne, Thompson, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Shirley Alexander, Child Welfare Program Manager for the Division of Family and Community Services; Chuck Halligan, Program Manager for the Children's Mental Health Program for the Division of Behavioral Health; Ed Hawley, Administrative Rules Specialist; Paul Leary, Deputy Administrator in the Division of Medicaid

The meeting was called to order at 1:26 p.m. by Chairman McGeachin.

DOCKET #: **16-0411-0901** **Paul Leary**, Deputy Administrator in the Division of Medicaid, presented **Docket No. 16-0411-0901** which governs developmental disability agencies in Idaho. He stated that during the 2009 legislative session the legislature attached legislative intent language to H322 that establishes operational protocols and related policy to encourage service providers to obtain national accreditation. The Department contacted the commission on accrediting rehabilitation facilities (CARF) to begin establishing the proper protocols. Areas that CARF would certify were identified and how those standards met the intent of the law were reviewed. Areas that were not addressed by CARF would remain under the purview of the Department. He noted that one of the key disconnects is that CARF certifies for three years and Idaho had a maximum of two years. Idaho will now have certification for no greater than three years. The Department had dialogue with the Idaho Developmental Disabilities Association which is the largest developmental disability provider association in the state. There was no opposition to the change.

In response to questions, **Mr. Leary** stated that the developmental agencies did meet with them regarding rule changes and there was no opposition.

MOTION: **Rep. Luker** moved to recommend approval of **Docket No. 16-0411-0901** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0737-0901** **Chuck Halligan**, Program Manager for Children's Mental Health in the Division of Behavioral Health, presented **Docket No. 16-0737-0901** which modifies children's mental health rules concerning treatment foster care. He stated that these rules were developed in conjunction with the Child Welfare Program as the two programs both use the service and will use the same treatment foster parents. There are two additional references that will be used to verify the experience and ability of foster parents to work with families and mental health service providers. Contracts will be

developed regarding foster parents care, supervision and responsibilities for each child. He noted that these contracts are specific to each child and also outline the monthly reimbursement rate.

In response to questions, **Mr. Halligan** noted that the Child Welfare Program uses treatment foster care in situations dealing with allegations of abuse or neglect and the Children's Mental Health Program uses treatment foster care when a parent submits an application based upon evidence of a serious emotional disturbance in the child. He said that in both programs the goal is to place the child in foster care for the shortest possible time.

In answer to questions, **Mr. Halligan** clarified that the 14 hours of additional training were in the original treatment foster care rules for the Children's Mental Health Program. The Family and Community Service rules also reflected similar language. He stated that the goal is to move treatment foster care into the area of professional service. The goal is to have knowledgeable, professional care for these children. He said that the only feedback he had received from a foster parent was of happiness with the new requirements. He clarified that the 14 hour training requirement will include any hours already completed in continuing education courses and will not be in addition to those hours. The goal is not to overburden these foster parents.

MOTION: **Rep. Thayne** moved to recommend approval of **Docket No. 16-0737-0901** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0601-0901** **Shirley Alexander**, Child Welfare Program Manager for the Division of Family and Community Services presented **Docket No. 16-0601-0901** which was a companion to the previous rule. She stated that the proposed rule changes will increase the stability of children in foster care because of the change in qualifications for treatment foster parents. Treatment foster parents must: meet all family licensure requirements, provide additional references that verify their treatment and experience, participate in 14 hours of additional training, be available 24/7 to offer increased supervision and implement portions of the treatment plan for the child in their care. Additionally, this rule will get rid of the home study fee for those wishing to adopt a special needs child from foster care. She said that the concern was possibly delaying the placement of children into permanent homes while the parents try to save enough money for the home study. Finally, this proposed rule will incorporate changes regarding the federal Fostering Connections and Adoption Assistance Act. This Act made international adoptions ineligible for adoption assistance payments. These proposed rules incorporate the federal changes into them.

MOTION: **Rep. Sayler** moved to recommend approval of **Docket No. 16-0601-0901** by the full committee. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the

meeting adjourned at 1:48 p.m.

Representative Janice McGeachin
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 26, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Roger Hales, Board of Occupational Licenses; Cailee O'Farrell, Health & Welfare; Cara Sherburne, Health & Welfare; Kyndal May Verveckken, Board of Midwifery; Barbara Rawlings, Board of Midwifery; Paula Wiens, Board of Midwifery; Michelle Bartlett, Board of Midwifery, Kris Ellis, Idaho Midwifery Council, Tana Cory, Board of Occupational Licenses; Larry Benton, Idaho Midwifery Council, Tony Smith, Eiguren Public Policy; Lisa Hger, Division of Welfare; Landis Rossi, Health & Welfare; Robert Luce, Health & Welfare; Genie Sue Weppner, Health & Welfare; Bev Barr, Health & Welfare; Mark Johnston, Board of Pharmacy; Matt Murray, Board of Pharmacy; Glenn Luke, Board of Pharmacy; Molly Bullock; Drew Thomas, Risch Pisca; Melissa Bandy, Idaho AEYC; Kathie Garrett, Idaho Academy of Family Physicians; Karl Klein, Office of the Attorney General

The meeting was called to order at 1:30 p.m. by Chairman Block.

MOTION: **Rep. Luker** moved to approve the minutes of January 18, 2010 as written. **Motion carried by voice vote.**

MOTION: **Rep. Wood (27)** moved to approve the minutes of the January 18, 2010 Nielsen Subcommittee as written. **Motion carried by voice vote.**

MOTION: **Rep. Nielsen** moved to approve the minutes of January 20, 2010 as written. **Motion carried by voice vote.**

DOCKET #: **24-2601-0901** **Roger Hales**, Attorney for the Board of Occupational Licenses, presented **Docket No. 24-2601-0901** which deals with the licensing of midwifery. He noted that the rule before the committee is a pending fee rule which sets the initial licensing fee at \$550. Each subsequent year the renewal fee will be \$550. The rule also imposes a \$50 fee for the initial application or for reinstatement. Along with the completion of a renewal form, the midwife must also provide specific information regarding births they have assisted in over the past year. There is a continuing education requirement for ten hours per year. Additionally, five hours of continuing education may be carried over to meet the next year's requirements. A licensed midwife must obtain informed consent from their client before providing any care. Finally, the rule contains information regarding conditions when a licensee requires a physician to be present, when a hospital transfer must occur and when a physician must become involved.

In response to committee questions, **Karl Klein**, Deputy Attorney General stated that the religious exemption is covered in the statute and no further interpretation was necessary. The statutory exemptions would speak for themselves so there is no need to further address them.

MOTION:

Rep. McGeachin moved to **accept Docket No. 24-2601-0901**. She stated that she had been following the progress of the rule promulgation and believed that it closely followed the intent of the law.

Rep. Rusche said that he also thought it was a good effort at following the intent of the legislation and he will therefore be supporting it. He noted that he was a supporter of the legislation and was pleased with how it had turned out.

SUBSTITUTE MOTION:

Rep. Nielsen made a substitute motion to **hold Docket No. 24-2601-0901 for time certain** until he can receive some information from the Attorney General's office regarding the religious exemption. He stated that more time was needed to make a decision. He noted that his concerns were regarding clarification of the religious exemption in the statute. Without this clarification, the public may not fully understand the intent of the law.

Rep. Wood (27) stated that he believed the midwives did exactly what was asked of them. When the rules were promulgated based upon the statute they did not try to go outside the statutory language. He stated that he felt to offer amendments today was to go back on an agreement and he will support the original motion.

Rep. McGeachin said that she was speaking **in support** of the **original motion**. The committee has a responsibility to review the rules and their authority ends with making sure the rules meet the statutory intent of the law. This rule needs to be implemented and then amendments should be reviewed at a later date.

Rep. Marriott said that he believes the rule should pass as is and that after that occurs is the appropriate time to come back with corrective legislation to fix any problems.

Chairman Block called for a vote on the substitute motion. **Motion failed by voice vote. Rep. Nielsen and Rep. Shepherd (8)** requested that they be recorded as voting nay.

VOTE ON ORIGINAL MOTION:

Chairman Block called for a vote on the original motion. **Motion carried by voice vote.**

**DOCKET #:
16-0602-0901**

Landis Rossi, Program Manager for the Division of Family and Community Services presented **Docket No. 16-0602-0901** related to the regulation of daycare facilities in Idaho in response to Senate Bill 1112.

This rule requires that any person providing care for compensation to seven or more children obtain a daycare license and specifies that every child, regardless of their relationship to the provider, counts when

determining staff to child ratio. It also adds new requirements related to water hazards and gun safety. It also specifies who must have a criminal background check and how often. She stated that daycare centers caring for thirteen or more children must pay a \$175 fee and group providers, caring for seven to twelve children must pay a \$100 fee. The Department received numerous comments regarding staff to child ratios and group size. Based upon this information, amendments to the current code are being considered.

In response to committee questions, **Robert Luce**, Deputy Attorney General, noted that the intent while crafting the rule language is always to do what follows the intent of the law. There are a few places where there are issues that need to be resolved within the code itself. He said that based upon current code every child counts regardless of their relationship to the provider. If one child is being paid for and six are related to the provider then that provider will be under the licensing requirements.

In answer to questions, **Mr. Luce** said that while the code may not be where the committee would like it to be that is what the rules were based upon. The code is where the changes need to be made. The conclusion that has been reached is that if more than seven children are present in a home and one is being paid for then that home will fall under the licensing rules. He also clarified that the list of disqualifying felonies came directly from criminal history rules.

In response to questions, **Mr. Luce** stated that in the definition section of the code daycare center is not specifically called out. If the code is not specific then ambiguity is created.

Molly Bullock, a parent with two young children in home daycare, **testified in support of Docket No. 16-0602-0901**. She supported the requirements related to background checks, weapons in the home and water hazards. She noted that these items are not something she could personally require of her provider and is grateful that the state is making them requirements. By exempting one's own children the health and safety of all the children being cared for declines. She believes the new licensing standards will provide parents with better quality choices for daycare.

In response to committee question, **Ms. Bullock** said that when the logic of the situation is taken into consideration, once you get to seven children there should be some extra safety precautions that are required even if six of the children are related to the provider. The number of kids is the number of kids and that is all that should be considered with dealing with their safety.

In answer to committee questions, **Michelle Britton**, Division Administrator for Family and Community Services, clarified that the way the old code was implemented into the new code was to simply count the number of kids irrespective of their relation to the provider.

In response to questions, **Ms. Rossi** said that the assumption has always

been that children under the age of 13 counted. Providers were concerned with the child to staff ratio and not with having to count their own children. She noted that the providers were surprisingly supportive of the work that the Department did on the rules. It added legitimacy to their work. With regards to training, many wanted more than four hours to be required. Providers are beginning to look at this as a business and want to receive credit for the professional work that they are doing.

In answer to questions, **Mr. Luce** stated that the language added regarding background checks came directly from existing residential care rule language. He further noted that the Department tried to clarify issues from the code as much as possible and that if a daycare provider is carrying for six of their own children and one of which is being paid for, they will already fall under licensing guidelines regardless of whether the rules are in place or not under the statute.

In response to committee questions, **Mr. Luce** clarified that the disqualifying crimes come from criminal history rules with the addition of misdemeanor injury to a child which is included in these rules.

MOTION:

Rep. Saylor made the **motion to approve Docket No. 16-0602-0901**. He stated that he was convinced the Department did try to meet the legislative intent of the law and that any issues could be resolved in forthcoming legislation.

SUBSTITUTE MOTION:

Rep. Luker made a **substitute motion to reject Docket No. 16-0602-0901**. He noted appreciation for the Department attempting to clarify the ambiguities in the statute however, the rules only further compound the confusion. The best thing to do would be to stick with the law. There are enough issues with the rules that they should be rejected..

Rep. Wood (27) said that it is to be expected that lay people may not understand the statute but if lawyers are having issues with the language that is worth noting. He questioned whether there might be enough to salvage the rules and reject only certain portions.

Rep. McGeachin said that she leaned towards rejecting the rules. While she is not opposed to the issue of safety requirements it is more about reasonable regulation.

Rep. Durst stated that he would not be supporting the substitute motion. While some have the protection of city ordinances many do not and thus the ratio of children to provider would not be enforced in those areas without the passage of these rules. The committee should err on the side of safety for children and reject this motion.

Rep. Thayne noted that it is a difficult issue. However, not passing the rules would strengthen the resolve to correct the issues in the statute.

**ROLL CALL
VOTE:**

Rep. McGeachin requested a roll call vote. By a vote of **9 aye and 4 nay**, the motion **passed**. Voting in the affirmative: **Reps. Block, Nielsen, McGeachin, Loertscher, Shepherd (8), Luker, Marriott, Thayn, Wood (27)**. Voting in the negative: **Reps. Rusche, Chew, Durst, Saylor**.

Chairman Block stated that the rest of items on the agenda would be deferred to the Thursday January 28, 2010 meeting. She noted that the committee would also be meeting on Friday morning to hear reports from the subcommittees on administrative rules.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 3:31 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE McGeachin Rules Subcommittee

DATE: January 26, 2010

TIME: 3:00 p.m.

PLACE: Room EW42

MEMBERS: Chairman McGeachin, Representatives Luker, Thayn, Thompson, Sayler

**ABSENT/
EXCUSED:** Representatives Thompson, Sayler

GUESTS: Susie Cummins, Division of Medicaid; Kathy McGill, Department of Health and Welfare; Genie Sue Weppner, Division of Welfare

The meeting was called to order at 3:39 p.m. by Chairman McGeachin.

Chairman McGeachin noted that **Docket No 16-0308-0901** and **Docket No. 16-0410-0902** would be moved to the top of the agenda.

DOCKET #: **16-0308-0901** **Genie Sue Weppner**, Program Manager in the Division of Welfare, presented **Docket No. 16-0308-0901** which deals with the Temporary Assistance for Families in Idaho (TAFI) program. The TAFI program needs to be aligned with federal rules regarding Iraqi and Afghani special immigrants. The 2006 National Defense Authorization Act created a new classification for Iraqi and Afghani nationals and their families who worked with the U.S. military as translators. These immigrants come to the US because of threats they receive in their own countries due to the nature of their work. In order to comply with federal requirements, TAFI program rules have been updated to reflect the new classification.

MOTION: **Rep. Luker** moved to recommend approval of **Docket No. 16-0308-0901** by the full committee. **Motion carried by voice vote.**

DOCKET #: **16-0410-0902** **Genie Sue Weppner**, Program Manager in the Division of Welfare, presented **Docket No. 16-0410-0902** which deals with the Community Services Block Grant (CSBG) program. The CSBG funds are managed by local Community Action Agencies (CAA) for: reduction of poverty, revitalization of low-income communities and empowerment of low-income families to become self-sufficient. Federal statute allows states to set parameters of income eligibility for the CSBG. The rule change will allow for the exclusion of child support income when determining program eligibility and increases the income limit for eligibility from 125% to 200% of the federal poverty guidelines.

In response to questions, **Ms. Weppner** clarified that block grants can be used for a variety of services including: affordable housing, budget services for low-income families, parenting classes, administrative support for programs or staff for management of programs. She noted that each CAA is slightly different and tries to respond to the needs specific to their

community.

In answer to questions, **Ms. Weppner** stated that raising the income limit for eligibility was intended to reach families that under normal circumstances would not need the help. With the way that the economy is and the additional federal money a lot of good could be done with this stimulus money to help families in Idaho. The program would be tailored to spend the money that is there and general funds would not be used as a replacement when the stimulus money ran out. The money must be spent by June 2011 and as of September 30, 2009 10% of the funds had been spent.

MOTION: **Rep. Thayn** moved to recommend **Docket No. 16-0410-0902** to the full committee for consideration with the request for more specific information regarding the spending of funds. **Motion carried by voice vote.**

DOCKET #: **16-0305-0904** **Susie Cummins**, Program Specialist in the Division of Medicaid, presented **Docket No. 16-0305-0904** which deals with Medicaid for the aged, blind and disabled. A 2008 Act (MIPPA) passed by Congress includes provisions to improve access for Medicare beneficiaries to receive help with their costs. In an attempt to simplify access to the Medicare Savings Program, MIPPA requires states to align the Program's limits with the federal low-income subsidy limit. This will increase Idaho's limit by approximately \$2,600 for an individual and \$3,900 for a couple. The Act also requires that an application for the Low-Income Subsidy be considered as an application for the Medicare Savings Program. She stated that this Act requires the changes to be in effect by January 1, 2010. Idaho will lose funding if they are not implemented.

In response to questions, **Ms. Cummins** stated that the penalty for noncompliance had not been defined by the federal partners. She clarified that the resource limit includes the amount an individual has in their bank account and any other countable resources they might have. There is an income limit for the program and that will not be changing. The MIPPA was passed in July 2008 with an implementation date of January 2010. Medicaid had previously been working on the implementation of a new automated system and that is why the rules are just now coming before the subcommittee.

MOTION: **Rep. Luker** moved to recommend **Docket No. 16-0305-0904** to the full committee for consideration with the request for more information regarding noncompliance penalties. **Motion carried by voice vote.**

DOCKET #: **16-0306-0901** **Kathy McGill**, Program Specialist in the Division of Welfare, presented **Docket No. 16-0306-0901** which deals with regulations regarding Afghani Special Immigrants. The National Defense Authorization Act of 2006 created a new special immigrant classification for Iraqi and Afghani nationals who worked as translators for the US military. Federal law allowed these immigrants to be eligible for entitlement programs including Medicaid for a limited time. The Afghan Allies Protection Act of 2009 extended benefits for these immigrants for up to eight months. The rule change brings Idaho into compliance with federal regulations.

MOTION: **Rep. Thayn** moved to recommend approval of **Docket No. 16-0306-0901** by the full committee. **Motion carried by voice vote.**

Chairman McGeachin stated that the subcommittee would be meeting on Thursday, February 28 upon adjournment of the full committee.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 4:28 p.m.

Representative Janice McGeachin
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 28, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Jim Baugh, Disability Rights Idaho; Toni Brinegar; Jo Lynn Garrison; Debra Parsons; Tresa Ball, Krista Gross; Laurie Borrowman; Lisa Robbe, Council on Developmental Disabilities; Teronda Robinson, Council on Developmental Disabilities; Tracy Warren, Council on Developmental Disabilities; Karen Rush-Wilson; Maribeth Connell; Robert Jackson; Paul Leary, Division of Medicaid; Karrie VanLeuven; Kim Hunter; Pat Man; Mark Johnston, Board of Pharmacy (BOP); Walter Miller, BOP; Julie Fodor, Council on Developmental Disabilities; Angela Lindiq; Jacqueline Swan; Drew Thomas, Risch Pisca; Ed Hawley, Administrative Rules; Merdith Adams, Autism Society; Richelle Tierney; Jenny Williamson, Partnerships for Inclusion; Brooke Gale, Partnerships for Inclusion; Kerry Elder, Partnerships for Inclusion; Teddy Stronks, Mayor of Ashton; Joie McGarvin, AHIP; Bev Barr, DHW; Kathie Garrett, Partners in Crisis; Dana Gover; Katherine Hansen

The meeting was called to order at 1:31p.m. by Chairman Block.

MOTION: **Rep. Shepherd (8)** moved to approve the minutes of the January 18, 2010 Shepherd Subcommittee as written. **Motion carried by voice vote.**

MOTION: **Rep. Shepherd (8)** moved to approve the minutes of the January 20, 2010 Shepherd Subcommittee as written. **Motion carried by voice vote.**

MOTION: **Rep. Nielsen** moved to approve the minutes of the January 20, 2010 Nielsen Subcommittee as written. **Motion carried by voice vote.**

MOTION: **Rep. Luker** moved to approve the minutes of January 22, 2010 as written. **Motion carried by voice vote.**

DOCKET #: **27-0101-0902** **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **Docket No. 27-0101-0902** which concerns telepharmacy across state lines. A central pharmacy may fill prescriptions for institution pharmacies (hospital pharmacies) when they do not have a pharmacist on staff. Hospitals can contract with another pharmacy to provide for those needs. The fee was set at \$250 a year for providing services between states. The requirement to maintain a policy and procedures manual was included as well. The language for the rule was developed via informal negotiations

and was borrowed from the National Board of Pharmacy's policy on telepharmacy.

In response to committee questions, **Mr. Johnston** stated that comments were received regarding the request for more regulation policies and language was added to address those suggestions.

Chairman Block stated that **Toni Lawson** of the Idaho Medical Association had written a letter **in support of Docket No. 27-0101-0902.**

MOTION: **Rep. Thayn** moved to accept **Docket No. 27-0101-0902. Motion carried by voice vote.**

DOCKET #: **16-0318-0901** **Paul Leary**, Deputy Administrator for the Division of Medicaid, presented **Docket No. 16-0318-0901** which deals with cost containment measures for Medicaid. House Bill 322 requested Health and Welfare to implement policies to contain and reduce costs in order to provide for a sustainable Medicaid program. This rule is specifically related to cost-sharing requirements for families whose children are eligible for Home Care for Certain Disabled Children (also known as the Katie Beckett Program). Public hearings for the rules were held in Idaho Falls, Coeur d'Alene, Caldwell, Lewiston and Pocatello. Based on public comments, changes were made to the proposed rule. The premium schedule was changed to a gradual increase from 1% to 5% of family income based upon comments that the increases were too sharp. Consideration was given to families with private insurance and a 25% discount off the Medicaid premium was given to those families that purchase private insurance for their children. A Waiver of Premium was added for families that would be caused undue hardship. The amount of premiums for families with more than one participant were clarified. The implementation date was shifted to no sooner than February 1, 2010. He added that failure to pay a premium would not affect the eligibility or the services that a child would receive.

In response to committee questions, **Mr. Leary** stated that the Katie Beckett program was started during the Reagan Administration and dealt with allowing medically fragile children to be cared for at home instead of in an institution. Children, under age 18, could be cared for at home if the cost was less than care in an institution would be. The program was based solely on the income of the child.

In response to committee questions, **Peg Dougherty**, Deputy Attorney General, stated that the legal authority for cost sharing is found in Section 1916A of the Social Security Act (42USC §1396o-1). A state at its option may include the ability to impose cost sharing or premiums for children receiving services of this nature. The State has the option to include this in its Medicaid plan. Idaho has the option in its state plan and therefore has federal authority to impose the premium. The State plan can be modified by the Division of Medicaid.

In answer to committee questions, **Susie Cummins**, Division of Welfare, said that those that are self-employed may use their net income in determining the premiums they will owe. The gross income is the determining factor for all others and it is the amount before any medical

deductions.

Mr. Leary, in answer to questions, said that the program was originally based loosely on a program in Minnesota. However, the premium schedule was such a sharp step progression that it was changed to a much smoother progression of 1 to 5% of family income.

Ms. Dougherty, in response to committee questions, clarified that the premium payment may not exceed 5% of family income and it does take into account the size of the family. Family income may be defined by the state and the decision was to define it in the same manner that other programs have defined it.

In response to committee questions, **Mr. Leary** stated that there is a history of 60% collection in the Minnesota program. \$1 million is what is expected to be gained based on a 60% collection rate. He clarified that the premium is based on family income and not the services they receive no matter where they are in the state. Furthermore, the child does not become ineligible if the parents do not pay the premium. There is no collection mechanism for unpaid premiums. The parents are agreeing to pay on their honor and will never be charged more than the services they are paying for. The State has flexibility in how it could implement the program in a way that is cost effective and not burdensome from an administrative standpoint.

In answer to questions, **Leslie Clement**, Division Administrator of Medicaid, said that the Department is stretched very thin. In normal times they could spend the time negotiating and reducing to get a new rule. The intent is to sustain the Medicaid program. Debating the issue further would not be a very viable option. She further stated that the Department did not pursue additional policies regarding collection as it would require too much of effort with the staff that they currently have. The goal was to have a rule that resulted in a fair and reasonable cost share without being a significant burden.

Chairman Block stated that in the interest of time everyone would be allowed three minutes for testimony.

Jim Baugh, Disability Rights Idaho, testified **in opposition to Docket No. 16-0318-0901**. The Katie Beckett Program was instituted as a cost saving measure, not to make it easier for parents, but to save money for Medicaid. The State has saved millions of dollars by switching from a system that grew institutions to one in which institutions have been leveled for quite a few years. In order for the State to receive \$210,000 they have to collect \$1 million from parents and send \$ 800,000 back to the federal government. This rule change is similar to imposing a tax on parents that decide to keep their children at home.

In response to committee questions, **Mr. Baugh** stated that it would only require a few additional institutional placements or parents dropping their private insurance for the \$210,000 savings to be wiped out. Additionally, when parents drop the Katie Beckett program waiver schools can no longer use Medicaid funds to pay for services within the schools.

Toni Brinegar, the parent of a 10 year old child with disabilities, testified **in opposition** to **Docket No. 16-0318-0901**. She noted that \$1 million dollars is being collected and the State will only reap the rewards of \$200,000. She questioned whether that was really worth it. She said that the hardship clause can only be used if a family cannot pay for food or shelter. There are many other items a family might need to purchase and the hardship clause should be expanded to include more.

Jo Lynn Garrison, the parent of a disabled child, testified **in opposition** to **Docket No. 16-0318-0901**. She stated her concern that families may drop out do to their inability to pay the premiums. There will be a negative financial impact on schools if those parents were using Medicaid to pay for services. Those families with private insurance are better off canceling it than receiving only a 25% discount on their child's insurance.

Ms. Garrison, in answer to committee questions, stated that her child receives speech therapy weekly and physical therapy 19 times a year. They don't utilize developmental services over the summer. She stated that her family is very aware of the costs and they have done everything they can to be good stewards of the service.

Teresa Ball, the parent of a disabled child, testified **in opposition** to **Docket No. 16-0318-0901**. She is not opposed to cost sharing in general, but this is burdensome and the premiums are flawed. It should be based on net income and not gross income. This rule puts the bulk of the cost onto middle class families. She suggested that more credit be given for private insurance with a minimum level of 50%. Individuals that place their child in an institution pay nothing; this rewards those that do not keep their child at home.

Krista Gross, the mother of a 10 year old autistic child, testified **in opposition** to **Docket No. 16-0318-0901**. She stated that without private insurance and the Katie Beckett waiver she cannot afford care for her child. The Department should consider a co-pay rather than unrealistic premiums.

Laurie Borrowman, the parent of a 14 year old son with severe autism, testified **in opposition** to **Docket No. 16-0318-0901**. She said that she is a hard working parent who takes on the responsibility of keeping her child at home and that is not easy. There are a lot of other costs generated for children with disabilities. The State has a budget crisis but so do many parents right now. She has tried to be a responsible parent with the services her child receives. She wanted to remind the committee that parents are hurting as well as the State of Idaho.

Tracy Warren, Council on Developmental Disabilities, testified **in opposition** to **Docket No. 16-0318-0901**. This rule requires parents to pay a premium for keeping their child at home. It reflects a bias towards institutional care. These parents choose to keep their families together and their child at home. Additionally, there are emotional and physical costs related to caring for these children. The Council believes that requiring parents to pay premiums is counter-productive to the intent of the program and will not save any dollars.

In response to committee questions, **Mr. Leary** stated that there are federal regulations that preclude the State from seeking premiums for children receiving institutional care.

Robert Jackson, the parent of a 16 child with autism, testified in **opposition to Docket No. 16-0318-0901**. He stated that the Katie Beckett waiver allowed him to have his life back and to look forward for himself and his child. Although there is no change in eligibility the premium will be a barrier to entry for parents. Some parents may decide that it is not worthwhile for them to get their child in the Katie Beckett Program and that is scary. The Katie Becket waiver and the services his child has received make it possible that she will be able to do something useful with her life and not be in an institiuon. The key is having services along the way to make progress.

Karrie Van Leuven, the parent of a 5 year old autistic girl, testified in **opposition to Docket No. 16-0318-0901**. She stated that she provides for most of the needs for her child except the medical costs covered by Medicaid. She said that parents are not asking for a handout but help to not make things harder. Children that remain at home have a better chance at a better life.

In response to committee questions, **Ms. Van Leuven** said that there are programs out there that will train parents to provide some of the services in their homes but they are not covered by Medicaid and are very expensive. She noted that one factor that is not taken into consideration is that the cost of the institution is incurred by the parents. There are special clothes, special foods, etc. that have to be purchased.

Mr. Leary, in response to questions, clarified that every child on the program waiver must meet the criteria for institutionalization.

In answer to questions, **Susie Cummins**, Medicaid Program Specialist for the Division of Welfare stated that a family with a higher number of people will have a lower premium. A family can make more money and support more people in the family and pay a lower premium.

Kim Hunter, a parent, testified in **opposition to Docket No. 16-0318-0901**. She stated that she is not opposed to paying a share of the premium but there are a lot of holes in the rules. She noted that she would like some clarification of the rules before the changes take effect. Previously her child could receive 30 hours of care and now it is down to 22. Year by year the services are dwindling down.

Angela Lindiq, of Idaho Parents Unlimited and the parent of two children with disabilities, testified in **opposition to Docket No. 16-0318-0901**. She said that she is not against the change entirely. Even with the rule changes there are no guarantees that families won't continue to receive cuts in services. Medicaid does not send statements so it is almost impossible to know the cost of the services her children receive.

Rachelle Tierney, the parent of a 12 year boy with autism, testified in **opposition to Docket No. 16-0318-0901**. Her son has benefitted so much through the Katie Beckett program waiver. He receives services

through his school and a private agency after school. She suggested that the calculation of premiums be based upon something other than gross income.

Jacqueline Swan, the parent of a 10 year old son, testified **in opposition** to **Docket No. 16-0318-0901**. She said that her family will be paying more in premiums than the services cost. They are not opposed to having to pay for the services he receives, but it is hard to pay for more than he is using and he can't do without the services;.

Mr. Leary, in answer to questions, clarified that there is a specific rule that states the premium cannot exceed the cost of services received in that year. There will be an annual adjustment if the premiums paid are higher than the services used. He noted that the Department did not put in any rules regarding the collection of claims and there is no administrative authority to do that at this time.

In closing, **Mr. Leary** stated that the Department was given direction based on House Bill 322, to establish cost sharing requirements. They published proposed rules and had open meetings to hear what the public had to say. Significant changes to the rules were made based on the comments. The Department tried to put a program together that was doable and doable through the available administrative support. The rule will not affect the eligibility of children.

MOTION:

Rep. McGeachin moved to accept **Docket No. 16-0318-0901**. She noted that as hard as it may be the Department is complying with legislative directive. An obvious good faith effort was made to comply with the intent of the legislature. The committee has to consider the alternative which might be the elimination of some services if this rule does not pass. The Medicaid program is designed for families with low incomes and resources and some sort of constraints need to be in place.

Rep. Chew said that the Department has been under extreme pressures and has worked incredibly hard to comply with what the legislature asked. The cost share may or may not yield \$200,000. She noted her concern that 85% of the families that are impacted have insurance. There is a problem with 85% having insurance and yet still having to come to the government for assistance.

In response to questions, **Mr. Baugh** again stated his opposition to the rules. They create an incentive for institutionalization. He understands the funding difficulties this year but before this rule is enacted the Department should be sure that it is really going to save money. There is a high likelihood that it won't save any money and might even cost more.

Rep Durst spoke **in opposition** to the motion. If only a few families get separated because of this rule that is still too many. There is no doubt that some families will drop the Katie Beckett waiver because of this rule and consequently the schools will face more burden. He noted his appreciation for the Department's work, but had concerns that the phrase "on the ability to pay" was not addressed properly. It is not right to balance the state budget on the backs of the disabled.

Rep Thayne spoke **in favor** of the motion. The legislature gave the Department the direction to find cost sharing that is reasonable and these rules are reasonable. There is an obligation to have them enforced and them track them and see if the consequences come that some are fearful will happen. It is a difficult decision but the committee can't know what is going to happen unless it moves forward with this rule. He noted that he felt compelled after supporting legislation last year to give this rule a try.

Rep. Chew spoke **in opposition** to the motion. As policymakers it is time to change the game and she will begin by voting no on this.

Rep Boyle spoke **in opposition** to the motion. She stated that she had voted for the Medicaid budget last year but it was never her intent in voting yes that this would occur. The Department was asked to establish cost sharing but there are still things that need work. Medical costs that are incurred should be factored into the premium amount. Some parents do not mind cost sharing but it should not be on a level where they can't take care of their other children. These are very responsible parents and this is one of the few programs that takes care of the middle class and it should not be destroyed.

Rep. Loertscher spoke **in opposition** to the motion. While he is grateful that the Department took the time to listen to the participants in program the rules are not quite there yet. He noted that he would like to be better assured the program would save money before he could vote for it.

Rep Luker spoke **in opposition** to the motion. He commended the Department for doing it's due diligence based on what they were told last year. However, he is not comfortable that this will save money. He noted that he would like to see a cost share on the upper limit, but this hits the middle class. He is not convinced that in the long run this will save money.

Rep Gibbs spoke **in favor** of the motion; He noted that this not easy for anyone. There will be several hard decisions of which this is the first. The budget has to be in check and the Department has done an admirable job in doing what was asked by JFAC.

Rep Saylor spoke **in opposition** to the motion. He noted that the committee should try to do the least harm and protect the most vulnerable. The Department did a good job but he will be voting no.

Rep Nielsen stated that he is not sure how he is going to vote yet. It is not clear if rejecting the rules is going to be helpful and it is not clear if accepting the rules is going to save money.

Rep McGeachin noted that the Department was trying to comply with their own legislative directive and trim the program by \$200,000. This is a hard decision but there is a \$135 million budget shortfall that has to be faced.

Rep Wood noted that every dollar of Medicaid goes to the most needy and the most vulnerable but cuts will need to be made somewhere to deal with the budget shortfall.

ROLL CALL VOTE: **Rep. McGeachin** requested a roll call vote. By a vote of **7 aye and 9 nay** the motion **failed**. Voting in the affirmative: **Reps. Block, Nielsen, McGeachin, Shepherd (8), Thayn, Gibbs, Wood (27)**. Voting in the negative: **Reps. Loertscher, Luker, Marriott, Boyle, Thompson, Rusche, Chew, Durst, Saylor**.

DOCKET #: **16-0305-0902** **Susie Cummins**, Medicaid Program Specialist for the Division of Welfare, requested that the committee reject **Docket No. 16-0305-0902** as it is a companion to **Docket No. 16-0318-0901** which the committee has rejected.

MOTION: **Rep. Durst** moved to reject **Docket No. 16-0305-0902**. **Motion carried by voice vote**.

Rep. McGeachin stated that the subcommittee would be meeting shortly upon adjournment of this meeting.

Chairman Block announced that the committee would be meeting Friday, January 29 at 9:45 a.m. to hear subcommittee reports.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 5:19 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

**HOUSE HEALTH AND WELFARE COMMITTEE
MCGEACHIN RULES SUBCOMMITTEE**

DATE: January 28, 2010

TIME: Upon Adjournment of Full Committee

PLACE: Room EW42

MEMBERS: Chairman McGeachin, Representatives Luker, Thayn, Thompson, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Wayne Denny, DHW; Dr. Murry Sturkie, Emergency Medical Services Physician Commission; Genie Sue Weppner, Division of Welfare

The meeting was called to order at 5:28 p.m. by Chairman McGeachin.

DOCKET #: **Chairman McGeachin** noted that the committee had asked for
16-0304-0902 clarifications regarding the food stamp rule, **Docket No. 16-0304-0902**, that was heard by the subcommittee last week.

In response to questions, **Russ Baron**, Director of Welfare, stated that ten additional workers had been hired to handle the increased demand from the program. The temporary rule will extend the program until May 31, 2010.

In answer to questions, **Mr. Baron**, noted that the intention of the rule was to try and increase participation in the food stamp program. Idaho has one of the lowest participation rates in the nation and the federal government would like to see it increased. This rule was intended to help those that find themselves unemployed and needing a little temporary assistance. Those that are unemployed may have assets that would put them over the limit but with the current state of the economy it may be difficult to sell those assets. He noted that the staff is quick to act when potential abuses of the program are noticed.

Rep. McGeachin reminded the committee that a recommendation regarding the rule had already been made; however, further discussion would be allowed at the review of the subcommittee recommendations.

DOCKET #: **Dr. Murry Sturkie**, Chairman of the Emergency Medical Services
16-0202-0902 Physician Commission (EMSPC), presented **Docket No. 16-0202-0902**. Senate Bill 1108a changed much of the language in the EMS Act to reflect contemporary practices and standards. The rule change will align the language of the EMSPC rules with the EMS Act.

In response to questions, **Dr. Sturkie** noted that the rule change was essentially about housekeeping issues, and there were no public comments received.

MOTION: **Rep. Thayn** moved to recommend approval of **Docket No. 16-0202-0902**

by the full committee. **Motion carried by voice vote.**

DOCKET #: **Wayne Denny**, Program Manager in the Emergency Medical Services Bureau of the Division of Public Health, presented **Docket No. 16-0203-0901** which made terminology changes to bring the rule in line with Senate Bill 1108a. The temporary rule will ensure public safety is not compromised while further rules are being readied for the 2011 legislative session.. The rule is focused on housekeeping changes to align the rule terminology.

MOTION: **Rep. Thompson** moved to recommend approval of **Docket No. 16-0203-0901** by the full committee. **Motion carried by voice vote.**

DOCKET #: **Genie Sue Weppner**, Program Manager in the Division of Welfare, presented **Docket No. 16-0414-0901** which deals with the Low Income Energy Assistance Program (LIHEAP). LIHEAP provides federal subsidies to assist low-income families with their energy needs during winter. The proposed changes will increase the eligibility limits and align the program with Weatherization regulations that disregard child support income when determining eligibility.

In response to questions, **Ms. Weppner** clarified that the program is completely federally funded. She further stated that the program will actually be able to serve more families with a lower cost. While the eligibility limits would be increased; energy costs have gone down. Already the average benefit is lower this year. The program will close once the money has been fully spent.

MOTION: **Rep. Thompson** moved to recommend approval of **Docket No. 16-0414-0901** by the full committee. **Motion carried by voice vote.**

DOCKET #: **Genie Sue Weppner**, Program Manager in the Division of Welfare, presented **Docket No. 16-0416-0901** which deals with the Weatherization Assistance Program. The program enables low-income families to permanently reduce their energy bills by making their homes more energy efficient. As result of the American Recovery and Reinvestment Act of 2009 (AARA) Idaho will receive \$30.3 million in Weatherization funds over the next two years. This will allow for an increase in the number of homes that can be weatherized as well as an increase in the amount the program is able to spend on each home. More families will benefit from a permanent reduction in their energy costs.

In response to questions, **Ms. Weppner** clarified that if the money is not spent it has to be returned and when it is gone it is gone.

MOTION: **Rep. Saylor** moved to recommend approval of **Docket No. 16-0416-0901** by the full committee. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the

meeting adjourned at 6:04 p.m.

Representative Janice McGeachin
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: January 29, 2010

TIME: 9:45 a.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** Representative Loertscher

GUESTS: Roger Hales, Idaho Bureau of Occupational Licenses (IBOL); Genie Sue Weppner, Division of Welfare; Tana Cory, Bureau Chief IBOL; Mary Chant, Executive Director Community Action Partnership Association of Idaho; Christopher Ball, Bureau of Labs; Christine Hahn, Department of Health and Welfare (DHW); Kathryn Turner, DHW; Dieuwke Spencer, DHW; Dia Gainor, DHW/EMS; Ed Hawley, Administrative Rules; Brad Hunt, O.A.R.; Joie McGarvin, America's Health Insurance Plans; Kathleen Allya, DBH/Idaho; Drew Thomas, Risch Pisca; Reyne Watson, Breland Draper; Kathy Gardner, Idaho Hunger; Rosie Andueza, DHW; Brian White, IBOL Physical Therapy

The meeting was called to order at 9:47 a.m. by Chairman Block.

Chairman Block clarified that a fee rule must have an affirmative approval or rejection vote. If there is not an affirmative vote for the rejection then the rule is still in committee.

Rep. Durst requested clarification regarding the open meeting rule and whether a Docket could be voted on that is not on the agenda.

The meeting was recessed at 9:51 a.m.

The meeting was called to order at 9:54 a.m by Chairman Block.

Chairman Block stated that according to parliamentary procedure it would be in order to take up the issue today since additional clarification was requested at yesterday's meeting.

MOTION: **Rep. Rusche** moved that **Docket No. 16-0318-0901** be rejected.

SUBSTITUTE MOTION: **Rep. McGeachin** moved that **Docket No. 16-0318-0901** be accepted.

The meeting was recessed at 9:58 a.m.

The meeting was called to order at 10:02 a.m. by Chairman Block

AMENDED **Rep. Luker** moved to **hold Docket No. 16-0318-0901 to time certain**

SUBSTITUTE MOTION: until Tuesday, February 2, 2010 so that it could be placed on the agenda and all committee members could be here to vote.

Rep. Wood spoke in **opposition** to the amended substitute motion. It is a duty to be here and if someone is absent that is their responsibility. Absence should not be a reason to not vote on this rule today.

Rep. McGeachin spoke in **opposition** to the amended substitute motion. Chairman Block has ruled on the issue of proper parliamentary procedure and the committee should support her in her ruling. There was already a public hearing for those wanting to speak to the issue.

Rep. Durst spoke in **support** of the amended substitute motion but noted that it was not a vote against the ruling of the Chair . He said that a vote should be taken in the open when it has been placed on the agenda and the public has the opportunity to be here.

Rep. Thayn spoke in **support** of the amended substitute motion. He supported the rule but thought the committee should wait. He said that his position would not change, but he wanted the public to see him when he cast his vote. This is not a reflection upon the Chair; it is simply a matter of transparency.

ROLL CALL VOTE: **Rep. McGeachin** requested a roll call vote. By a vote of **9 aye and 6 nay** the motion **passed**. Voting in the affirmative: **Reps. Luker, Marriott, Thayn, Boyle, Thompson, Rusche, Chew, Durst, Saylor**. Voting in the negative: **Reps. Block, Nielsen, McGeachin, Shepherd (8), Gibbs, Wood (27)**.

MOTION: **Rep. Nielsen** moved that the committee approve all pending, temporary and fee rules recommended by the Nielsen subcommittee for approval. He noted that there were no rules that were not recommended for approval by the subcommittee. **Motion carried by voice vote.**

MOTION: **Rep. Shepherd (8)** moved that the committee approval all pending, temporary and fee rules recommended by the Shepherd subcommittee for approval. **Motion carried by voice vote.**

MOTION: **Rep. McGeachin** moved that the committee approve all pending, temporary and fee rules recommended by the McGeachin subcommittee for approval.

Rep. Luker stated his concerns regarding **Docket No. 16-0304-0902** which deals with food stamps. The rule removes the asset limitation on the eligibility for food stamps. The asset limitation has been around since the 1970's; and in 2007 one of those limitations regarding vehicles was removed. The rules in place are outdated and need to reflect current economic times but it sends the wrong message to remove all limits. Even though food stamps are 100% federally funded additional staff was hired to administer the program. The issue merits discussion by the full committee.

SUBSTITUTE **Rep. Luker** moved that **Docket No. 16-0304-0902** be heard by the full

MOTION: committee.

Rep. McGeachin spoke **in opposition** to the substitute motion.

Rep. Wood stated his concern with the budgetary issues involved with the rule..

Rep. Luker noted that he was open to the will of the committee. After voting for the rule in the subcommittee, he had significant concerns and after further reflection believed the full committee should consider the Docket.

**MOTION TO
ADJOURN:**

Rep. Gibbs moved to adjourn the meeting. **Motion failed by voice vote.**

Rep. Thayne spoke **in support** of the substitute motion. He too had serious concerns with this rule. He felt that the rule was a policy change and should be discussed by the full committee. The Health and Welfare budget is of great concern and federal tax money is not sufficient to cover the entitlement portion of the budget; A discussion by the full committee is needed.

The meeting was recessed at 10:30 a.m.

The meeting was called to order at 10:35 a.m by Chairman Block.

Chairman Block stated that the motions on the table would be taken up at the next meeting on Tuesday, February 2, 2010.

ADJOURN:

Chairman Block adjourned the meeting at 10:36 a.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 2, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood (27), Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Dustin Hurst, IdahoReporter.com; Rev. Stan Hoobing; Tana Cory, Bureau of Occupational Licenses (BOL); Reyne Watson; Jini Larkin; Jack C Crane, Holy Apostles St. Vincent de Paul; Loa Perin, AARP; Breland Draper; Don Drum, PERSI; Bridget Morrisroe-Aman; Nancy Rush; Nary Chant, CAPA; Katy Kyauski, CAPA; Kathie Garrett, Partners in Crisis; Bob & Vivian Parrish, Idaho Interfaith Roundtable Against Hunger (IIRAH); Ron Gambassi; Sara Gambassi; Kathy Gardner, Idaho Hunger Relief Task Force; Roxy Carr, Idaho Community Action Network (ICAN); Jolene Wolford, ICAN; Karrie Vanleuwn; Paul Leary, DHW; Jacqueline Swan; Susie Cummins, DHW; Tabitha Jolley, IIRAH; Karen Vauk, The Idaho Foodbank; Trevor Neuley; Kathryn Turner, DHW; Valerie LeBoeuf; Dieuwke A. Spencer, DHW; Mitch Scoggins, DHW; Karen Howard; Nicole Sherwood, Developmental Concepts; Karen Rush-Wilson; Christopher Ball, DHW; Rosie Andueza, DHW; Jackie Yarbrough, Idaho Foodbank; Diana Concoor; Marilyn Bauman, IIRAH; Evelyn Grime; Wayne Denny, DHW; Christine Hahn, DHW; Christine Tiddens, Catholic Charities of Idaho; Dennis Stevenson, Administration; Kerry Elder, Partnerships for Inclusion; Angela Lindig, IPUL/SILC; Robbi Barrutia, SILC; Jim Baugh, Disability Rights Idaho; Meredith Adams, Austim Society; Christine Pisani, Developmental Disabilities Council; Rowena Pineda, ICAN; Tracy Warren, DD Council; Genie Sue Weppner, DHW; Russ Barron, DHW; DeAnn Keeler; Kristi Pedersen; Richelle Tierney; TeRonda Robinson, CPI; Paul Tierney; Laura Baillie, CPI; Anji Armagost, CPI; Dustin Smith, Family Medicine Residency of Idaho (FMRI); David Schulz, FMRI; Derek Jackson, FMRI; Bridgette Latimer, FMRI; Phyllis You, FMRI; Suzanne Lee, FMRI; Dona VanTrease

The meeting was called to order at 1:30 p.m. by Chairman Block.

MOTION: **Rep. McGeachin** moved to approve the minutes of the January 18, 2010 McGeachin Subcommittee as written. **Motion carried by voice vote.**

MOTION: **Rep. McGeachin** moved to approve the minutes of the January 20, 2010 McGeachin Subcommittee as written. **Motion carried by voice vote.**

MOTION: **Rep. McGeachin** moved to approve the minutes of the January 22, 2010 McGeachin Subcommittee as written. **Motion carried by voice vote.**

RS19156: Tana Cory, Bureau Chief for the Bureau of Occupational Licenses, presented **RS19156** which changes the payment the State Board of Optometry members receive from compensation to an honorarium. It does not change the amount of payment received. Changing the payment to an honorarium will remove the Board members from being involved in the Public Employees Retirement System of Idaho (PERSI).

MOTION: **Rep. Wood (27)** moved to introduce **RS19156. Motion carried by voice vote.**

RS19162: Tana Cory, Bureau Chief for the Bureau of Occupational Licenses, presented **RS19162** which changes the payment the Occupational Therapy Licensure Board receives from compensation to an honorarium. It also clarifies that all fees will be paid to the Bureau of Occupational Licenses and deposited into their account.

MOTION: **Rep. Rusche** moved to introduce **RS19162. Motion carried by voice vote.**

RS19164: Tana Cory, Bureau Chief for the Bureau of Occupational Licenses, presented **RS19164** which adds qualification for licensure for foreign educated physical therapists for whom English is not their native language. They must have proof of passing scores on standardized English tests before can practice. It further clarifies that more than one competency exam may be required for licensure.

MOTION: **Rep. Thompson** moved to introduce **RS19164. Motion carried by voice vote.**

Chairman Block reminded the committee that there were still two motions pending from the Friday, January 29, 2010 meeting.

The pending main motion moved by **Rep. McGeachin** was that the committee approve all pending, temporary and fee rules recommended by the McGeachin Subcommittee for approval.

The pending substitute motion moved by **Rep. Luker** was that **Docket No. 16-0304-0902** be heard by the full committee. He noted that he brought the item up because it raised a policy issue that the committee should be aware of which was the removal of the asset test for the food stamp program.

SUBSTITUTE MOTION WITHDRAWN: **Rep. Luker withdrew the motion.**

The committee returned to address the pending main motion.

Rep. McGeachin noted that there was one rule that was reviewed in subcommittee that they had requested additional information on, **Docket No. 16-0305-0904**. The issue was that the rule required a supplemental appropriation and additional funding in 2011. The committee had asked for clarification from CMS regarding the penalty for non-compliance.

Susie Cummins, Medicaid Program Specialist in the Division of Welfare, stated that she had received an answer from CMS regarding **Docket No. 16-0305-0904**. The rule created an increase in the resource limit for the Medicaid Savings Program. The response from CMS was that if the State did not implement the rules then CMS would help the State come into compliance. If they still failed to come into compliance the State would be assessed a penalty. In speaking with the legal department she noted that the State could be open to class action lawsuits if they did not come into compliance.

In response to committee questions, **Ms. Cummins** stated that the program did involve federal matching dollars. Currently the federal government pays 79% and Idaho pays 21%.

Rep. McGeachin stated her appreciation for the prompt response from Ms. Cummins and CMS. She asked for **support** of the motion.

Rep. Nielsen spoke in **support** of the motion. While he will support this rule he noted that the State is facing a tight budget this year and this rule is causing the state to spend more money and use scarce resources just to get the matching fund from the government.

**VOTE ON
ORIGINAL
MOTION:**

Motion carried by voice vote.

**DOCKET #
16-0410-0902 :**

Genie Sue Weppner, Program Manager in the Division of Welfare, presented **Docket No. 16-0410-0902** which deals with the federally funded Community Services Block Grant (CSBG). The CSBG funds are managed by local Community Action Agencies (CAA) for: reduction of poverty, revitalization of communities and leading low-income families to self-sufficiency. Services that reduce the effects of poverty include: emergency rent and mortgage assistance, transportation assistance, nutrition assistance and homeless shelter services. Revitalization efforts include: conversion of an empty building to senior housing in Pocatello and the rehabilitation of an old police station into housing for homeless veterans. Self-sufficiency activities include: educational assistance and healthcare assistance. Because of the tough economic times, there are new families at risk. These families can benefit from the services provided by the CSBG by raising the income limits from 125% of poverty to 200% of poverty.

In response to committee questions, **Mary Chant**, Executive Director of the Community Action Partnership Association of Idaho, stated that there is no standard return because the services vary greatly. One family may receive a food box a single time while another receives long-term assistance. The funds for this program will end September 30, 2010. The families are aware of this fact.

Ms. Weppner, in answer to questions, clarified that if the funding does not continue to sustain the increased level of eligibility then the Department would either ask for a reduction in the eligibility level or they would change the services that are provided. The State is not expected

to come up with more funding for the grant. The program was designed to operate under the guides of what the federal government will cover.

In response to committee questions, **Ms. Weppner** stated that there is the opportunity to apply for the grant money yearly. The money is allocated to the States but the CAA must explain how they are going to use the funds in order to receive them. She further noted that there has never been any requirement for a match from the State or the use of State funds if the money was not provided from the federal government.

Mary Chant testified in support of **Docket No. 16-0410-0902**. She said that all CAA are locally run private non-profits. They conduct needs assessments no less than every two years to ensure their activities are responsive to the needs of the local community. CAA work with local partner agencies to maximize efforts and to ensure no duplication in services provided. The CSBG program is very invested in outcomes and results of the CAA.

In answer to questions, **Ms. Chant** stated that approximately 60,000 children were helped by Community Action Agencies last year. She noted that the funding source for the CSBG program is through the U.S. Department of Health and Human Services under the Office of Community Services.

MOTION:

Rep. Wood (27) moved that **Docket No. 16-0410-0902** be approved.

Rep. Saylor spoke in support of the motion. He noted that he serves on the board of one of these agencies and they provide wonderful programs to the community. He urged the committee's approval.

Rep Nielsen spoke in support of the motion but stated that it is important to remember that the grants are coming from tax dollars. The money will do a lot of good but they are not voluntarily given funds. It is admirable work that they do in their communities but it is still a debt that has to be paid back.

Rep. Rusche spoke in support of the motion. He said that block grants are distributed to non-profits throughout the state and are very useful in helping people in their communities.

Rep. Thayn noted that the committee should be thinking about different options to take care of the needs of the community and he appreciated Rep. Nielsen's concerns.

Motion carried by voice vote.

**DOCKET #
16-0318-0901:**

Chairman Block noted that several committee members are waiting for additional information regarding **Docket No. 16-0318-0901**.

MOTION:

Chairman Block moved to hold until time certain **Docket No. 16-0318-0901** upon discretion of the Chair. Hearing no objection the motion carried.

Chairman Block noted that there are just a few administrative rules left to be discussed by the committee. The next meeting will be Thursday, February 4, 2010 at 1:30 p.m.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 2:21 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 4, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood (27), Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** Representative McGeachin

GUESTS: Mark Johnston, Board of Pharmacy (BOP); Glenn Luke, BOP; Matt Murray, BOP; Arthur R. Sacks, Board of Dentistry (BOD); Quinn DuFurrera, BOD; Sandy Evans, Board of Nursing; Drew Thomas, Risch Pisca; Ed Hawley, Administrative Rules; Martin Bilbao, Connolly & Smyser, Ctd.

The meeting was called to order at 1:27 p.m. by Chairman Block.

MOTION: **Rep. Luker** moved to approve the minutes of the January 26, 2010 McGeachin Subcommittee as written. **Motion carried by voice vote.**

MOTION: **Rep. Luker** moved to approve the minutes of the January 28, 2010 McGeachin Subcommittee as written. **Motion carried by voice vote.**

MOTION: **Rep. Thompson** moved to approve the minutes of January 26, 2010 with the following correction: On page 2, paragraph 3, the last sentence should read "he was a supporter of the legislation." **By a voice vote**, the minutes were **approved as corrected**.

MOTION: **Rep. Luker** moved to approve the minutes of January 28, 2010 as written. **Motion carried by voice vote.**

RS19118: **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **RS19118** which deals with the way a prescription can be communicated from a prescriber to a pharmacy. The change would allow the prescriber's agent to sign a prescription if the fax originated from the pharmacy and is for a refill or if the returned request from the prescriber's office has all the legal requirements of a prescription and no changes were made to the drug strength or directions. This rule will save pharmacists from having to call and verify the prescription and then take down an oral prescription.

In response to committee questions, **Mr. Johnston** clarified that there are separate definitions in the statute for "prescription", "drug orders", and "prescription drug orders." A "prescription drug order" is a retail prescription, a "drug order" is an institution prescription and a "prescription" encompasses both of those definitions. He noted that the language came from the Attorney General's office and was to make sure

that all their bases were covered.

Mr. Johnston, in answer to questions, stated that the rule change simply covers faxed prescriptions and while it might become outdated at some point in the future, realistically it is a problem currently. The Board does not currently have any statutes or rules governing electronic prescriptions.

MOTION: **Rep. Nielsen** moved to introduce **RS19118**. **Motion carried by voice vote.**

RS19124: **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **RS19124** which lengthens the time a veterinarian has to provide a written confirmation of an oral order from 72 hours to 7 days. He stated that the Board of Veterinary Medicine has made the same change this year in rule.

In response to committee questions, **Mr. Johnston** stated that veterinary drug outlets cannot carry controlled substances. This rule change will not increase the potential for diversion.

MOTION: **Rep. Shepherd (8)** moved to introduce **RS19124**. **Motion carried by voice vote.**

RS19135: **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **RS19135** which deals with pharmaceutical waste. The change would allow the user to deliver their unused medication to someone licensed or registered to receive the product for destruction. This allows for Idaho to be ready when the federal law is changed. The statute change is modeled after verbiage being used by Congress to establish their laws. It will eliminate Idaho from being more stringent than the federal government when the changes are passed.

In response to committee questions, **Mr. Johnston** said that there are no businesses currently licensed to take back products from the ultimate user. As there is no one for the user to give the product to there is not a danger that a business would think they have authority from the state to do this. He noted that there has been indication from the federal government that a bill would be passed very soon. If that were to occur, Idaho would be more stringent than the federal government and would only be extending the pharmaceutical waste problem.

In answer to questions, **Mr. Johnston** noted that the only way to correctly dispose of drugs is to incinerate them.

MOTION: **Rep. Rusche** moved to introduce **RS19135**. **Motion carried by voice vote.**

RS19144: **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **RS19144** which allows the Board to begin fingerprinting applicants for licensure in order to provide a higher level of public safety for Idaho's citizens. The requirement is only for initial applicants and not renewals.

In response to committee questions, **Mr. Johnston** stated that the Board has had enough disciplinary issues in the past that they believe it is a

good investment to require this screening up front.

MOTION: **Rep. Thompson** moved to introduce **RS19144**. **Motion carried by voice vote.**

RS19146: **Sandra Evans**, Executive Director for the Board of Nursing, presented **RS19146** which grants authority to the Board to recover attorney and paralegal fees incurred in prosecuting disciplinary actions. Recent Supreme Court decisions referencing the ability of administrative agencies to award attorney fees in certain cases prompted the Board to amend language in the statute to clarify the Board's authority to recover these fees.

In answer to committee questions, **Ms. Evans** noted that it was on the advice of legal counsel that the proposed changes were made to specifically clarify the Board's authority. She said that the Board would recover its costs when the applicant sought reinstatement of their license. There is no change to that practice. The only time the fees are incurred is upon reinstatement which frequently does not occur.

Ms. Evans, in response to questions, stated that licensees do have the ability to appeal the Board's decision to a higher court. She stated that it was assumed the higher courts could require the Board to pay the defendant's court costs. She also noted that attorney costs are paid from licensure fees.

MOTION: **Rep Wood (27)** moved to introduce **RS19146** with the stipulation that it be referred to the House Judiciary, Rules and Administration Committee for further hearing.

Rep. Luker stated his appreciation for Rep. Wood's observation. However, he noted that this particular rule is an extreme departure from the attorney rules that are currently in place. It does not provide a two way street for the repayment of attorney fees if the defendant were to win against the Board. He noted that there can be a considerable amount of money expended in defending these lawsuits.

SUBSTITUTE MOTION: **Rep Luker** made a substitute motion to return **RS19146** to the sponsor for changes.

Rep. Marriott spoke **in support** of the **substitute motion**. He said that it was their responsibility to protect citizens from the government and this rule change would give greater power to the government.

In response to questions, **Rep. Luker** stated that in civil cases there usually is the opportunity for the repayment of attorney fees to go both ways. He noted that Statute 12117 was modified by the Supreme Court and House Bill 421 deals specifically with this area. The Board of Nursing would be creating a different policy for themselves than the State is deciding for all other agencies.

Rep. Wood (27) stated that if the goal is to protect the public then the government cannot be coerced into not pursuing bad actors. In protecting

the public the government has to be zealous in its pursuit of someone doing something wrong. He noted his concerns with having a strict two way street when it comes to recovering attorney fees.

Rep. Sayler said that this is an issue that should be decided before the germane committee which should not be this one. He stated that he was **in support** of the **original motion**.

Rep. Nielsen stated that he was **in support** of the **substitute motion**; In the interest of time, the RS should be given back to the author of the bill and then presented with changes to the House Judiciary, Rules and Administration Committee.

Rep. Wood noted that the deadline for the introduction of new bills is approaching and sending it back may preclude them from bringing this forward this year.

Rep. Luker said that there are other privileged committees that could bring this rule forward; for example, state affairs. This particular proposal is way outside current policies that govern all agencies as a whole.

**ROLL CALL
VOTE:**

Rep. Nielsen requested a roll call vote. By a vote of **8 aye and 7 nay** the motion **carried**. Voting in the affirmative: **Reps. Nielsen, Loertscher, Shepherd (8), Luker, Marriott, Thayn, Boyle, Thompson**. Voting in the negative: **Reps. Block, Gibbs, Wood (27), Rusche, Chew, Durst, Sayler**.

RS19189:

Sandra Evans, Executive Director for the Board of Nursing, presented **RS19189** which eliminates outdated and unnecessary language and extends Board terms of appointment until such time that a qualified successor has been appointed. She noted that Board appointments expire on April 1 of that year and there have been times in the past when positions remained unappointed after April 1. This allows members to continue to serve until they have been reappointed or replaced by a new Board member.

MOTION:

Rep. Wood (27) moved to introduce **RS19189**. **Motion carried by voice vote**.

**DOCKET #
19-0101-0901:**

Arthur Sacks, Executive Director for the Board of Dentistry, presented **Docket No. 19-0101-0901** which deals with four separate rule changes. The first would allow licensure of dental specialists by making the rule more inclusive. It defines the procedures necessary for speciality examinations for licensure. The second and third changes deal with the specific number of continuing education hours that can be obtained through self study. No more than 8 of the 30 hours required for dentists and no more than 6 of the 24 hours required for dental hygienists are allowed to be completed through self study. The final change allows a dentist to have anesthesia personnel in their office without having an anesthesia permit, provided their facilities meet the same standards as a dentist who does have a permit. This will allow for the reduction of costs for patients.

In response to committee questions, **Mr. Sacks** noted that once a dentist

is licensed there is no real recertification unless they have been disciplined and then they must reapply. He said that as the rules are currently written a licensee can go online and read articles or papers on oral health subjects to complete their continuing education requirement. This rule change will allow for more class work and testing to meet the requirement which will in turn help further protect the public. He stated that continuing education requirements are all over the board nationwide. Some states requires licensees to take courses approved by their Board.

Mr. Sacks, in answer to questions, said that at the public hearing no one spoke for or against the rule change. The Board did speak informally with the Idaho State Dental Association and they were in support of the changes.

MOTION: **Rep. Rusche** moved to accept **Docket No. 19-0101-0901. Motion carried by voice vote.**

Chairman Block stated that the next regular meeting of the committee would be on Monday, February 8, 2010 at 1:30 p.m. She noted that the legend drug rule would be on the agenda along with several other RS. Additionally a budget subcommittee would be appointed at this time.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 2:35 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 8, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Sayler

**ABSENT/
EXCUSED:** Representative McGeachin

GUESTS: Denise Chuckovich, Idaho Primary Care; Benjamin Davenport, Risch Pisca; Ed Hawley, Administrative Rules; Mark Johnston, Board of Pharmacy (BOP); Leon K. Jensen, BOP; Kathie Garrett, Idaho Academy of Family Physicians; Lyn Darrington, Regence BlueShield of Idaho; Elizabeth Criner, Pfizer

The meeting was called to order at 1:30 p.m. by Chairman Block.

MOTION: **Rep. Luker** moved to approve the minutes of January 29, 2010 as written. **Motion carried by voice vote.**

MOTION: **Rep. Thompson** moved to approve the minutes of February 2, 2010 as written. **Motion carried by voice vote.**

MOTION: **Rep. Luker** moved to approve the minutes of February 4, 2010 as written. **Motion carried by voice vote.**

**DOCKET #
27-0101-0904:** **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **Docket No. 27-0101-0904** which deals with the Idaho Legend Drug Donation Act of 2009. The Act requires the Board of Pharmacy to create standards and procedures for: the transfer, acceptance and safe storage of donated drugs; inspecting donated drugs to ensure product integrity; the distribution of donated drugs to qualifying charitable centers or medically indigent patients; and any other items the Board deems appropriate or necessary to implement the Act. All language in the rules was developed from other states' statutes and rules. The Board held nine meetings and visited free clinics in Kellogg, Lewiston and Garden City. A large amount of public comment was received late including some after the official comment period ended which necessitated a hearing, extension of the public comment period and finally a late printing date for the rule. One of the main issues dealt with the statutory definition of a donating entity. Senator Bock is sponsoring statute changes which will require the rules to only apply to a single donating entity, nursing homes.

In response to committee questions, **Mr. Johnston** stated that the Board and free clinics negotiated the requirement that a representative on behalf of the medical clinic's director would be able to accept product in lieu of having a lockbox for donations. He further noted that if donating entities

donate items in their original containers these rules would not govern that. It would only apply to nursing homes.

MOTION: **Rep. Durst** moved to approve **Docket No. 27-0101-0904. Motion carried by voice vote.**

RS19350: **Rep. Rusche** presented **RS19350** which allows for the continuation of the Health Quality Planning Commission (HQPC) by removing the sunset date. It revises the duties of the HQPC to include monitoring the effectiveness of the Idaho Health Data Exchange and make recommendations to the legislature for improvements, if necessary. Finally, it restates the role of the Commission with respect to the monitoring and reporting of healthcare quality and patient safety.

MOTION: **Rep. Thompson** moved to introduce **RS19350. Motion carried by voice vote.**

RS19264: **Rep. Rusche** presented **RS19264** a resolution which encourages the HQPC to study care for stroke identification, management and make recommendations for improvement. He noted that approximately a quarter of Medicaid's budget is spent on nursing home care and much of that care is required as the result of strokes.

MOTION: **Rep. Shepherd (8)** moved to introduce **RS19264. Motion carried by voice vote.**

RS19351: **Rep. Rusche** presented **RS19351** which establishes a commission under the Board of Health and Welfare to offer advice on policies and potential legislation aimed at improving the immunization rates of Idaho children. The commission would not be involved in vaccine selection or financing and would only offer advice on how the immunization program could be improved. He noted that this was the result of one of three recommendations that came from the Health Care Task force. The eight member commission would be composed of appointees from the Department of Health and Welfare, public health departments, the immunization coalition and clinical practitioners involved in the immunization of children as well as one Senator and one Representative. Once the plan for improving immunizations is in place this commission would no longer be necessary.

In answer to questions, **Rep. Rusche** stated that the commission would not be involved with conscientious objections to vaccines. The intent is to bring experts together to look at how immunizations are done in the state and to make recommendations about policy procedures.

MOTION: **Rep. Gibbs** moved to introduce **RS19351. Motion carried by voice vote.**

Chairman Block stated that each year each the committee makes a budget report to JFAC with regards to the general fund budget. The committee will be hearing a budget report from the Director of Health and Welfare at the next meeting on Wednesday, February 10, 2010 at 1:30 p.m. The Budget Subcommittee will meet afterwards at 3 p.m. and will include Representatives Nielsen, McGeachin, Shepherd (8), Gibbs, Wood

(27), Thayne, Rusche. Chairman Block will chair the subcommittee. She reminded the committee that the deadline for bill introductions is Monday, February 15 so all further RS's will need to be heard by Friday, February 12, 2010.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 1:53 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 10, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Tom Shanahan, Department of Health and Welfare (DHW); Corey Surber, Saint Alphonsus; Mark Johnston, Board of Pharmacy (BOP); Glenn Luke, BOP; Leon Jensen, BOP; Martin Bilbao, Connolly Smyser; Nicole Sherwood, Developmental Concepts; Jim Baugh, Disability Rights Idaho; Mckinsey Miller, Gallatin Public Affairs

The meeting was called to order at 1:36 p.m. by Chairman Block.

MOTION: **Rep. Luker** moved to approve the minutes of February 8, 2010 as written. **Motion carried by voice vote.**

RS19153C1: **Mark Johnston**, Executive Director of the Board of Pharmacy, presented **RS19153C1** which changes the deadline for pharmacists license renewal from June 1 to no later than June 30.

MOTION: **Rep. Shepherd (8)** moved to introduce **RS19153C1**. **Motion carried by voice vote.**

RS19157C1: **Mark Johnston**, Executive Director of the Board of Pharmacy, presented **RS19157C1** which updates Idaho's controlled substance schedules.

MOTION: **Rep. Luker** moved to introduce **RS19157C1**. **Motion carried by voice vote.**

RS19177: **Mark Johnston**, Executive Director of the Board of Pharmacy, presented **RS19177** which defines "isomer" in the Uniformed Controlled Substance Act. He said that the Idaho State Police brought it to the attention of the Board that the lack of a definition of "isomer" was creating confusion in the law. This legislation deals with that issue.

MOTION: **Rep. Wood (27)** moved to introduce **RS19177**. **Motion carried by voice vote.**

Richard Armstrong, Director of the Department of Health and Welfare, gave a budget report including the Governor's and Department's recommendations for 2011. Medicaid is the driver of the budget, comprising 79% of the \$2 billion, and is the third largest health plan in the

state. 67% of the budget is federally funded and that is a significant factor because of the leveraging effect that general funds can have on federal dollars. The recession has had a huge impact on the budget through the last few years. The food stamp program is one of the major measures of where Idaho citizens are in relation to poverty and has increased its enrollment dramatically. As long as unemployment remains where it is the Department expects to continue to see an increased number of applications for the food stamp program.

In response to committee questions, **Director Armstrong** stated that somewhere between 3-5% was forecasted as the increase in food stamp enrollment due to the removal of the asset test. He noted that the only cost to Idaho is for the administration of the program. All food is fully funded by the federal government.

The Department has been challenged with the reduction of \$122.3 million from 2009/10 and currently they have achieved a significant portion of the reductions, but challenges are still ahead. General funds are disproportionately smaller than federal funds and comprise only 23.1% of the budget. The Department looked for cuts to the general fund that did not have as heavy of a federal matching component to them, however, those opportunities are starting to run out. There is a direct formula that must be applied when looking at how federal funds will be affected by reductions in state funding.

With regards to personnel, the Department has instituted 9.5 days of furlough for staff, laid off 23 employees and held vacant positions open. These measures will only work temporarily and are not long term solutions for cost savings. A more permanent solution to downsize the employment base is necessary. The Department currently maintains 30 offices statewide and will probably need to consider closing some of them in the future. From a personnel standpoint, there are not many other options available.

Director Armstrong noted that there were very few decision units this year. Some of the larger and more controversial ones included: the Medicaid Management Information System (MMIS) operations, which is the claims payment system for Medicaid; the MMIS certification, which must be certified in order to receive federal funds; Temporary Assistance for Needy Families (TANF), which has monies to be repaid as the result of audit findings; the adult Cystic Fibrosis program and maintenance costs for Web Infrastructure for Treatment Services (WITS) which is the electronic health records service for adults and children in the mental health region.

Looking forward there will be a \$12.1 million shortfall in general funds for Medicaid. Any further hold backs to the 2010 budget would realistically not be seen in dollar form in this fiscal year. Moving forward for 2011 the prioritized services will be: for children, for court committed adults that are a danger to themselves or others and to protect public health and safety. In order to meet the 2011 recommended budget, price freezes and reductions are being worked on as well as the creation of a new hospital reimbursement methodology that will achieve general fund savings without damaging the hospital system in Idaho. Finally, implementation on July 1 is critical to getting the savings that are needed.

Service standards state that when an application is received that is when the clock starts and there is a set amount of time to process the application. If a person is waiting in line to apply, the clock has not yet started for them and the Department will not be penalized if that is occurring. The deployment strategy is to provide good service once the person is in front of them. Unfortunately with real time processing and having to pull back on personnel there is no other option.

In response to committee questions, **Director Armstrong** said that some programs are at the point that they really can't be cut any more or they would be on the verge of losing federal funds. The maintenance of effort on some programs is getting very difficult to reach and the Department may have to make tough decisions regarding potentially incurring penalties for not maintaining the appropriate level of funding. However, he noted that because of the recession there has not been a decline in the number of providers that are available. If anything there has been an abundance in some categories. Additionally, the Department is looking at settling some overpayment claims with Medicaid. However, the settlement doesn't appear to be that large of a number and would require additional staff time to really begin to move the settlements forward at an accelerated rate.

The process has begun with the federal government to redefine benefits and move away from an entitlement program to a population based program. The healthcare industry is very skilled at finding ways to deliver more services and there is going to be a continued increase in utilization of services. There has to be a move away from the reimbursement methodology of fee for service. Finally, the current strategy is based on the fact that there would not be anymore hold backs and the Department would be able to get the supplemental Medicaid money.

Chairman Block noted that there are significant issues to address with the budget. She has reconsidered the appointment of the subcommittee and decided that it will be necessary for the full committee to work on it instead. Decisions will be made at the Tuesday, February 16, 2010 meeting and the Chair will present to JFAC on Thursday, February 18, 2010.

The next meeting will be Friday, February 12, 2010 upon adjournment of the House and the remaining RS's will be addressed at that time.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 2:56 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** February 12, 2010
- TIME:** Upon Adjournment of the House
- PLACE:** Room EW42
- MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor
- ABSENT/
EXCUSED:** Representatives Loertscher, Luker, Saylor
- GUESTS:** Roger Hales, Bureau of Occupational Licenses (BOL); Tana Cory, BOL; Robert Payne, Social Work Examiners; Jim Baugh, Disability Rights Idaho; Kathie Garrett, Partners in Crisis; Colby Cameron, Sullivan & Reberger
- The meeting was called to order at 12:00 p.m. by Chairman Block.
- MOTION:** **Rep. Rusche** moved to approve the minutes of February 10, 2010 as written. **Motion carried by voice vote.**
- RS19641:** **Rep. Chew** presented **RS19641** which creates certain limitations on pharmacists' drug product selection for epilepsy and seizure drugs. In cases where a prescriber has listed that a medication is for the treatment of epilepsy or seizures, the pharmacist must notify the patient before changing the drug.
- MOTION:** **Rep. Durst** moved to introduce **RS19641**. **Motion carried by voice vote.**
- RS19184:** Roger Hales, attorney for the Bureau of Occupational Licenses, presented **RS19184** which clarifies the definitions and qualifications for a social worker, master social worker and clinical social worker licenses and puts them in their own section. Additionally, it eliminates the education in related fields as qualifying an applicant for a social worker license.
- In response to committee questions, **Mr. Hales** noted that it is rather unusual to have qualifications in a definition section of a statute and typically there is a separate section of an act that sets forward qualifications for licensure. Thus, that is the basis for this legislation.
- MOTION:** **Rep. Rusche** moved to introduce **RS19184**. **Motion carried by voice vote.**
- RS19191:** Roger Hales, attorney for the Bureau of Occupational Licenses, presented **RS19191** which changes the payment lay members of the State Board of Dentistry receive from compensation to an honorarium. It also raises the renewal fee cap from \$600 to \$1000. Changing the payment to an honorarium will remove members from the Public Employees Retirement System of Idaho (PERSI).

Mr. Hales, in response to questions, clarified that the legislation would raise the cap but would not change the amount of the fee. If the Board wanted to raise fees in the future they would have to come before the committee. The Board is simply trying to be proactive and efficient in providing for the possibility of raising fees in the future.

MOTION: **Rep. Wood (27)** moved to introduce **RS19191**. **Motion carried by voice vote.** **Rep Marriott** requested that he be recorded as voting nay.

RS19223: Roger Hales, attorney for the Bureau of Occupational Licenses, presented **RS19223** which removes members of the Board of Examiners of Residential Care Facility Administrators from PERSI by changing the payment they receive from compensation to an honorarium. It also adds certain education and experience as new qualifications for a residential care facility administrator license.

MOTION: **Rep. Thompson** moved to introduce **RS19223**. **Motion carried by voice vote.**

Chairman Block stated that the next meeting would be Tuesday, February 16, 2010 and the committee would be discussing the budget.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 12:10 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 16, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Richard Horwe, Eastern Idaho Public Health District (EIPHD); Geri Rackow, EIPHD; Tamara Cox, EIPHD; Steven Thomas, EIPHD; Sandra Evans, Board of Nursing; Lee Barton, Riverside REHAB; Lyn Darrington, Regence BlueShield of Idaho; Leslie Clement, Department of Health and Welfare (DHW); Ike Kimball, DHW; Dick Armstrong, DHW; Christine Pisani, Developmental Disabilities Council; Julie Taylor, Blue Cross of Idaho; Steve Millard, Idaho Hospital Association; Benjamin Davenport, Risch Pisca; Sara Stover, Division of Financial Management

The meeting was called to order at 1:36 p.m. by Chairman Block.

MOTION: **Rep. Nielsen** moved to approve the minutes of February 12, 2010 as written. **Motion carried by voice vote.**

H 494 : **Rep. Rusche** presented **H 494** which allows for the continuation of the Health Quality Planning Commission (HQPC) by removing the sunset date. It also revises the duties of the Commission to include monitoring the effectiveness of the Idaho Health Data Exchange (IHDE) and make recommendations to the legislature for improvements in health data technology if necessary. He noted that the HQPC is the only place where the major players in the health care system can speak about systemic issues and is an important forum to facilitate discussion.

Lyn Darrington, Regence Blue Shield of Idaho, **testified in support of H 494.** She said that the more information that can be collected regarding patient safety and quality the better decisions patients can make. The HQPC is the only agency in the state that brings together all of the stakeholders to discuss these issues.

In response to committee questions, **Ms. Darrington** said that the HQPC information that is collected will allow employers to make better decisions about healthcare based on past outcomes.

Julie Taylor, Blue Cross of Idaho, **testified in support of H 494.** She noted that Blue Cross has been an active partner in the HQPC since the beginning and the Chief Operating Officer currently sits on the Board. They fully support the ongoing efforts of the Commission. It is the only statewide forum where all the players are able to talk about quality of care

issues. She further stated that the Idaho Association of Commerce and Industry (IACI) had looked at the legislation and voted to support it as well.

Ms. Taylor, in response to questions, said that access to data is the most important part of the HQPC. The point is to share information so that everyone can make better decisions. While it may not have reduced costs yet, the intent is to use this information to lower healthcare costs for everyone. She noted that Blue Cross pays all expenses for being involved in the Commission.

Steve Millard, Idaho Hospital Association, stated that the Association did not have a specific position on **H 494**. From their perspective, the HQPC brings a balanced group of people to the table with the physicians and health insurance industry. The IHDE is an important goal and has been a great example of a public private partnership. The next phase is to look more at the quality side of things. If the industry can get good quality that can lead to better efficiencies and lower costs.

Richard Armstrong, Director of the Department of Health and Welfare, testified in support of **H 494**. He said that he was a member of both the IHDE and the HQPC. Both boards are composed of the same people and have been up until now. Currently the Exchange is funded by fees from users. The actual cost for the HQPC last year was somewhere in the \$30,000 range. However, as the services are integrated the costs should drop to around \$15,000 a year. In the future the HQPC may end up being supported completely from the IDHE.

MOTION:

Rep. Wood (27) moved to send **H 494** to the floor with a **DO PASS** recommendation. This would be a good start towards lowering the costs of healthcare in Idaho. Only with the information from the IHDE will the state be able to make intelligent decisions in the future.

In response to questions, **Rep. Rusche** said that the HQPC attempted to involve representatives from all interested parties, including the general public. One member of the HQPC is an Idaho resident that represents the public interest. That member participates as fully as all other members and is actively involved in the Commission.

Motion carried by voice vote. **Rep. Rusche** will sponsor the bill on the floor.

H 484 :

Sandra Evans, Executive Director for the Board of Nursing, presented **H 484** which accomplishes two objectives. It allows Board of Nursing members to continue serving until a successor has been appointed and it eliminates outdated and unnecessary verbiage. It deletes language which transitioned the Board from seven to nine members. That transition was fully accomplished by 1999.

MOTION:

Rep. Gibbs moved to send **H 484** to the floor with a **DO PASS** recommendation. He noted that having served on the Fish and Game Commission the issue of term expirations has often come up with the Attorney General's office. It would be much better to have the terms

completely spelled out, as is the case in **H 484**. Depending on the election of a new governor and the transition period, board appointments are often not filled by the expiration date.

Motion carried by voice vote. **Rep. Gibbs** will sponsor the bill on the floor.

Chairman Block noted that Director Armstrong had made a presentation last week regarding the budget for Health and Welfare and the Department would present more information based on questions that arose at that time.

Dave Taylor, Deputy Director for the Department of Health and Welfare, stated that he would walk through the priority items for the Department. The Medicaid Supplement request of \$14 million in general funds and \$76 million in total funds is what all budget projections have been based on. The increase in caseload and utilization as well as minimal price increases are the drivers for the supplement.

In response to committee questions, **Leslie Clement**, Medicaid Division Administrator, said that the Department has never experienced this kind of severe economic climate before. Data experts are looking at the forecast tool that determines caseloads. Medicaid started at just under 9% for 2011 and they are now closer to a 10% caseload growth.

Mr. Taylor said that the community hospitalization supplement involves a couple of one time transfers which deal with the delay in opening of the Treasure Valley Detox Center and increased demand. The Medicaid maintenance request is for \$25 million in general funds and \$126 million in total funds. The request is for non-discretionary increases in Medicaid and the Federal Medical Assistance Percentages(FMAP) rate change. The adult cystic fibrosis request is for a one-time funding of \$150,000 in general funds for those aged 21 and older that have cystic fibrosis. The Temporary Assistance for Needy Families (TANF) program audit requires \$1.4 million in general funds for the replacement of federal funds regarding the mischarge of certain activities to the TANF grant. He noted that should they not receive funding, the Department would most likely have to reduce services. \$469,000 are being requested for the TANF foster parent training fund shift. Based on audit findings, there were certain costs relating to training and recruitment that were not allowed under TANF.

The Medicaid Management Information System (MMIS) is the number one priority for the Department. Since 2007, the Department has put about \$50 million into the system. The two line item requests are for ongoing maintenance of the system and a one-time certification payment. Without the certification the 25% state share to 75% federal cost share would be compromised. Finally, the Department is requesting \$150,000 for maintenance of the Web Infrastructure for Treatment Services (WITS) system. The request is to pay for maintenance costs of the new data base system that was implemented.

In response to committee questions, **Mr. Taylor** said that the Department does have some flexibility in moving money from one area to another.

Between appropriations money can be moved with limits of 10% within the smallest appropriation. Trustee and benefits money cannot be shifted.

Rep. Wood, in answer to questions, noted that one of the issues the legislature will have to decide is how much flexibility they will allow state agencies. That is not something that can be answered today.

In answer to committee questions, **Mr. Taylor** clarified that the decision units from the Department were part of the Governor's recommendation and are based on the initial revenue projection from the beginning of December.

Chairman Block said that the committee would use the same process that had been used for the budget subcommittee in the past. There will be discussion among members and then the committee will make nominations for recommendations for priorities.

Rep. McGeachin stated that she would like to start by dealing with broad terms for consideration. The committee should look at the main categories that are cost drivers. In order to make any impact the larger areas need to be considered. Those services that are federally mandated, those that are state laws and those that are state rules should be looked at first. She said that there isn't much flexibility within the budget but one area that could be managed better is those programs that deal with the adult population. The committee should be proactive and work with the Department to structure benefit coverage for the adult population in a way that the state can manage and pay for. The priority funding should be for MMIS because of the amount of money that has already been spent to get the project started. \$50 million would be wasted if the program were not certified.

In response to committee questions, **Sara Stover**, Budget Analyst for Health and Human Services, said that the numbers had changed since the Governor made recommendations. The main priority would still be to fully fund MMIS as much as possible including certification and maintenance of the system. Every time a holdback occurs it takes months for the Department to realize savings. Things will not be turned around in time for the 2010 fiscal year. As for 2011, once the revenue number comes in final determinations can be made. Now that JFAC has set the budget number there will be additional cuts in the Governor's recommendations. They are preparing to look for additional reductions in state agencies as well.

Rep. Rusche said that in looking at the list of priorities from the Department the only one that it seems can be dropped is the adult cystic fibrosis program. Most of the priorities are based on audit findings or involve the loss of federal dollars if they are not funded. There doesn't seem to be a lot of flexibility with the recommendations.

Ms. Clement, in answer to questions, said that lowering payments to providers would be really difficult to do. Medicaid programs already pay some of the lowest rates in the state. The price reductions and freezes that occurred last year were supposed to be a one time event. Nursing

home provider payments were reduced by almost 3%. There were freezes for physicians, dentists and intermediate care facilities.

Rep. Wood said that it is important for the committee to understand that appropriations will have to be reduced an additional 7.5 to 8% from last year. The fiscal year is almost two-thirds over and the Department will have to retroactively pull another 7.5 to 8% out of the budget. Additionally they are looking at a 10% reduction for 2011. He noted that he does not believe Congress will extend FMAP which will mean further reductions to the budget. The amount the budget will have to be reduced is unknown at this point. JFAC will budget to 2.28 billion for 2010 and 2.29 billion for 2011 and those are the only numbers that are known at this point. Given the fact that the budget will need to be reduced drastically, the big ticket items should be considered first.

Chairman Block requested nominations for the number one budget priority.

Rep. Wood suggested that the Department bring the committee a recommended priority list given the current economic situation. If the committee agrees it could be approved at the next meeting.

Chairman Block said that the budget priorities presentation for JFAC will be on Thursday morning but she could discuss the Department's recommendations with members individually if that is the will of the committee.

MOTION: **Rep. Nielsen** moved to make funding of MMIS the number one priority including certification and maintenance.

Rep. Luker agreed that certification and then sustaining MMIS should be the first priority.

SUBSTITUTE MOTION: **Rep. Durst** said that he had concerns with the role of JFAC in the budget process. Health and Welfare is the policy making germane committee and it should be their job to decide what the priorities are for the Department, then JFAC can appropriate the money. He noted that he did not agree that MMIS should be the top priority. He made a **substitute motion** to place those programs that require a maintenance of effort and federal matching dollars at the top of the priority list.

In response to questions, **Director Armstrong** said that the state receives \$3.75 for every general fund dollar. Until the Department receives the number for the budget it is hard to know where to go with maintenance of effort programs. It is clear that current service levels will not be able to be maintained. There has been a commitment made to vendors and the Department has to have the ongoing dollars to pay for MMIS. Additionally, the system must be certified in order to maintain the higher level of 75% federal and 25% state matching dollars. The Department cannot afford the 50/50 rate which the system would convert back to if the certification does not occur. The old program is scheduled to sunset and federal partners have already committed millions of dollars. With regards to WITS maintenance the Department would have to back

up to a manual system if hosting fees are not paid.

Substitute motion failed by voice vote.

**VOTE ON
ORIGINAL
MOTION:**

Motion carried by voice vote.

Chairman Block noted that only 3 priorities would probably be reasonable for the committee to suggest. She requested nominations for the next two priorities.

Director Armstrong, in response to questions, stated that the replacement of TANF dollars would be the Department's next priority and then the maintenance costs for WITS. Programmatic changes would need to be made and services would have to be reduced in the family and community area if TANF funding were deferred.

Rep. Loertscher said that the committee does not have the information to make an intelligent decision beyond the top priority that has been agreed upon. There are a number of policy decisions and statute items that need to be reexamined based on the budget crisis. The committee should focus on working on any legislative changes that might be needed.

Chairman Block stated that in the past the committee has made a priority list but has also recommended that JFAC use the numbers and knowledge that they have to best address the committee's suggestions.

Rep. Wood said that the committee has done all they can with a single recommendation and should report that top priority to JFAC.

In answer to questions, **Ms. Clement** said that there is no current federal legislation that is being considered to reauthorize FMAP. It is in the President's budget and every state is currently advocating for the continuation of FMAP funds.

Rep. Chew stated her concerns with the possibility that FMAP may not be renewed.

Rep. Saylor noted that Congressman Minnick stated FMAP would probably be renewed later this spring. He said that the committee has reached a point where it cannot go any further in picking budget priorities.

MOTION:

Rep. Luker moved that the committee make the recommendation already approved and not make any further priority recommendations.

Motion carried by voice vote.

Rep. Nielsen said that the Chair should have the ability to add priorities as she sees fit and it should be left at her discretion. He further suggested that the Department prepare itself for the possibility that FMAP might not be renewed.

Chairman Block thanked the committee for their work on the budget priorities and stated that the next meeting would be Thursday, February 18, 2010 at 1:30 p.m.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 3:30 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** February 18, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room EW42
- MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor
- ABSENT/
EXCUSED:** Chairman Block, Representative Gibbs
- GUESTS:** Bryce Hurst; Kelly Hurst; Judy Aitken, Public Employee Retirement System of Idaho (PERSI); Tana Cory, Bureau of Occupational Licenses (BOL); Russell Duke, Public Health Districts; Mike Kane, Idaho Association of Public Health District Directors; John Watts, Idaho Primary Care Association (IPCA) and Idaho Occupational Therapy Association (IOTA); Denise Chuckovich, IPCA; Susie Pouliot, Idaho Medical Association; Chris Hahn, Department of Health and Welfare (DHW); Jane Smith, DHW; Rebecca Coyle, DHW; Elizabeth Criner, Pfizer, Inc.; Kathie Garrett, Idaho Association of Family Physicians; Adrean Casper, American Heart Association; Stephen Weeg, Health West; Kerry Ellen Elliott, Idaho Association of Counties (IAC); Toni Lawson, Idaho Hospital Association (IHA); Lyn Darrington, Regence BlueShield of Idaho;
- The meeting was called to order at 1:33 p.m. by Vice Chairman Nielsen.
- MOTION:** **Rep. Rusche** moved to approve the minutes of February 16, 2010 as written. **Motion carried by voice vote.**
- Vice Chairman Nielsen thanked the page, Emily Hurst for her service to the committee.
- H 495:** **Rep. Rusche** presented **H 495** which establishes the Idaho Childhood Immunization Policy Commission. This legislation is one of three bills that arose from the Health Care Task Force Immunization Subcommittee. The Commission would offer advice on policies and potential legislation aimed at improving immunization rates of Idaho children. It would not be involved in vaccine selection or financing and would sunset in four years after low immunization rates have been improved.
- In response to committee questions, **Rep. Rusche** said that there would be administrative support from the Department of Health and Welfare but there would not be any increased cost for that. He further clarified that the Commission would not deal with conscientious objections to vaccines. Families have the right to review treatment and decide if they want it. He requested that **H 495** be sent to general orders with amendments attached.
- Russell Duke**, Director of Central District Health Department, **testified in**

support of H 495 with the proposed amendments. The original bill only addressed the laws and rules. It is important that the Commission is able to address other aspects of public health and administration.

Susie Pouliot, CEO of the Idaho Medical Association (IMA), **testified in support of H 495**. The IMA is very interested in raising voluntary immunization rates in the state. **H 495** is part of a three-pronged effort to address that issue. It would provide an important overall policy direction.

In response to committee questions, **Ms. Pouliot** noted that there had been instances of vaccine preventable outbreaks in Idaho. In 2008 Idaho had 60 cases of pertussis (whooping cough) and in 2009 that number had risen to 90.

Jane Smith, Division Administrator for the Division of Public Health, **testified in support of H 495**. The Division is very supportive of any efforts to bring all involved parties into a more prominent role in increasing immunization rates in Idaho.

Elizabeth Criner, Pfizer Pharmaceutical, **testified in support of H 495**. They were involved with amendment RS19351A3 which adds to the Commission's duties looking at public private partnerships and best practices on improving immunization rates in other states.

In response to committee questions, **Ms. Criner** clarified that the intent is to make sure good information on vaccines is available for parents.

MOTION:

Rep. Thompson moved to send **H 495** to **General Orders** with amendments attached. **Rep Rusche seconded** the motion. **Motion carried by voice vote.** **Rep. Rusche** will sponsor the bill on the floor.

HCR 39:

Rep. Rusche presented **HCR 39** which encourages the Health Quality Planning Commission to study care for stroke identification, management and make recommendations for improvement. Stroke is a significant cause of death in Idaho and costs hundreds of millions of dollars every year for rehabilitation and long term care. When there are robust systems of care and management in place the burden of strokes can be lessened.

In response to committee questions, **Rep. Rusche** clarified that the money would come from the HQPC budget and if there was not adequate funding there the Commission would then come to the legislature for funding at a later date. He noted that while the Commission could chose to study whatever they want this emphasizes the importance of the issue and encourages the HQPC to take it up . Idaho has seen higher than average incidents of stroke and an increased severity of outcome from those strokes. By studying strokes, they can be treated more effectively and the associated costs can be lowered.

Susie Pouliot, CEO of the Idaho Medical Association (IMA), **testified in support of HCR 39**. This is an area where there isn't a lot of good data. Study of this issue would better inform the decision making process at critical points in the chain of care and is a good fit for the HQPC in fulfilling their charge.

Adrian Casper, American Heart Association, **testified in support of HCR 39**. In 2009, stroke accounted for 5.9% of all deaths and was the fourth largest cause of death in Idaho. The state ranks 16th in deaths due to stroke in the United States. There are many unique challenges to stroke recovery including physical, mental and behavioral effects but it doesn't have to be like that. There needs to be a statewide effort to study this issue.

Toni Lawson, Vice President of the Idaho Hospital Association, **testified in support of HCR 39**. Any efforts to improve the prevention and treatment of stroke are important. If the HQPC does move forward and add stroke to its list of areas to work on it should look at existing studies that are already in place and make sure it is not duplicating any efforts.

Ms. Lawson, in answer to questions, said that one of the most important steps in any study is determining what exactly will be studied and how the information will be used. It is within the realm of possibility that under current funding the Commission could look at what they want to study and decide how to do it. It is important that the HQPC concentrate its efforts statewide and focus on what is already being contributed and build off of that.

Lyn Darrington, Regence BlueShield of Idaho, said that they had been very active participants in the HQPC and were **in support of H 495**. It is important long term that this type of data be collected.

MOTION: **Rep. Wood (27)** moved to send **HCR 39** to the floor with a **DO PASS** recommendation.

Rep. Saylor stated his support for the motion. He said that he had seen firsthand the devastation that a stroke can cause for a family both economically and emotionally. If this legislation could spare one family the grief and devastation it would be well worth it.

Motion carried by voice vote. **Rep. Rusche** will sponsor the bill on the floor.

H 468: **Tana Cory**, Bureau Chief for the Bureau of Occupational Licenses, presented **H 468** which removes members of the State Board of Optometry from the Public Employee Retirement System of Idaho (PERSI). It changes the payment they receive from compensation to an honorarium. She noted that it would not change the amount of money that members would receive.

MOTION: **Rep. Durst** moved to send **H 468** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Saylor** will sponsor the bill on the floor.

H 469: **Tana Cory**, Bureau Chief for the Bureau of Occupational Licenses, presented **H 469** which removes members of the Occupational Therapy Licensure Board from PERSI by changing the payment they receive from compensation to an honorarium. It also clarifies that fees shall be paid and expenses shall be withdrawn from the occupational licenses account of the BOL.

MOTION: **Rep. Chew** moved to send **H 469** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Chew** will sponsor the bill on the floor.

Vice Chairman Nielsen stated that the next meeting would be Monday, February 22, 2010 at 1:30 p.m.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 2:35 p.m.

Representative Pete Nielsen
Vice Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 22, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd (8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood (27), Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Mark Johnston, Board of Pharmacy (BOP); Glenn Luke, BOP; Pam Eaton, Idaho Retailers Association and Idaho Retail Pharmacy Council

The meeting was called to order at 1:35 p.m. by Chairman Block.

H 480: **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **H 480** which will allow practitioner agents to sign and return faxed prescription refill requests which meet new minimum standards.

With regard to questions raised at the RS hearing for the bill, **Mr. Johnston** said that in reviewing the terminology there were some flaws in the use of the words "prescription" and "drug order." In order to be more precise, he requested that the words "drug order" be inserted after the word "prescription" every time it appears. Additionally, he requested that "prescription" be inserted on page two line 22 before the words "drug order."

In response to committee questions, **Mr. Johnston** clarified that the definitions that govern "prescription" and "drug order" are found in the definition section of the Idaho Pharmacy Act Statute 54-1705 (8) for "drug order" and 54-1705 (31) for "prescription drug order."

In closing, **Mr. Johnston** requested that the committee send **H 480** to General Orders.

MOTION: **Rep. Luker** moved to send **H 480** to **General Orders** with committee amendments to insert "drug order" after each reference to the word "prescription," and insert "prescription" before the word "drug order" on page 2 line 22. **Rep. Durst** seconded the motion. **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.

Chairman Block introduced the page, Katrina Franks, and welcomed her to the committee.

H 481: **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **H 481** which requires oral prescription confirmation from veterinarians in writing within seven days after the seller receives the order. This increases the time limit from the current seventy-two hours in statute.

- MOTION:** **Rep. Thompson** moved to send **H 481** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Thompson** will sponsor the bill on the floor.
- H 482:** **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **H 482** which allows legend drug users, who have lawfully obtained them, to deliver those drugs to an individual who is authorized under state or federal law to dispose of such drugs. It removes the Board of Pharmacy's statute from being a roadblock to future federal legislation. Congress is currently working on legislation to address the issue.
- In response to committee questions, **Mr. Johnston** noted that there is one exception in the federal law that allows law enforcement to collect the legend drugs. The cities of Boise, Meridian and Coeur d'Alene are currently set up to take in legend drugs for disposal.
- MOTION:** **Rep. Chew** moved to send **H 482** to the floor with a **DO PASS** recommendation. This would be an important first step in an ongoing process to ensure the safe disposal of legend drugs. **Motion carried by voice vote.** **Rep. Chew** will sponsor the bill on the floor.
- H 483:** **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **H 483** which requires finger-print based criminal background checks for all applicants for licensure and registration and reinstatement of licenses and registrations. Applicants will pay the cost of the background check.
- Mr. Johnston**, in answer to questions, clarified that current pharmacists would not have to submit to background checks upon renewal of their license. New pharmacy technicians would be included in the requirement. The Board would not be opposed to a background check requirement for renewals one time but believes it would be an undue burden to require them every year an applicant renewed their license.
- MOTION:** **Rep. Rusche** moved to send **H 483** to the floor with a **DO PASS** recommendation.
- SUBSTITUTE MOTION:** **Rep. Durst** made a substitute motion to send **H 483** to **General Orders**.
- In response to questions, **Mr. Johnston** explained that renewals for controlled substances occur at the end of the calendar year and everything else renews on June 30th.
- The **motion died** for lack of a second.
- VOTE ON ORIGINAL MOTION:** **Motion carried by voice vote.** **Rep Rusche** will sponsor the bill on the floor.
- Chairman Block said that the next meeting would be Wednesday, February 24, 2010 at 1:30 p.m.
- ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 2:04 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: February 24, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** Representatives McGeachin, Thayn, Gibbs

GUESTS: Roger Hales, Bureau of Occupational Licenses (BOL); Glenn Luke, Board of Pharmacy (BOP); Mark Johnston, BOP; Leon Jensen, BOP; Benjamin Davenport, Risch Pisca; Tana Cory, BOL; Steve Millard, Idaho Hospital Association (IHA); Kathie Garrett, Idaho Academy of Family Physicians (IAFP); Drew Thomas, Risch Pisca

The meeting was called to order at 1:35 p.m. by Chairman Block.

MOTION: **Rep. Luker** moved to approve the minutes of February 18, 2010 as written. **Motion carried by voice vote.**

MOTION: **Rep. Luker** moved to approve the minutes of February 22, 2010 as written. **Motion carried by voice vote.**

H 470: **Roger Hales**, attorney for the Bureau of Occupational Licenses, presented **H 470** which requires foreign educated physical therapists to pass an English proficiency exam if they are non-native speakers. It also clarifies that more than one test may be required for a license. The Bureau received 120 applications last year and of those 30 came from foreign educated physical therapists. This is a standard in the profession and most neighboring states have this requirement. He noted that the Idaho Physical Therapy Association worked on the legislation and is **in support of H 470.**

In response to committee questions, **Mr. Hales** said that this is a requirement that is somewhat unique to physical therapists. However, there is a clear public purpose behind it, ensuring that physical therapists are able to communicate with their clients and provide them with appropriate treatment. He further clarified that the requirement for "good moral character" is an existing part of the code and is found in a lot of professional licensure acts. It usually deals with dishonesty or wrongful or improper conduct.

Steve Millard, Idaho Hospital Association, testified **in support of H 470.** With regards to questions raised at the print hearing, he did not believe it would inhibit a hospital's ability to hire physical therapists. Additionally, it is important to have caregivers that are able to communicate with their patients.

- MOTION:** **Rep. Wood (27)** moved to send **H 470** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wood (27)** will sponsor the bill on the floor.
- H 517:** **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **H 517** which changes the statutory deadline for license renewal from June 1 to June 30. The new online renewal eliminates the month long process and will afford applicants more time, as licenses expire on July 1.
- MOTION:** **Rep. Chew** moved to send **H 517** to the floor with a **DO PASS** recommendation. As a pharmacist, she noted that it would make the renewal process a lot easier. **Motion carried by voice vote.** **Rep. Chew** will sponsor the bill on the floor.
- H 518:** **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **H 518** which updates Idaho's controlled substance schedules. The updated language is due to controlled substances that were added to the schedules based upon federal changes. None of the changes were initiated within the state nor were they specific to Idaho.
- MOTION:** **Rep. Nielsen** moved to send **H 518** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nielsen** will sponsor the bill on the floor.
- H 519:** **Mark Johnston**, Executive Director for the Board of Pharmacy, presented **H 519** which defines "isomer" in the Uniform Controlled Substance Act. Current code, by not defining what type of isomer is meant, technically includes many substances that are not controlled substances.
- In response to committee questions, **Mr. Johnston** explained the technical differences between "structural isomers," "optical isomers" and "geometric isomers."
- MOTION:** **Rep. Luker** moved to send **H 519** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.
- Chairman Block stated that the next meeting would be Friday, February 26, 2010 upon adjournment of the House.
- ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 1:55 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** February 26, 2010
- TIME:** Upon Adjournment of the House
- PLACE:** Room EW42
- MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor
- ABSENT/
EXCUSED:** Representatives McGeachin, Rusche, Chew, Durst
- GUESTS:** Robert Payne, Board of Social Work; Roger Hales, Bureau of Occupational Licenses (BOL); Tana Cory, BOL; Becky Westerberg, Idaho Denturist Association
- The meeting was called to order at 12:39 p.m. by Chairman Block.
- MOTION:** **Rep. Marriott** moved to approve the minutes of February 24, 2010 as written. **Motion carried by voice vote.**
- H 537:** **Roger Hales**, attorney for the Bureau of Occupational Licenses, presented **H 537** which clarifies the definitions and qualifications for a social worker, master social worker and clinical social worker. It also eliminates education in related fields as qualifying an applicant for licensure. It removes qualification license language from the definition section and places it in the qualification section.
- Mr. Hales**, in answer to questions, clarified that rather than having the qualification section refer back to the definition section that language was included all in one section for qualifications. The related fields qualification was eliminated because colleges no longer allow students to take upper level social worker classes without being in the program. Additionally the Board has not granted a license to someone in a related field in quite awhile.
- Robert Payne**, Idaho Board of Social Work Examiners, said that the removal of the education in related fields qualifier is simply removing a door that doesn't exist any longer. The Association conducts exams at four different levels and reviews them periodically to make sure they match what is needed to know. All states, except California, belong to the Association of Social Work Boards (ASWB) and there are three versions of the test so that someone that fails cannot simply come back and take that exact test again. He explained that a bachelor's level social worker would provide help in a hospital, hospice or nursing home setting and very few work independently. They do not provide help on an interpersonal, interpsychic level. There are no states where someone can take the test unless they have a degree in social work.
- MOTION:** **Rep. Gibbs** moved to send **H 537** to **General Orders** with committee

amendments to include: On page 1, line 39, following “good moral character and”, remove “are” and insert “meet”. On page 2, line 1, remove “A” and insert “For a ” at the beginning of the sentence. After “clinical social worker” remove “who has” and insert “license possess”. On page 2, line 4, remove “A” and insert “For a ” at the beginning of the sentence. After “masters social worker” remove “who has” and insert “license possess”. On page 2, line 6, remove “A” and insert “For ” at the beginning of the sentence. After “ social worker” remove “who has” and insert “license possess”. **Rep. Nielsen** seconded the motion. **Motion carried by voice vote. Rep. Gibbs** will sponsor the bill on the floor.

H 538: **Roger Hales**, attorney for the Bureau of Occupational Licenses, presented **H 538** which removes members of the Board of Dentistry from the Public Employee Retirement System of Idaho (PERSI) by changing the payment they receive from compensation to an honorarium. It also raises the renewal fee cap from \$600 to \$1000.

In response to committee questions, **Mr. Hales** explained that the Board currently charges \$600 and is simply raising the cap to be proactive. It does not increase the fees charged. In the event that the Board wanted to increase fees they would have to come back to the committee to do so.

MOTION: **Rep. Loertscher** moved to send **H 538** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Vice Chairman Nielsen** requested he be recorded as voting nay. **Rep. Thompson** will sponsor the bill on the floor.

Chairman Block stated that the next meeting would be Tuesday, March 2, 2010 at 1:30 p.m.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 1:03 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 2, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Sayler

**ABSENT/
EXCUSED:** Representatives Loertscher, Gibbs

GUESTS: Dr. Will Rainford, Catholic Charities; Susan Dwello, Department of Health and Welfare (DHW); Genie Sue Weppner, DHW; Russ Barron, DHW; Wayne Davis, Idaho Association of School Administrators; Randy Hansen; Peggy Munson, AARP; Kathie Garrett, Idaho Academy of Family Physicians; Kathy Garner; Reyne Watson; Breland Draper; Diane Anderson; Amy Johnson, Budget and Policy Analysis; Bridget Morrisroe-Aman; Georgia Mackley; Ryan Fitzgerald, Principle Strategic Advisors; Robert Luce, Office of the Attorney General; Michelle Britton, DHW

The meeting was called to order at 1:34 p.m. by Chairman Block.

MOTION: **Rep. Luker** moved to approve the minutes of February 26, 2010 as written. **Motion carried by voice vote.**

HCR 55 **Rep. Wills** presented **HCR 55** which requests that the Department of Health and Welfare (DHW) study the cost of implementing a random drug testing program of adults receiving public assistance. Additionally, the department would be required to report their findings to the legislature prior to the start of the 2011 session.

In response to committee questions, **Rep. Wills** stated that the study would include a legal analysis of any possible restrictions in federal law and would only involve adults. The goal is to help citizens become self-sustaining and to avoid negative impacts on their children. The study would look at the cost to taxpayers as well as what could be done to help those with substance abuse problems. He noted that DHW felt the study could be done without additional funding from the legislature.

Amy Johnson, Principal Budget Analyst, explained that the main public assistance programs within Health and Welfare would include: assistance for aged, blind & disabled, temporary assistance for needy families (TANF), food stamps and Medicaid. The study would look at whether drug testing would save the state any general fund dollars. The food stamp program is fully funded by the federal government and therefore those savings may not come back directly to the state. She clarified that the study would not cost the state additional general funds. Most likely staff would be shifted from other areas to undertake the project. She noted that her job in the process was to review the legislation to make

sure it was something that could be implemented.

Russ Barron, Administrator for the Division of Welfare, noted that if the legislature wished to undertake this issue a study would be the right place to start. The study could include expected results, cost, types of programs involved and types of savings. The impact on families and possible treatments would not necessarily be included and significant discussion about moving forward would take place after the results of the study were available. He noted that other states have done this and that would be reviewed in the study. Possible constitutional issues and the cost of potential litigation could be considered as well.

Diane Anderson testified in support of **HCR 55**. A study to determine the implications would be a better solution than simply enacting a law to require drug tests. However, the definition of and criteria for a “controlled substance” should be addressed. A study outlining all parameters would be much more cost effective than any other first approach.

In closing, **Rep. Wills** stated that it was past time to implement a study of this kind. The department should look at whether drug testing is even feasible. The issue is not going away, it is getting worse and he urged the committee to support **HCR 55**.

MOTION:

Rep. Nielsen moved to send **HCR 55** to the floor with a **DO PASS** recommendation. This legislation simply enacts a study. It is revenue neutral and could help control costs in the future. Substance abuse treatment and the proper avenues for that should be considered in the study.

Rep. Thayn spoke in support of the motion. Serious issues have been raised by many of his constituents and this is a unique approach to dealing with those issues. Moving towards accountability for those with substance abuse problems could bring very positive benefits. Open discussions about the issue would be fruitful.

Rep. Durst spoke in opposition to the motion. Serious constitutional issues could be raised with regards to the “public assistance” language. While it is just a study, the clear objective is to take people off of the public assistance rolls. Those with substance abuse problems often ignore the concerns of their children and losing their Women, Infants and Children (WIC) payments or other public assistance would only harm the children. DHW is already being asked to do a lot with very little and undertaking this study would only add to their already heavy workload.

Rep. Chew spoke in opposition to the motion. The committee should make sure they are moving towards something that is already in line with other programs such as the Idaho Office of Drug Policy.

SUBSTITUTE MOTION:

Rep. Chew moved to **postpone HCR 55 to time certain** until further information is obtained.

Rep. Rusche spoke in opposition to the **original motion**. He noted that there are a few things that are so dangerous they can't be studied and this might be one of those issues. This legislation is very directive and it

seems clear that the only option would be to drop those that test positive from the public assistance rolls. Often times when a result is obtained it simply ends up justifying the results one was looking for in the first place.

Motion failed by voice vote.

**VOTE ON
ORIGINAL
MOTION:**

Motion carried by voice vote. Rep. Durst and Rep. Sayler requested that they be recorded as voting nay. Rep. Wills will sponsor the bill on the floor.

Chairman Block asked Vice Chairman Nielsen to take over the responsibilities of the Chair as she would be presenting the next bill on the agenda.

H 610

Rep. Block presented **H 610** which amends the Child Protective Act and the Child Care Licensing Reform Act. It authorizes DHW to consider placement priority and an expedited placement with a fit and willing relative, taking into consideration the best interest and special needs of the child. The legislation has the full support of the department and is consistent with federal regulations and department rules. The number of children in Idaho who need a foster home has increased dramatically and this will help keep families together in these difficult economic times. It will help maintain a stable and secure life for these children.

In response to committee questions, **Rep. Block** clarified that placement of a child in a home outside of the state would need to be accepted by a judge. Within the first twelve months, the main objective is reunification of the family and out of state placement would impede that process. DHW is charged with determining where the child should be placed and makes a decision based upon the best interest of the child.

Dr. Will Rainford, lead Legislative Advocate for Catholic Charities of Idaho, testified **in support of H610**. It is most typical that a child is placed with a stranger, rather than with a living relative. The love of a close relative or family friend is important and therapeutic for a child. This legislation ensures that when a close and appropriate relative is available, the child will be placed with that relative.

Robert Luce, Deputy Attorney General, explained that the insertion of the word "restrictive" on page 7, line 25 was based upon current language in foster care rules. "Disruptive" was not referenced but "least restrictive" was defined in department rules and refers to the most family-like setting. That setting which most approximates the family and is closest to the family would be "least restrictive."

Wayne Davis, Executive Director for the Idaho Association of School Administrators, spoke **in support of H 610**. Stability in the home is important and this bill would help create that for children.

Randy Hansen spoke **in support of H 610**. The placement of a child with family members is a long and tedious process for young children in this state. This legislation's purpose is to help children and give them a semblance of stability in their lives. It gives latitude to decide if a grandparent or other close relative is not fit.

In answer to questions, **Mr. Hanson** clarified that “custodial parent” is defined in another section. The very first priority already in statute is to find a biological parent.

Mr. Luce, in response to committee questions, explained that a legal parent would include a step-parent and they would be considered first in placement then other relatives would be taken into account.

Peggy Munson, AARP Idaho President, testified **in support of H 610**. The legislation recognizes the unique role that grandparents play in the life of their grandchildren. Grandparents stepping in to raise their grandchildren represents the fastest growing type of household in the US. Nearly 20,000 children in Idaho have grandparents acting as their legal guardians. Grandparents can be a very stabilizing force for their grandchildren and this legislation will make it easier for them to become legal guardians.

Diane Anderson testified **in support of H 610** with a few changes. She expressed concern with the role of non-custodial parents in the placement priority list. Additionally, what the child would prefer should be considered.

Georgia Mackley testified **in support of H 610**. She stated that the legislation would be an answer to grandparents’ prayers.

MOTION: **Rep. Wood (27)** moved to send **H 610** to the floor with a **DO PASS** recommendation. He noted that good legislation should pass. **Motion carried by voice vote. Rep. Block** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 3:17 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 4, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** Vice Chairman Nielsen, Representatives Loertscher, Chew

GUESTS: Susie Cummins, Department of Health and Welfare (DHW); Nicole Sherwood, Developmental Concepts, Inc.; Debby Ransom, DHW; Meredith Adams, Autism Society; Jeanine Barkhan, Autism Society; Brooke Gale, Partnerships for Inclusion; Kerry Elder, Partnerships for Inclusion; Paul Tierney; Bev Barr, DHW; Robbi Barrutia, Statewide Independent Living Councils; Paul Leary, DHW; Drew Thomas, Risch Pisca; Toni Lawson, Idaho Hospital Association (IHA); Kathie Garrett, Partners in Crisis; Dennis Stevenson, Department of Administration

The meeting was called to order at 2:58 p.m. by Chairman Block.

S 1339: **Rep. Nonini** presented **S 1339** which would allow a hospice agency to build a hospice house as long as certain federal guidelines were met. It does not require the hospice house to be licensed or certified by the state. Hospice of North Idaho (HONI) would like to build the first hospice house in Idaho. Currently patients receive end of life care either at a hospital or in their homes. This legislation would make it possible for a Medicare certified hospice agency to provide care at a hospice house.

In answer to questions, **Debby Ransom**, Bureau of Facility Standards, stated that hospice care reimbursements are based on the patient's diagnosis and are set at a per diem rate. This legislation would waive state involvement as it would not require certification or licensure by Idaho.

In closing, **Rep. Nonini** urged the committee to support **S 1339**. HONI is already well on its way in raising funds for the first hospice house. This legislation would ensure that everything is in order when the capital campaign is completed and HONI is ready to start building.

MOTION: **Rep. Thompson** moved to send **S 1339** to the floor with a **DO PASS** recommendation.

Rep. Rusche spoke in support of the motion. This is important legislation and how end of life issues are dealt with is of great importance.

Rep. Saylor spoke in support of the motion. Hospice houses are an excellent alternative to receiving care in a hospital.

Motion carried by voice vote. Rep. Nonini will sponsor the bill on the floor.

Chairman Block stated that the two administrative rules on the agenda would be held for a later date when all committee members were present. The next committee meeting would be Monday, March 8, 2010 at 1:30 p.m.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:12 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** March 8, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room EW42
- MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Sayler
- ABSENT/
EXCUSED:** Representatives Shepherd (8), Thompson
- GUESTS:** Lance Hebdon, Department of Fish & Game; Mark Johnston, Board of Pharmacy (BOP); Glenn Luke, BOP; Marcia Karakas, Idaho Epilepsy Foundation (IEF); Geraldine Karakas-Moen, IEF; Dr. Robert Wechsler, IEF; Ashley Alleway, IEF; Russ & Rena Van Paeppegem; Leslie Gotsch; Kathie Garrett, Idaho Academy of Family Physicians; Jim Baugh, Disability Rights Idaho; Robbi Barrutia, Idaho State Independent Living Council (SILC); James Aydelotte, DHW Vital Statistics; Marilyn Sword, Developmental Disabilities Council; Kurt Stembridge, GlaxoSmithKline; Pam Eaton, Idaho Retailers Association & Idaho Retail Pharmacy Council; Elaine Ladd, Ladd Family Pharmacy
- The meeting was called to order at 1:35 p.m. by Chairman Block.
- MOTION:** **Rep. Luker** moved to approve the minutes of March 2, 2010 as written.
Motion carried by voice vote.
- MOTION:** **Rep. Rusche** moved to approve the minutes of March 4, 2010 as written.
Motion carried by voice vote.
- SCR 113:** **Rep. Takasugi** presented **SCR 113** which commends the Idaho Children and Nature Network (C&NN) for its success in raising awareness about the importance of children establishing a meaningful and lasting bond with the outdoors. Currently youth are experiencing depression, diabetes, obesity and attention deficit disorders at alarming rates. The C&NN was created in 2008 in an effort to get children reacquainted with the outdoors. Children on average spend 7.5 hours each day engaged in electronic media. This resolution is an effort to try and address that issue.
- Lance Hebdon**, Department of Fish and Game, testified **in support of SCR 113**. Both the Fish & Game Commission and the department support the passage of this legislation. Fish and Game has been involved with the C&NN from its inception and has a strong desire to help children connect with Idaho's outdoor heritage. Fish and Game has worked to help today's indoor kids come outside.
- MOTION:** **Rep. Durst** moved to send **SCR 113** to the floor with a **DO PASS**

recommendation.

Rep. Rusche spoke in support of the motion. Anything to encourage outside activity should be applauded.

Rep. Nielsen spoke in support of the motion. Encouraging and inviting children to be outside is important.

Motion carried by voice vote. **Rep. Takasugi** will sponsor the bill on the floor.

H 534:

Rep. Chew presented **H 534** which creates certain limitations on pharmacists' drug selections for epilepsy and seizures. If a prescriber has listed that a medication is for the treatment of epilepsy or seizures, the pharmacist must notify the physician and patient before changing the drug. Adjusting seizure medication slightly can have adverse effects for both the patient and those around them.

Mark Johnston, Executive Director for the Board of Pharmacy (BOP), stated that the Board was opposed to an earlier draft of **H 534**. The BOP believed the issue should be handled in rule, not statute. This issue was not unique to anti-epileptic drugs and the board felt all narrow therapeutic drugs should be considered. Additionally, the board felt that current rules already provided an alternative avenue to correct the problem. Prescribers have the ability to mandate that the originally branded prescription be filled. The BOP has heard concerns from both retail drug outlets regarding hardships and pharmacists regarding liability. Through informal negotiations, changes were made to the original draft of the legislation. The board has not held a public meeting since then and has not had a chance to change their position. He noted that the BOP's position at this point would be neutral.

In response to committee questions, **Mr. Johnston** explained that the board would be awaiting the outcome of the legislative process this spring and would possibly consider all narrow therapeutic drugs at that time. He noted that epilepsy specialists prescribe in a more precise way than general practitioners might. The doctor's ability to write "dispense as written" is an avenue some prescribers have used. The best solution would be to write "do not switch without contacting me" however this would require prescribers to take an additional step. If the prescriber does not write "for epilepsy or seizures" an assumption is made on the pharmacist's part that the drug is not for epilepsy.

Dr. Robert Wechsler, Medical Director for the Idaho Comprehensive Epilepsy Center, testified in support of **H 534**. This issue has recently come to a head because a lot of newer epilepsy drugs have recently gone generic. Each brand drug could have as many as one to two dozen generics. As many as two-thirds of neurologists have reported problems with patients switching epilepsy drugs. Patients who have had a substitution are four times more likely to go back to their previous medication. If the doctor knows that a substitution is about to occur they can instruct the patient accordingly. Patient safety is most important and this legislation will catch a lot of emergencies and save lives.

Dr. Wechsler, in answer to questions, explained that it would be theoretically possible for a patient to pick up their monthly prescription for three years and receive a different drug each time. Drugs are prescribed first and foremost based on seizure types. The main concern is having the ability to monitor the patient during the switch in medications. It shouldn't require detective work on the part of the doctor and patient to determine if a switch has occurred.

Ashley Alleway, Epilepsy Foundation of America testified **in support of H 534**. An epilepsy patient herself, she experienced breakthrough seizures as a result of a change in medication. An attack can be felt coming on but nothing can be done to stop it. It left her unable to go to school or work and required additional doctor's appointments and lab work afterwards. Extended communication between physicians and pharmacists is all it would take to prevent these seizures.

Russ & Rena Van Paepeghem testified **in support of H 534**. Their son was diagnosed with epilepsy four years ago. His prescription was refilled with a generic medication and he began having seizures at a much greater rate than he had before the change. The seizures increased from every two to three months to every four to five weeks. Getting back on the original medication helped a little but the seizures are still more frequent than before.

Leslie Gotsch, testified **in support of H 534**. Her son was diagnosed with epilepsy nine years ago. In July of 2008 the pharmacy dispensed a generic drug and within a number of days her son started having breakthrough seizures at a rate of approximately 20 a day and many more at night. He was switched back to his original medication and it took several weeks to regulate the seizures

In response to committee questions, **Ms. Gotsch** explained that she wasn't informed by the pharmacy that a switch had been made. She noticed the change in price and asked the pharmacy about it.

Jim Baugh, Executive Director of Disability Rights Idaho, testified **in support of H 534**. Those who have seizures will have to use generic drugs, the legislation simply attempts to reduce the number that will suffer consequences as a result of the shift. It just requires communication between pharmacists and doctors and gives patients the information to make an intelligent, informed choice. This legislation divides the responsibility in a fair and equitable way between doctors, pharmacists and patients.

Pam Eaton, Idaho Retail Pharmacy Council and President of the Idaho Retailers Association testified **in opposition to H 534**. This bill is not needed because doctors can already stop the practice of switching medications. Additionally, this is a federal issue and should be left up to the FDA to study. It is easy to blame the drug change but that is not always the cause of new seizures. Doctors can already write "dispense as written" to ensure that patients receive the same drug every time. Pharmacies are concerned that this bill might open them up to more lawsuits. What would happen if the doctor says the were never contacted, it could become a legal fight. Finally, she stated that the

Idaho State Pharmacy Council wanted to note their **opposition to H 534** as well.

In response to committee questions, **Ms. Eaton** explained that pharmacies could carry multiple different types of generic drugs. Often times a pharmacy will know what other pharmacies in the area carry and could refer a patient accordingly if they did not have their specific generic in stock. This legislation is onerous for pharmacists and would require unnecessary and burdensome steps be taken before patients could receive their medication.

Elaine Ladd, an independent pharmacy owner and practicing pharmacist, testified **in support of H 534**. Pharmacists must counsel patients as a matter of law. Unfortunately more often than not, patients are not being counseled. This bill would encourage pharmacists to make contact with patients and ensure they are making an informed decision. At the end of the day it is about patient care. A pharmacist's job is to ensure the patient is getting the right medication every single time. Most up-to-date programs have a location for documentation and it shouldn't be an issue. Pharmacists already have to document and as long as they are continuing that practice it should not be a problem. The issue is communication and letting prescribers and patients know what is happening.

Ms. Ladd, in response to questions, explained that the pharmacy can differentiate if an epilepsy drug is being used for epilepsy or another condition. It is a matter of training staff and should not require additional work from the pharmacists as it is a part of counseling. This bill would have no affect on the way she practices or her business. This legislation would simply hold her colleagues accountable to the standards she is already practicing.

In closing, **Rep. Chew** noted that patient care should be first and foremost. Most pharmacies have the capability to either look up the original prescription or enter the information into a notes section. With regards to the FDA, they look at the variance between generic and brand drugs and that is not the issue. It is about whether a patient has the same response to different medications. This bill simply asks for pharmacists to contact the doctor and patient and leaves it up to them to make a decision.

MOTION:

Rep. McGeachin moved to send **H 534** to the floor with a **DO PASS** recommendation. Since the initial discussions she has seen a number of renditions of the bill as it has addressed the concerns that were raised. In her own business she has an employee of over 20 years that has epilepsy and has seen how it has affected his life. It is important to help those with disabilities remain active and prosperous. If arbitrary changes are going to be made to an epilepsy patient's medication those changes should be tracked. The bill is not a mandate it simply states that a prescriber "shall" notify the prescriber and patient.

Motion carried by voice vote. **Rep. Chew** will sponsor the bill on the floor.

S 1315

James Aydelotte, Bureau Chief of the Bureau of Vital Records and Health Statistics, presented **S 1315** which establishes a simple process for applicants and the courts to make changes to vital records. The bureau has stewardship over the records documenting births, deaths, marriages and divorces. This legislation will result in a decreased workload for the courts and the bureau and will speed up the process for the applicant.

Mr. Aydelotte, in answer to questions, clarified that the administrative procedures referred to on page two, section three simply refer to the initial procedures as stated in rule. They do not refer to any additional undefined administrative procedures.

MOTION:

Rep. Rusche moved to send **S 1315** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Rusche** will sponsor the bill on the floor.

Chairman Block stated that the next meeting would be Wednesday, March 10, 2010 at 1:30 p.m.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 3:57 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** March 10, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room EW42
- MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor
- ABSENT/
EXCUSED:** NONE
- GUESTS:** Susie Cummins, DHW; Dr. Gary Payne, Idaho Psychological Association; Jon Dunn; Steve Millard, Idaho Hospital Association; Daniel Luker, Idaho Trial Lawyers Association (ITLA); Delmar Stone, National Association of Social Workers (NASW); Kristina L. Nicholas Anderson, Diversified Social Services; Jodi Smith, United States Psychiatric Rehabilitation Association (USPRA); Rob Luce, Office of Attorney General; Kathie Garrett, Partners in Crisis; Marvin Sparrell, Idaho Academy of Physician Assistants (IAPA); Nicole Sherwood, Developmental Concepts; Tony Poinelli, Idaho Association of Counties (IAC); Roger Christensen, Catastrophic Health Care Cost Board (CAT); April Crandall; Tami Jones; Lee Barton, Riverside REHAB, Inc.; Paula Marcotte, Mental Health Providers Association; Martha Ekhoﬀ, Office of Consumer and Family Affairs; Sarah Ziegler; Meghan Cunningham; Chrissy Duncan; Dr. Yvette Ward, Warm Springs Counseling; Chris Culp, Warm Springs Counseling; Taryn Magrini, NASW; Benjamin Davenport, RischPisca; Paul Tierney; Tracy Warren, Idaho Council on Developmental Disabilities (ICDD); Christine Pisani, ICDD; Katherine Hansen, Community Partnerships of Idaho (CPI); Rochelle Tierney; Dana Petrie, Milestones For Young Adults; Ashley Bruring, (CPI); Renee Lumley; Sharina Jensen, Community Connections, Inc. (CCI); Angela Lindiq; Rachel Kendall; Paige Cline, IAPA; Evelyn Grime, Place! Inc.; Dana Gover; Lisa Robbe, Partnerships for Inclusion; Trina Balanoff
- The meeting was called to order at 1:33 p.m. by Chairman Block.
- MOTION:** **Rep. Rusche** moved to approve the minutes of March 8, 2010 as written.
Motion carried by voice vote.
- H 634:** **Rep. McGeachin** presented **H 634** which provides a state credential to those that provide psychsocial rehabilitation services (PSR) to children with serious emotional disorders (SED) and adults with serious and persistent emotional mental illness (SPMI). Currently there are approximately 1,000 to 1,200 PSR providers in the state. Based on rules passed last year by the Department of Health and Welfare (DHW) if PSR providers are going to provide services and are not licensed then they must have a Certified Psychiatric Rehabilitation Practitioner (CPRP) credential from the US Psychiatric Rehabilitation Association (USPRA). This national credential can be cumbersome and expensive to gain and

does not accurately cover the services that are being provided in Idaho. This bill is an attempt to rectify that situation and was drafted based on input from PSR providers, DHW, court representatives and various other stakeholders. It attempts to create better measures of quality control and speak to the concerns of the consumers of mental health services. The initial state board would be comprised of six members including: two licensed mental health professionals with a minimum of a master's degree, one lay member and three members currently active in the community-based mental health services field. Current PSR workers would be grandfathered in and would be exempt from certain licensure requirements for an initial period of time.

Rep. McGeachin, in answer to questions, stated that Idaho would be the first state to have a licensing board

In response to committee questions, **Paul Leary**, Deputy Administrator of the Division of Medicaid, clarified that last year's rules refer only to national certification. There were subsequent discussions regarding a national certification for children's services but that has not been resolved.

Sen. LeFavour, in response to questions, noted that the "scope of practice" was intended to cover those services a PSR worker could provide. The intention was not if you provide those services you would need to be licensed. Other areas of the chapter cover the services only provided through Medicaid.

Rep. McGeachin, in answer to questions, said that the intent of the legislation would be to supplant certification. If a PSR worker was licensed they would not need to be certified nationally as well.

In response to committee questions, **Tami Jones**, a clinical social worker, explained that a meeting was held with the Bureau of Occupational Licenses (BOL) and other mental health boards and they suggested that a new board be created for PSR work because it has a much narrower scope of practice and is more closely defined. Licensure would ensure that PSR workers in the state were receiving quality training. There are 17 different types of individuals that could be doing PSR work. PSR specialists are the only ones that are not licensed and they are the majority of PSR service providers. In order to be licensed one would have to register with the BOL upon hire and would have 90 days to take the exam. They would have two years to complete 40 PSR specific credits and would be required to have no less than 1,500 hours of supervised practice. Finally, a comprehensive final exam would be required and only then would they be eligible for licensure. Licensure would increase accountability on an individual and agency level, allow for regional customization and would require individuals to establish basic competency almost immediately.

Ms. Jones, in response to questions, said that under rules licensed social workers, psychologists and counselors as well as PSR workers with bachelor's degrees in certain fields can provide PSR services for Medicaid. The pay scale for PSR workers varies but in her own practice it ranges from \$15 an hour for inexperienced workers up to \$22 an hour

for licensed workers. The cost to become nationally certified is \$415 for the exam plus continuing education fees as well as an application fee for licensing. The cost to become licensed in Idaho would be approximately \$150-180 for the exam plus \$50-\$80 for the application fee. The turnover rate for PSR workers is extremely high but depends largely on the individual agency. It is rare to see workers stay in the field for more than three to five years. Most are entry level mental health workers that are working towards higher degrees.

Dr. Gary Paine, a psychologist, testified in **opposition to H 634**. This is a very valuable Medicaid service and allows those with no extensive background to help. However, this legislation is very broad. Current services are provided under Medicaid supervision and this bill would allow for supervision under a mental health provider.

Delmar Stone, National Association of Social Workers, testified in **opposition to H 634**. There have been some very poorly qualified individuals providing PSR services in the state which is why PSR providers should be brought under the Board of Social Work Examiners. Eventually it should be required that all PSR services be provided by licensed social workers (LSWs) only. The attempt to create another license is not necessary. Agencies that pay a decent wage have no problem finding LSWs to fill their job openings. LSWs are filling positions all over the state, are held accountable by a professional code of conduct and have the appropriate training and experience.

In response to committee questions, **Mr. Stone** clarified that the profession would like to see PSR services provided only by LSWs. Agencies can receive as much as \$45 an hour in reimbursement and could pay PSR workers more to get qualified LSWs.

Kristina Nicholas Anderson, Chair-Elect of the Idaho Chapter of USPRA, testified in **opposition to H 634**. As a former administrator of a PSR program she acknowledged the need for change but this legislation is not the solution. Accountability as well as competency is lacking in the current system but this bill does not address those issues properly. Additionally there will be a financial burden on the state in enforcing the bill.

Ms. Anderson, in answer to questions, noted that the USPRA spent more than \$600,000 in creating the national exam. It was one of the most intensive processes in her career and required years of delineation studies before the test was developed. It would be a very lengthy and expensive process for Idaho. Licensure would only ensure someone had the proper education while certification doesn't just test knowledge but competency in the field as well. The national test is available at sites throughout the state and covers a broad scope of topics.

April Crandall, a licensed social worker, testified in **support of H 634**. It is essential to have licensure in place to bring accountability and oversight to those providing services in the state. The USPRA will not have certification for those that work specifically with children in place until 2012. USPRA certification is valuable but licensure would be stronger. In Idaho only 90 LSWs graduate every year and that would not

be nearly enough to cover the amount of PSR workers needed in the state.

Dr. Tom Arrean, a physician, testified **in support of H 634**. Children are a tremendous utilizer of PSR services in Idaho. The quality of service has to be improved and specifications are needed for dealing with children.

In response to questions, **Dr. Arrean** stated that approximately 63% of all Medicaid dollars were related to PSR work for children. USPRA currently does not have anything that deals with the body of knowledge in relation to working with children. Licensure would be all encompassing and would include both children and adults.

Jodi Smith, Chair of the Idaho Chapter of USPRA, testified **in opposition to H 634**. She noted that the USPRA is currently developing credentials specific to children and will begin a national registry this summer. Registry would not have the rigor of certification but would allow for tracking of those providing services in this field.

Lee Barton, a member of the Mental Health Providers Association of Idaho, testified **in support of H 634**. Without licensure there is no way to check for complaints against a potential hire. Those hiring PSR workers would like to be certain they are hiring someone that has been competent in the field in the past. There is no way to find out if a PSR worker might have broken agency rules in the past.

In response to questions, **Mr. Barton** explained that starting wages for an inexperienced PSR worker are around \$15.50 an hour and can go up to \$25 for those that are experienced LSWs. However, there are not enough LSWs to perform the work.

Katherine Hanson, Executive Director of Community Partnerships of Idaho, testified **in support of H 634**. USPRA tests on skills that are PSR workers are not allowed to provide in Idaho. Licensure would allow for a standard level of accountability in the state and would elevate the profession of the field. Additionally, the revenue generated from licenses would stay in Idaho.

Paula Marcotte, a licensed clinical social worker; testified **in support of H 634**. If an employed LSW practices unethically there is a way to report that on a state level. If a PSR is practicing unethically there is no way to report them to the state and they could simply go to another agency. This legislation would create a way to check on PSR workers at a state level.

Martha Ekhoﬀ, Director of the Office of Consumer & Family Aﬀair, testified **in opposition to H 634**. A former mental health consumer, she found it alarming that no one asked consumers what they wanted in a licensed PSR worker. The USPRA did include consumers as participants in the development of the credential. CPRP core competencies are recovery based and focus on: academic research, best practices and the inclusion of consumers and peer support providers. Consumers should be included as an active part of deciding

what will determine their future and outcome.

Dr. Yvette Ward, a licensed psychologist, testified **in support of H 634**. Under current rule PSR workers can practice for up to 18 months before demonstrating competency. This legislation would require basic competency in core areas within 90 days.

In closing, **Rep. McGeachin** stated that there is a problem in the state with how PSR workers are managed. In an effort to improve the service in Idaho this legislation sets out standards specific to the state. It is important to have some measure of quality in place and this bill attempts to do that.

MOTION: **Rep. Thompson** moved to send **H 634** to the floor with a **DO PASS** recommendation.

Rep. Rusche spoke **in opposition to the motion**. While mental health services do need better accountability this bill is not quite ready. He noted four areas of concern: board membership has no requirement for a licensee to serve on the board, there are unresolved issues with LSWs, the curriculum is not yet set and finally the creation and validation of the test has not been adequately addressed.

Rep. Wood (27) spoke **in opposition to the motion**. It is important to have a mechanism whereby the state can make sure practitioners are doing the right thing however this legislation is not yet ready. He expressed concerns with the licensure provision that attempts to supplant certification. The concept is valid and should go forward but the bill needs more work.

ROLL CALL VOTE: **Rep. Nielsen** requested a roll call vote. By a vote of **4 aye and 12 nay**, the motion **failed**. Voting in the affirmative: **Reps. McGeachin, Loertscher, Shepherd (8), Thompson**. Voting in the negative: **Reps. Block, Nielsen, Luker, Marriott, Thayn, Boyle, Gibbs, Wood (27), Rusche, Chew, Durst, Saylor**.

MOTION: **Rep. Luker** moved to **hold H 634 in committee**. The legislation deals with good concepts but needs more work.

Motion carried by voice vote.

S 1313: **Nancy Kerr**, Executive Director for the Board of Medicine, presented **S 1313** which would give the Board of Medicine subpoena power for investigations and depositions.

Ms. Kerr, in answer to questions, noted that anyone can go to the district court if they feel the subpoena is too broad or out of order. The board already has the authority in statute to gain medical records.

MOTION: **Rep. Wood (27)** moved to send **S 1313** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Marriott** moved to **HOLD S 1313** in committee. The subpoena power is too broad.

Rep. Luker spoke in support of the substitute motion. Subpoena power is not limited to any specific information. Furthermore the information is already being obtained under different provisions. Subpoena power for disciplinary proceedings already exists and this bill goes beyond that into investigation.

Rep. Rusche spoke in support of the original motion. Protecting the health and safety of Idahoans is of the utmost importance. The ability to get information and act on complaints would be easier through a subpoena than court action. It would allow for investigations of citizen complaints to occur quicker. This would be an appropriate tool for the board to have available.

Rep. Wood (27) spoke in opposition to the substitute motion. Most physicians no longer work as independent practitioners. The ability to protect the public is paramount. He noted in his own experience the real issue has been practitioners of dubious reputation hiding behind the law. This legislation will provide a better mechanism to protect the public safety.

Rep. Thayn spoke in support of the original motion. He noted that page 1, line 26 states that "good cause" is required. There are somewhat limited areas for subpoena power.

Rep. Nielsen spoke in support of the substitute motion. While there might be a need for quicker action he expressed concern for where the power would stop.

**ROLL CALL
VOTE:**

Rep. Nielsen requested a roll call vote. By a vote of **5 aye and 10 nay**, the motion **failed**. Voting in the affirmative: **Reps. Nielsen, Loertscher, Luker, Marriott, Boyle**. Voting in the negative: **Reps. Block, Shepherd (8), Thayn, Gibbs, Thompson, Wood (27), Rusche, Chew, Durst, Saylor**.

**VOTE ON
ORIGINAL
MOTION:**

Motion carried by a show of hands. **Rep. Wood (27)** will sponsor the bill on the floor.

S 1314:

Nancy Kerr, Executive Director for the Board of Medicine, presented **S 1314** which revises provisions relating to physician assistants (PAs). It clarifies and expands the provisions for licensure, regulation and physician supervision. Additionally, it would create a physician assistant advisory committee as well as provide for the independent ownership of a medical practice.

In response to committee questions, **Ms. Kerr** clarified that the legislation would allow PAs to own a practice however a supervising physician would still be required. If a physician were to remove their supervisory authority the practice would have to close until another physician were obtained.

Marvin Sparrell, Idaho Academy of Physician Assistants testified in support of **S 1314**.

MOTION: **Rep. Gibbs** moved to send **S 1314** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gibbs** will sponsor the bill on the floor.

H 621: **Tony Poinelli**, Idaho Association of Counties, presented **H 621** which clarifies rules regarding the medically indigent. The changes are to emphasize that the indigent and Catastrophic Health Care Cost Program (CAT) are only one part of the program. It modifies the definition of resources to include supplemental security income (SSI), third party and other insurance that may be eligible until a final decision is made by the resources. The overall intent is to make clear that those items would be resources and neither CAT nor the county would pay on those until a final decision was made by the resource. It clarifies what occurs when the department determines an individual eligible or ineligible for Medicaid. It restates that the county and state CAT fund are the last resource, that payment is payment in full and requires providers to make all reasonable efforts to investigate and collect from the resources listed in the law before submitting to county commissioners for payment. Finally, in the event that an individual becomes eligible for one of the resources retrospectively, the provider must either repay the county or state CAT. If a provider refuses to pay and seek reimbursement then the county will be allowed to offset the amount from another outstanding bill.

In response to committee questions, **Mr. Poinelli** explained that the application for assistance is first reviewed by DHW for Medicaid eligibility. If denied the department will forward the application to the county for an investigative process. If the county determines the person is not indigent they would be denied and that could be appealed by the provider. A hearing would be held to determine if county commissioners would pay the bill or keep it pending. If the individual is found to be retroactively eligible the counties may seek reimbursement. Providers that want reimbursement must submit billings to the department's utilization management review within five days of being notified that the patient is not Medicaid eligible. The question is should the bill be paid up-front or should a decision be made before the claim is approved. He clarified that the county would pay interim Medicaid reimbursement rates at the originally billed cost.

Steve Millard, President of the Idaho Hospital Association (IHA), testified **in opposition to H 621**. One area of concern is the definition of resource beginning on page five line eight. The use of "finally denied" is vague and does not refer to a specific time in the process. On page nine the bill states that providers must submit billings for reimbursement within five days. A patient may still be in the hospital without a final bill at that point. There may be a problem with compliance in some cases. This legislation was a one sided attempt and should have included input from the IHA.

In response to committee questions, **Mr. Millard** noted that this bill does not address the shortage in the CAT fund. It is not clear what issues are trying to be fixed in this bill. Once that is understood the IHA might be able to help come up with better solutions. To specify an exact time frame for reimbursement that would work for all situations would be impossible. A specified time won't catch the majority of cases.

Daniel Luker, Idaho Trial Lawyers Association (ITLA), testified in **opposition to H 621**. There are concerns with language that would limit or discourage third party claims from proceeding. The ITLA provided language to the sponsor that wasn't brought out. If the bill proceeds it should do so with amendments.

Mr. Luker, in response to questions, explained that frequently medical bills far exceed the policy. There is no incentive for private counsel to step in and take over.

In closing, **Mr. Poinelli**, stated that the proposed changes are very similar to worker's compensation law. With respect to time frame issues, the process goes to DHW for however long it takes and then comes back to the providers which is when the five days deadline would begin. Counties have a limited time to investigate, approximately 45 days from the receipt of the application, and that time frame has to be taken into consideration as well.

MOTION: **Rep. Luker** moved to **HOLD H 621 to time certain** Tuesday, March 16, 2010. **Motion carried by voice vote.**

Rep. Wood (27) noted that pursuant to House Rule 38 he should disclose that this legislation would directly impact his employer. This legislation would not be a fix for the future with respect to indigent care. The best way to proceed would be to start again with a new RS that had input from all parties.

Rep. Durst stated that he would be more comfortable with a bill that had the support of all the parties that came forward today.

MOTION: **Rep. Loertscher** moved to reconsider **Docket No. 16-0318-0901**. After the initial ruling he asked DHW for clarification regarding some of the issues raised in that meeting. More information was requested regarding current participants in the Katie Beckett program. The information showed where the recipients were in relation to poverty guidelines.

Motion carried by voice vote .

Chairman Block noted that the committee would not be taking testimony as a hearing was previously held.

In response to committee questions, **Mr. Leary** stated that the rule had no enforcement mechanism and would not affect an applicant's credit rating if they chose not to pay.

MOTION: **Rep. Nielsen** moved to accept **Docket No. 16-0318-0901**. Now that it is clear that it is a voluntary action on the part of the recipient he supports the rule. Those that have the ability to pay should do so. It will not negatively affect those with additional insurance and there is no reason for them to drop it. The rule is entirely voluntary and there is nothing in the rule that would change a participant's eligibility based on their inability to pay.

**SUBSTITUTE
MOTION:**

Rep. Durst moved to reject **Docket No. 16-0318-0901**. More than being opposed to a fee rule it is a matter of actual cost to the state. It is important to not cut back programs that save the state money.

Rep. Rusche spoke in support of the substitute motion. The way the rule is structured and the levels of the copays do not recognize the burdens families of disabled children face. These families should continue to be supported. This is a choice and there are other sources of revenue that this legislature has chosen not to pursue. This rule is not the right choice for Idaho.

Rep. Luker spoke in support of the original motion. Some type of cost sharing is appropriate. After the initial vote, the department provided information regarding income analysis and cost sharing that would go along with that. This would be a trial and information would be gathered to evaluate how the cost sharing impacted families. This should not be a totally free program and the recipients should have some responsibility. The fee schedule accomplishes that goal.

Rep. Chew spoke in support of the substitute motion. Insurance caps for services have been steadily going down and that will cause the state to pick up the difference. This rule would simply be adding something that is broke to an already broken system.

Mr. Leary, in response to questions, stated that federal law precludes cost sharing for those in state institutions.

Rep. Boyle spoke in support of the substitute motion. This rule would incentivize sending children to institutions.

Rep. McGeachin spoke in support of the original motion.

Rep. Nielsen stated that service could not be denied for lack of payment. The rule simply encourages those that can pay to do so. It would allow for the program to continue without cuts to service in this downturn economy.

Rep. Marriott spoke in support of the original motion. Although he originally voted against the rule, in speaking with constituents afterwards they felt that a copay was appropriate.

Substitute motion failed by voice vote.

**ROLL CALL
VOTE ON
ORIGINAL
MOTION:**

Rep. Durst requested a roll call vote. By a vote of **10 aye and 6 nay**, the motion **passed**. Voting in the affirmative: **Reps. Block, Nielsen, McGeachin, Shepherd (8), Luker, Marriott, Thayn, Gibbs, Thompson, Wood (27)**. Voting in the negative: **Reps. Loertscher, Boyle, Rusche, Chew, Durst, Saylor**.

MOTION:

Rep. Loertscher moved to reconsider **Docket No. 16-0305-0902**.

Rep. Rusche stated that the rule had already been previously rejected and he questioned whether it would be appropriate to reconsider the rule.

Rep. Loertscher stated that the rule was still in possession of the committee and therefore the committee should have the ability to reconsider it.

In response to questions, **Dennis Stevenson**, Department of Administration, noted that both arguments could be made and could not give a clear answer on procedure at this point.

Rep. Nielsen stated that since there had not been a Concurrent Resolution on the House floor to reject the rule the reconsideration of the rule should be in order.

Chairman Block stated that the companion rule must be addressed along with the main docket. The motion to reconsider is in order.

Rep. Rusche requested that his objection be noted.

Motion carried by voice vote.

**DOCKET
16-0305-0902:**

Susie Cummins, Medicaid Program Specialist for the Division of Welfare, presented **Docket No. 16-0305-0902** which updates Medicaid eligibility rules for the Katie Beckett waiver to refer to IDAPA 16.03.18, the Medicaid cost sharing section that was just approved. The update ties the eligibility rules to the cost sharing section making it clear that there are additional rules to be considered when applying for Katie Beckett. If a payment is not made, it will not affect the child's Medicaid eligibility.

MOTION:

Rep. Wood moved to **accept Docket No. 16-0305-0902. Motion carried by voice vote.**

Chairman Block stated that the next meeting would be Friday, March 12, 2010.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 5:39 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 12, 2010

TIME: 8:30 a.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** Representative Loertscher

GUESTS: Bob Aldridge, Trust and Estate Professionals of Idaho; Larry Tisdale, Department of Health and Welfare (DHW); Mike Brassey, St. Luke's Health System; Corey Surber, Saint Alphonsus; Roger Seiber, CapitolWest Public Policy Group; Zach Hauge, CapitolWest; Jack Cilek, St. Luke's; Jeff Cilek, St. Luke's; Dick Armstrong, DHW; Larry Benton, Benton, Ellis & Associates; Christine Neuhoff, St. Luke's Health Systems; Toni Lawson, Idaho Hospital Association (IHA); Steve Millard, IHA; Leslie Clement, DHW

The meeting was called to order at 8:41a.m. by Chairman Block.

H 656: **Steve Millard**, Idaho Hospital Association, presented **H 656** which amends the Idaho Hospital Assessment Act of 2008 to allow for additional assessments on certain private hospitals. This will allow for adequate state trustee and benefit funds in the event there is a general fund shortfall. Additionally, federal matching funds will be drawn by maximizing reimbursement for allowable costs available through state Medicaid. This bill offers a solution to shortfalls in the Medicaid budget. For every \$0.20 the state spends it gets \$0.80 back from Medicaid. The goal is to preserve and leverage as much of the federal dollars as possible. The Medicaid Federal Upper Payment Limit (UPL) states that Medicaid can not reimburse state hospitals for more than Medicaid reimburses. The Hospital Assessment Act allowed private hospitals to be assessed for the maximum Medicaid payment. This bill would add another assessment and attempts to achieve \$25 million in savings for two years (\$50 million total). It would be a temporary fix with regards to budget shortfalls and includes a sunset provision.

In response to questions, **Mr. Millard** explained that public hospitals were already covered prior to 2008 under intergovernmental transfers. Private hospitals have no way to intergovernmentally transfer funds and a law had to be passed to do the assessment. He noted that public hospitals were in support of the legislation.

In response to committee questions, **Larry Tisdale**, Division of Medicaid, stated that when the bill was initially passed the legislature did not have the authority to make payments.

Rep. Wood (27) clarified that this would allow for the money to be continuously appropriated when the legislature is not in session. When the money comes in the authority would exist to draw those funds in the interim between legislative sessions.

Mr. Millard, in answer to questions, stated that the exemptions that were there are still there. This bill applies to 20 private community hospitals and the change would only apply to Medicaid rates. The language was designed to come up with the amount of money agreed to, \$25 million each year for two years. The statute would be restored to its original state on July 1, 2012.

Richard Armstrong, Director for the Department of Health and Welfare, testified **in support of H 656**. This is critical to finding a way to balance the budget for 2011. Hospitals contributed their staff to this process and it was a very collaborative effort between the IHA and their members.

In response to questions, **Director Armstrong** explained this would be specific piece of legislation to accomplish a specific task. It shouldn't have a negative affect on any future negotiations with providers. The \$25 million is a net result and does include calculations for the offset from the increase in payments that will occur.

MOTION:

Rep. Nielsen moved to send **H 656** to the floor with a **DO PASS** recommendation.

Rep. Rusche spoke **in support of the motion**.

Motion carried by voice vote. **Rep. Wood (27)** will sponsor the bill on the floor.

S 1321

Robert Aldridge, Trust & Estate Professionals of Idaho, presented **S 1321** which permits DHW to record a "request for notice" relating to the real property of a Medicaid recipient. This will ensure the department receives notice if the property is being sold or encumbered. It will not only make DHW aware of the transfer but will advise the seller of potential consequences of the transaction and make them aware if the sell might be in a manner contrary to Medicaid recovery laws. It is not a lien or encumbrance on the property and only provides for notice to the department. The bill was worked on with input from the Idaho Title Association to make it the least burdensome to title institutions. It does not stop the sell. If the title company happens to miss the sell they are not liable for that and there is no duty to report the information to DHW that duty is on the seller. This legislation is merely an attempt to give notice and get people to work with Medicaid.

In response to committee questions, **Mr. Aldridge** stated that after the death of an institutionalized spouse the surviving spouse would be clear to sell the property. The state would not accumulate interest and the Medicaid dollars would stay at the original amount.

Larry Benton testified on behalf of the Idaho Land Title Association. He noted that their position had shifted from being in opposition to the bill to being neutral. The concern with liability had been dealt with and the title

companies have reached a level of comfort with the legislation. The objections from last year have been removed.

MOTION: **Rep. Nielsen** moved to send **S 1321** to the floor with a **DO PASS** recommendation.

Rep. Gibbs spoke **in support of the motion**. The bill passed 28-5 in the Senate. He noted that amendments to the bill were addressed and after discussion both amendments and opposition to the bill were withdrawn.

Motion carried by voice vote. **Rep. Gibbs** will sponsor the bill on the floor.

Chairman Block stated that the next meeting would be Tuesday, March 16, 2010.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 9:54 a.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** March 16, 2010
- TIME:** 1: 30 p.m.
- PLACE:** Room EW42
- MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor
- ABSENT/
EXCUSED:** NONE
- GUESTS:** Dustin Hurst, IdahoReporter.com; Kathie Garrett, Idaho Academy of Family Physicians; Julie Harrison; Samantha Harrison; Judge Bryan K. Murray, Sixth District Court; Fairy Hitchcock, Hitchcock Family Advocates; Roy Eiguren, Spine Institute of Idaho; Dr. Joseph Verska, Spine Institute of Idaho; Eric Rossman, Rossman Law Group; Denise Chuckovich, Idaho Primary Care Association; Dr. Russ Newcomb, Idaho Medical Association (IMA); Ken McClure, IMA; Nick Genna, Treasure Valley Hospital; Portia Rauer, Physician Group; Larry Benton, Benton, Ellis & Associates; Christine Neuhoff, St. Luke's Health System; Jeremy Pisca, Saint Alphonsus Regional Medical Center; Toni Lawson, Idaho Hospital Association (IHA); Mike Brassey, St. Luke's Health System; Kay Shields, Idaho Trial Lawyers Association; Dr. Tim Doerr, Orthopedic Associates; Zach Hauge, CapitolWest Public Policy Group; Roger Seiber, CapitolWest; Tony Smith, Eiguren Public Policy; Steve Millard, IHA; Tony Poinelli, Idaho Association of Counties
- The meeting was called to order at 1:36 p.m. by Chairman Block.
- MOTION:** **Rep. Rusche** moved to approve the minutes of March 10, 2010 as written. **Motion carried by voice vote.**
- MOTION:** **Rep. Rusche** moved to approve the minutes of March 12, 2010 as written. **Motion carried by voice vote.**
- H 621:** **Rep. Loertscher** explained that all parties had met to address the concerns raised with **H 621** and a new RS was sent to print earlier today.
- MOTION:** **Rep. Loertscher** moved to **HOLD H 621** in committee **to a time certain of Thursday, March 18, 2010.** **Motion carried by voice vote.**
- H 653:** **Judge Bryan Murray**, Sixth Judicial District, presented **H 653** which amends the duties and responsibilities of a guardian ad litem (GAL) in Child Protective Act (CPA) cases. It confirms current practice and explicitly states that the GAL has a duty to advocate for the best interests of the child. It requires the GAL to provide a report to the court prior to any adjudicatory review or permanency hearing. It requires the GAL, when possible, to obtain the child's wishes regarding permanency and communicate those wishes to the court. Finally, it provides authority for

the GAL to confer with any person having information relevant to the CPA case in order to make recommendations regarding the best interests of the child. GAL are volunteers that are trained to represent abused or neglected children in child protective cases. They are the voice for the child in court and their duty and primary responsibility is to advocate for the child. This legislation will clarify GAL's position and what is expected of them.

In response to committee questions, **Judge Murray** explained that the language requiring the GAL to meet with the parent that has custody was stricken. There was concern that the GAL might express the wishes of the parent back to the court and that is not their duty. Striking the language does not prohibit the GAL from meeting with the parent. The addition of language on page 1, lines 19-23 would allow the child's wishes to be taken into consideration regardless of their age. It can be a therapeutic process for the child and gives them a chance to speak up and feel like they have some input. It does not mean that the judge would decide in favor of what the child wants. With regards to training, Idaho Juvenile Rule 35 covers the training standards for GAL. They are extensive and include continued training requirements each year.

MOTION:

Rep. Rusche moved to send **H 653** to the floor with a **DO PASS** recommendation. GAL volunteers ensure that children that need to be in foster care get placed in the right home. This legislation will clarify some of the issues surrounding GAL.

Rep. Loertscher spoke in support of the motion. Children often pay the price for the bad actions of their parents. This is a good piece of legislation.

Motion carried by voice vote. Rep. Rusche and Rep. Loertscher will sponsor the bill on the floor.

S 1373:

Steve Millard, Idaho Hospital Association, presented **S 1373** which clarifies current law regarding immunity from civil lawsuits for health care organizations that utilize a "peer review" process. All hospitals in Idaho are required to conduct peer review. Currently immunity, as clarified by the Idaho Supreme Court, exists for the use of information during the peer review process only. This legislation would reexpress that peer review actions or decisions would not subject a healthcare organization to liability. The court ruled that if the legislature had intended immunity for actions it should have stated so more clearly. This bill does that. It does not take away the appeal rights of physicians subject to peer review. A physician's due process rights are guaranteed by the bylaws of the healthcare organization. The legislation simply adds words that clarifies that the actions and decisions in a peer review process are also subject to immunity.

In response to committee questions, **Mr. Millard** stated that it was previously believed that immunity existed for the receiving and furnishing of information as well as the decision based on that information. The original intent of the law was to give immunity for the decision as well. That is how the law had been used from 1973 until the recent supreme court decision. The peer review process will be lost if that immunity is not

included. This change is about the patient and assuring quality of care. Studies show that higher quality is accompanied by lower cost and in that respect peer review could save hospitals money. Peer review would have to continue because it is required in statute but the quality of that process would be compromised without immunity. Physicians and independent practitioners feel they need this immunity to participate.

Chairman Block stated that in the interest of time testimony would be limited to four minutes.

Samantha Harrison testified **in opposition to S 1373**. She stated that her family had been directly impacted by the negligent actions of a hospital. A hospital allowed an irresponsible doctor to practice in their facility. Hospitals do not want to be held responsible for the quality of staff that they hire. Not passing this bill would hold hospitals accountable for their employees actions while on their property. It would make them responsible for their staff like every other company in the state.

Julie Harrison testified **in opposition to S 1373**. This bill would grant sweeping immunity to Idaho hospitals for negligent credentialing . It would allow for privileging decisions based on friendships or financial motivations, not qualifications. It would give hospitals free reign to let anyone practice medicine in their facilities without recourse. This should not be about protecting hospitals from their own actions but about protecting patients. Citizens count on legislators to protect their best interest and this bill would not do that.

In response to committee questions, **Ms. Harrison** noted that a lot of problems with negligent credentialing are not heard because patients do not feel that they could win. This bill opens the door for hospitals to allow anyone to practice medicine in their facility. There should not be any reason for a physician to fear being on a peer review panel.

Fairy Hitchcock, testified **in opposition to S 1373**. Internal reviews, such as peer review, operate in a realm of secrecy. There should not be protection for those participating in peer review. If they make good decisions they should not be worried.

Denise Chuckovich, Executive Director of the Idaho Primary Care Association (a network of community health centers), testified **in support of S 1373**. The language of the bill addresses not just hospitals but community health centers. These health centers credential providers and regularly conduct quality peer reviews as required by law. The peer review process is a critical component to ensure that the highest quality care is being provided to patients.

Ms. Chuckovich, in response to questions, stated that immunity is important. The process of providers reviewing each other's work is critical to high quality healthcare. In community health centers the medical director is required by law to take action after peer review. As part of their quality assurance plan, community health centers conduct peer reviews wherein doctors review each other's charts, notes, etc.

Roy Eiguren, Idaho Spine Institute, deferred to his colleague,

Dr. Joseph Verska.

Dr. Verska, Idaho Spine Institute, testified in **opposition to S 1373**. He stated that he had participated in the peer review process as well as been reviewed by others. Peer review can be influenced and not all hospitals act in good faith. He experienced a situation in which a board acted against peer review recommendations. This bad faith action by the hospital scarred his career indefinitely. The only recourse was a civil lawsuit against the hospital. If this bill passes physicians have no opportunity to review an inappropriate action by a hospital. No one should have complete immunity.

In answer to questions, **Dr. Verska** noted that most physicians that are wronged by a hospital don't have the resources to fight the hospital. Ultimately the granting of privileges is done at the board level and they rely on committees. Those committees can be influenced. The board of directors makes the final decision and they should be held responsible for bad faith actions. He stated that not having immunity would not prevent him from participating in the peer review process in the future. The process is mandated by law and will always exist.

Eric Rossman testified in **opposition to S 1373**. There is a lot of misinformation being presented about the bill and it does not express the original intent of the legislature. Rejection of this bill would not stop physicians from participating in the peer review process. The legislation protects hospital boards and not physicians. It does not help patients and would immunize reckless actions by physicians with no accountability.

In response to committee questions, **Mr. Rossman**, said that the hospital board could be subject to action but only in very unique circumstances. Physicians do need to feel comfortable participating in the peer review process but this bill does nothing for them. It simply immunizes the ultimate decision by the board of directors.

Chairman Block explained that the democratic caucus would be meeting at 3:30 p.m and the hearing for **S 1373** would be continued at the next meeting.

Chairman Block stated that the next meeting would be Thursday, March 18, 2010.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 3:35 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** March 18, 2010
- TIME:** 1:30 p.m. or upon adjournment of afternoon House session
- PLACE:** Room EW42
- MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor
- ABSENT/
EXCUSED:** NONE
- GUESTS:** Mark Johnston, Board of Pharmacy (BOP); Glenn Luke, BOP; Leon K. Jensen, BOP; Denise Chuckovich, Idaho Primary Care Association; Barbara Jorden, Idaho Trial Lawyer's Association; Dr. Tim Doerr, Orthopaedic Associates; Frank Clark, Neuroscience Associates; Dr. John Kloss, Orthopaedic Associates; Dr. Jeff Hessing, Orthopaedic Associates; Steve Millard, Idaho Hospital Association(IHA); Mark Peterson, InterMountain Hospital; Jonathan MacDonald, InterMountain Hospital; Woody Richards, InterMountain Hospital; Stephanie Westermeier, Saint Alphonsus; Rob Luce, Office of Attorney General; Dr. Joe Williams, Idaho Medical Association (IMA); Corey Surber, Saint Alphonsus; Kathie Garrett, Idaho Academy of Family Physicians; Christine Neuhoff, St. Luke's Health System; Mike Brassey, St. Luke's Health System; Roger Seiber; Toni Lawson, IMA; Larry Benton, Benton, Ellis & Associates; Tony Poinelli, Idaho Association of Counties;
- The meeting was called to order at 3:26 p.m. by Chairman Block.
- MOTION:** **Rep. Saylor** moved to approve the minutes of March 16, 2010 as written. **Motion carried by voice vote.**
- H 621:** **Tony Poinelli**, Idaho Association of Counties, stated that most of the concerns regarding **H 621** had been addressed in **H 681**.
- MOTION:** **Rep. Nielsen** moved to **HOLD H 621** in committee. **Motion carried by voice vote.**
- H 681:** **Tony Poinelli**, Idaho Association of Counties, presented **H 681** regarding the medically indigent. The definition of "resources" was revised to allow both the Catastrophic Health Care Cost Program (CAT) and the counties to consider various items within the definition for payment including: third party insurance, supplemental security income (SSI) or other available insurance. The intent is to make clear that neither CAT nor the county would pay on those until a final decision was made by the resource. If the resource were denied, the county would be required to pay the bill.

In response to committee questions, **Mr. Poinelli** explained that indigent determination is made based on the ability to pay the amount owed over a five year period.

Mr. Poinelli, reviewed the major changes to the statute. Language was added that requires healthcare providers to share information regarding an applicant's health and financial situation. A more clearly defined explanation of the process for sending an application to the Department of Health and Welfare (DHW) was added. Providers that are seeking reimbursement must submit billing information for utilization management review within 10 business days of being notified by DHW that the person is not medicaid eligible. However, the ability to extend the time frame is included to offer more flexibility. Specific language was added that would allow the state and county to withhold payment in specific situations. All providers seeking reimbursement must participate in the utilization management program. If an individual is retroactively determined to be eligible for benefits the county has an obligation to try and collect from the provider. Additionally, any overpayments by the county would be able to be offset on a future bill.

Mark Peterson, InterMountain Hospital, testified in **opposition to H 681**. This bill was clearly drafted to try and limit and delay payments to hospitals. Hospitals were not a part of the process and while the Idaho Hospital Association (IHA) did spend time trying to make a very pro county piece of legislation from being very detrimental to hospitals and medically indigent patients it still needs work. There are numerous issues that would negatively affect hospital payments for medically indigent patients.

Steve Millard, President of the IHA, stated that the organization no longer opposes the legislation. The process was hurried and there was not an opportunity to review the bill as rigorously as they would have liked. However, he expressed appreciation to the Association of Counties for addressing their major concerns.

In closing, **Mr. Poinelli** stated that the bill was a fair proposal and would save money long term because it would allow for collection on approved items.

MOTION: **Rep. Nielsen** moved to send **H 681** to the floor with a **DO PASS** recommendation with the instruction that all parties meet for further discussions in the future. **Motion carried by voice vote.** **Rep. Loertscher** will sponsor the bill on the floor.

S 1320a: **Mark Johnston**, Executive Director of the Board of Pharmacy, presented **S 1320a** which deals with the Idaho Drug Donation Act of 2009. The legislation allows the board to promulgate rules that address one donating entity, nursing homes. Other donating entities have been able to donate prescription items prior to the Act and the intention was simply to regulate the donation of previously dispensed medication from nursing homes. Previous requirements excluded products in unit dose packaging and clarifying language has been added to resolve that issues. Finally, there is an emergency clause which allows changes to the Act to become effective before the rules do.

MOTION: **Rep. Durst** moved to send **S 1320a** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Chew** will

sponsor the bill on the floor.

S 1373: Chairman Block stated that testimony would continue on **S 1373** but would be limited to four minutes.

Dr. Joe Williams, a urologist, testified **in support of S 1373**. Physicians are volunteers in the peer review process and the deliberations are motivated by a passion for quality of care. It is not unusual for new physicians to look at those with more experience and be concerned with the threat of lawsuits. This bill was presented to maintain immunity for those serving on peer review panels. It would be hard for medical staffs to keep volunteers participating in peer review without that immunity.

In response to committee questions, **Dr. Williams** explained that his understanding of the Idaho Supreme Court's ruling in *Harrison v Saint Alphonsus Regional Medical Center* gave him reason to believe that this bill would be necessary to substantiate immunity. Even if a physician were directly protected from being sued the process of going into the peer review process would cause undue stress on a practice. Most physicians would not be able to afford being gone for any length of time to deal with issues surrounding a peer review. There are multiple levels of appeal within the process and it takes multiple and repeated issues before a physician would ultimately suffer a suspension. It takes a lot to enforce disciplinary actions on a physician.

Nick Genna, Administrator at Treasure Valley Hospital, testified **in opposition to S 1373**. This legislation would allow hospitals to kick physicians off their staff without fear of consequences. Physicians have been harassed and had credentials withheld because of fear of competition among fellow physicians. If a physician is removed from a hospital staff they could lose their malpractice coverage or it could increase exponentially. Recommendations made by peer review are advisory and those initial recommendations are presented to the governing board for a final decision. At Treasure Valley Hospital, physicians have no concern with continuing to serve on peer review panels and believe they are adequately covered by existing law.

Dr. Russ Newcomb, Idaho Medical Association and Chairman of St. Luke's Magic Valley Board of Directors, testified **in support of S 1373**. Without immunity, most doctors would remove themselves from harm's way and the hospital would be without valuable professional expertise in the peer review process.

Dr. Newcomb, in answer to questions, noted that physicians serve on peer review panels as a service to their profession. They have a duty to make sure doctors provides the best quality healthcare that they can. Volunteering, without monetary compensation, lends credibility to the process and leads to improvements in the profession. The supreme court decision distinguished between gathering information and the ultimate credentialing decision. However, the credentialing decision is a product of the credentialing committee. Without this legislation the decision makers would be at risk. Doctors will not put themselves at risk for a voluntary service to the hospital. There are many state and federal laws that ensure due process for physicians and that would not be

affected by passage of this legislation.

Portia Rauer, Powers Tollman, testified **in opposition to S 1373**. Peer review would not be jeopardized and physicians would not be in danger of being under scrutiny for what goes on in the process. Statute 39-1392b of Idaho code clearly states that testimony of doctors within the peer review process is sacrosanct and would not be available as evidence. Statute 39-1392c states that “other persons” (physicians) shall not be subject to liability for their opinions within the peer review process.

In response to committee questions, **Ms. Rauer** noted that members of committees do not make decisions but rather recommendations. A physician that applies for credentials cannot work based on the credentialing committee’s recommendation but rather must wait for the decision of the board. Committees do not make the decisions and that is what the supreme court was trying to delineate.

Christine Neuhoff, General Counsel at St. Luke’s Health System, testified **in support of S 1373**. Paying physicians for participating in the peer review process wouldn’t change any concerns about whether their activities would be subject to later litigation. It is not possible for a board to know what is going on except through what comes from the peer review process. If physicians perceive they have less protection today than a year ago they might be more reluctant to participate or be as candid as they were previously. The intention is to have doctors determine whether appropriate care was provided and whether doctors have the appropriate skills to do that. Doctors have to be open and willing to provide frank opinions for that process to work.

Dr. Tim Doerr, Orthopaedic Associates, testified **in opposition to S 1373**. This bill directly affects a doctor’s ability to make a living. It puts the control of a doctor’s livelihood in the hands of hospitals and does nothing to protect peer review. Hospitals are businesses and economics does play a role in this legislation. It gives hospitals immunity to ruin physician’s careers.

Dr. Doerr, in response to questions, explained that doctors have been told by hospitals that without this legislation they could be sued and they simply believe it. They have not done their homework and looked at the bill or reviewed the supreme court decision.

Jeremy Pisca, Saint Alphonsus Regional Medical Center, testified **in support of S 1373**. Board members in most hospitals are community leaders that don’t necessarily have a lot of knowledge regarding medical decisions. The board ought to be entitled to rely on what doctors in the peer review process say without fear of a lawsuit. Peer review will continue but without this legislation it will never be the same again. This bill does not provide absolute immunity it only deals with negligent credentialing and the peer review process.

In response to committee questions, **Mr. Pisca** noted that the state supreme court decision was not unanimous and before it got there the district court found the statute unambiguous. Prior to the supreme court

ruling everyone thought the law offered immunity for peer review decisions. This bill simply clarifies what everyone thought the law already did. If a hospital board is accused of negligence the only way to defend themselves would be to offer up the committee members. Doctors will be deposed for their part in a peer review process it would be the only way a claim of negligent credentialing could be proven.

Dr. Jeff Hessing, Medical Director for Treasure Valley Hospital testified **in opposition to S 1373**. The governing board makes the final decision based upon recommendations from the peer review committee. The board is the deciding entity. Peer review works and will still continue to work without this legislation. If this bill were to pass, Idaho would be the only state where hospitals have no accountability for credentialing and privileging decisions.

Dr. Hessing, in answer to questions, explained that peer review opinions are consensus statements and do not reflect individual doctor's views. Doctors would continue to be immune without this legislation because they were never specifically identified for their individual opinions.

In closing, **Ken McClure**, Idaho Medical Association stated that the organization is firmly in support of the legislation. When the issue was brought to the board they unanimously agreed to support the legislation. Accountability is very important in healthcare and that is what peer review does. If this bill does not pass there will be a significant reduction in the number of doctors serving on peer review panels. The supreme court dealt a debilitating blow to peer review and patients are ultimately the ones that will suffer. This legislation is all about making sure peer review functions properly.

Mr. McClure, in response to committee questions, stated that Statute 39-1392b provides a privilege for records but does not include a provision that doctors cannot be asked to testify about their personal knowledge. They could be asked to give their opinion about the care a physician provided.

MOTION:

Rep. Loertscher moved to send **S 1373** to the floor with a **DO PASS** recommendation. The bill deals strictly with the peer review process and is a good piece of legislation.

Rep. Luker spoke **in opposition** to the motion. If the intention of the bill were to protect peer review that could be easily done and would not have to go to the extent of immunizing everything. This legislation stops all judicial review of decisions. Peer review exists to provide a process for citizens that allows accountability. This bill does not allow for that accountability and is very dangerous. There is a way to deal with the peer review issue more specifically if that were the real concern.

Rep. Marriott spoke **in opposition** to the motion. The legislation is much broader than its supporters would lead one to believe.

Rep. Rusche spoke **in support** of the motion. The bill simply puts back into place the immunity that everyone believed already existed. Part of the reason doctors volunteer for peer review panels is that they believe

they can be open and honest. That is what this bill supports.

Rep. Wood (27) disclosed that according to House Rule 38 this legislation would directly affect his employer. However, he would be voting. He spoke **in support** of the motion. It has been his belief that since he began participating in credentialing decisions he had immunity from the decisions made. Public safety is paramount to anything else. This is all about accountability in the profession.

Rep. Saylor spoke **in support** of the motion. Absolute immunity is not being granted here. Patients still have the right to sue for negligence. It comes down to the patient's well being.

Rep. Nielsen spoke **in opposition** to the motion. The supreme court decision differentiated between the recommendations made by the committee and the actions that were taken by the board thereafter. Doctors are protected under the law as it stands now. The supreme court did not alter that.

Rep. Durst spoke **in opposition** to the motion. This bill would set a dangerous precedence. If a case is lost at the supreme court one could simply go to the legislature and change the rules to get the outcome they wanted. For any organization to overrule what the supreme court has said would be dangerous. The legislation is overly broad and would be a step backwards not forward. Doctors already have immunity and this bill would negatively impact patient care.

Rep. Luker noted that the *Harrison v Saint Alphonsus Regional Medical Center* case is why this bill is before the committee. It was not a suit against the peer board but rather the hospital board. That ultimate decision does nothing to undermine the protections already in law.

Rep. Loertscher stated that the court invited the legislature to make a decision on what was intended by the law and that was the reason for this bill. It was an invitation by the supreme court to speak on the decision.

**ROLL CALL
VOTE:**

Rep. Luker requested a **roll call vote**. By a vote of **6 aye and 8 nay** the motion **failed**. Voting in the affirmative: **Reps. Block, Loertscher, Gibbs, Wood, Rusche, Saylor**. Voting in the negative: **Reps. Nielsen, McGeachin, Shepherd, Luker, Marriott, Boyle, Thompson, Durst**.

MOTION:

Rep. Luker moved to **HOLD S 1373** in committee.

**ROLL CALL
VOTE:**

Rep. Luker requested a roll call vote: By a vote of **8 aye and 6 nay** the motion **carried**. Voting in the affirmative: **Reps. Nielsen, McGeachin, Shepherd, Luker, Marriott, Boyle, Thompson, Durst**. Voting in the negative: **Reps. Block, Loertscher, Gibbs, Wood, Rusche, Saylor**.

Chairman Block reminded the committee that the target for the end of session would be next Friday, March 26, 2010. Therefore the committee would meet tomorrow March 19, 2010 at 8 a.m. to hear more legislation.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 6:27 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 19, 2010

TIME: 8:00 a.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** Representatives Loertscher, Chew

GUESTS: Mike Kane, Idaho Association of Public Health District Directors; Lorraine Fortunate, Central District Health Department (CDHD); Russell Duke, CDHD; Seth Kingsbuey; Lewis Anderson; Erik Makrush, Idaho Freedom Foundation; Rebecca Coyle, Department of Health and Welfare (DHW); Susie Pouliot, Idaho Medical Association (IMA); Steve Millard, Idaho Hospital Association (IHA); Neva Santos, Idaho Academy of Family Physicians (IAFP); Elizabeth Criner, Pfizer, Inc.

The meeting was called to order at 8:02 a.m. by Chairman Block.

S 1335: **Susie Pouliot**, Chief Executive Officer for the Idaho Medical Association (IMA), presented **S 1335** which changes the Immunization Reminder Information System (IRIS) to an opt out program. IRIS not only tracks vaccination rates for the state but offers a helpful reminder system for physicians and patients. In recent years Idaho has ranked either 50th or 51st in voluntary immunization. Those who are not fully immunized are at risk and when immunization rates are not maximized all others are put at risk. Currently, immunization information in IRIS is only obtained from those that opt in and this leaves large gaps in critically important data. IRIS data is not integrated with physicians' electronic health record (EHR) systems because most EHR are programmed to work with an opt-out program. It costs the state and providers from \$750 to over \$1,500 to create a special software patch for each EHR program. This bill will not in any way change the voluntary nature of the current registry nor does it mandate vaccinations for those who choose not to have their children immunized. The legislation received unanimous approval of the Health Care Task Force as well as support from: the IMA, IAFP, Idaho Chapter-American Academy of Pediatrics, Idaho Consortium for Healthcare Performance Improvement, Idaho Academy of Physician Assistants, Idaho Hospital Association, Idaho Primary Care Association, Idaho Medical Group Management Association, Idaho Association of Public Health District Directors, Idaho Association of Local Boards of Health, Health Quality Planning Commission and Idaho Voices for Children.

In response to committee questions, **Rebecca Coyle**, DHW, explained that at birth all newborns would be automatically enrolled in the system. At that time, or any subsequent date thereafter, parents could chose to have their child removed from IRIS. Information will be provided at all

birthing hospitals which will explain how patients can opt out. The DHW website will also provide the information in a special section for parents. IRIS offers patients and providers a central record that can be tracked at hospitals and by new providers.

Ms. Pouliot, in response to questions, explained that the cost for the software patch to EHR can sometimes be prohibitive for those that wish to integrate their records with IRIS. This legislation will save the state money.

Chairman Block stated that she and Vice Chairman Nielsen would be leaving briefly to present legislation in Senate State Affairs. Rep. McGeachin will now chair the committee.

Eric Makrush, Idaho Freedom Foundation, stated that they were neutral on the legislation. IRIS was put in place 12 years ago as a voluntary opt-in system. It would not be good public policy to change that system.

Bill Sali, former U.S. and Idaho Congressman, stated that he had been involved in the original drafting of the legislation for IRIS and would like to offer amendments to **S 1335**. The amendments (see attached) include the removal of language that states that IRIS participation would be voluntary and the addition of language that would allow parents to refuse immunizations on the basis that “they would endanger the life or health of their child.” He noted that when he was a child he didn’t worry about catching diseases; they were simply a part of life. If parents want to have their child gain natural immunity through exposure to these diseases that should be their prerogative.

In response to committee questions, **Mr. Sali** stated that as the word “voluntary” was stricken from page 1, line 15, participation in IRIS must be mandatory. Many will attach meaning to the fact that “voluntary” was removed from the language.

In closing, **Ms. Pouliot** clarified that while “voluntary” was removed that does not create a mandatory system. It is not the intention of the sponsors nor the supporting groups to require mandatory participation in the IRIS program or immunizations.

MOTION: **Rep. Durst** moved to send **S 1335** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Luker** moved to **HOLD S 1335 to a time certain** upon return of the Chair. **Motion carried by voice vote.**

S 1301: **Russell Duke**, Central District Health Department, presented **S 1301** which amends pharmacy law regarding unlicensed practice. This bill will give public health district nurses the authority to label and deliver refills of certain prepackaged medications for preventive health services. The medications include prenatal vitamins, contraceptives, tuberculosis antibiotics and antiviral medications for sexually transmitted diseases. This legislation would not change dispensing authority only the ability to deliver medication. It could save the state from \$65,000 to \$100,000 in costs to provide pharmaceutical care to health district patients. The

Board of Nursing provided guidance in crafting the bill and it has the support of the Board of Pharmacy as well as the Board of Health and Welfare.

MOTION: **Rep. Nielsen** moved to send **S 1301** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nielsen** will sponsor the bill on the floor.

Chairman Block returned to chair the meeting.

MOTION: **Rep. Durst** moved to send **S 1335** to the floor with a **DO PASS** recommendation. It is more important to have families opt-out than opt-in so that important data can be gained by DHW.

SUBSTITUTE MOTION: **Rep. Thayn** moved to send **S 1335** to **General Orders**.

Rep. Rusche noted that the language on page 1, lines 31-32 simply states that a refusal to participate in IRIS must be a separate statement from any other authorizations or releases.

AMENDED SUBSTITUTE MOTION: **Rep. Luker** moved to send **S 1335** to **General Orders** with the amendments presented by Mr. Sali. Concerns were raised and the bill doesn't explicitly require that parents be advised of the opt out option.

Rep. McGeachin spoke in opposition to the amended substitute motion. The suggested language in subsection (3)c states that children could gain immunity by being exposed to and contracting diseases. She stated that she was not comfortable with that language and time should be given to allow citizens to come forward and testify on the issue.

Rep. Nielsen spoke in opposition to the amended substitute motion. He questioned the value of the amendments and stated that he would like to see the bill held in committee for future consideration.

Rep. Saylor spoke in opposition to the amended substitute motion. The amendments go much further than simply clarifying the voluntary nature of IRIS. There are a number of discussions that need to occur regarding the proposed amendments.

Chairman Block stated that the floor session started at 9 a.m. and the committee would consider the motions on **S 1335** at the next meeting on Monday, March 22, 2010.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 9:16 a.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

DATE: March 22, 2010

TIME: 1:30 p.m.

PLACE: Room EW42

MEMBERS: Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor

**ABSENT/
EXCUSED:** NONE

GUESTS: Dana Gover; Bob Aldridge, Trust and Estate Professionals of Idaho; Kathie Garrett, Idaho Academy of Family Physicians; Mike Brassey, St. Luke's Health System; Sharon Duncan, Idaho Commission on Aging; Roger Howard, Living Independence Network Corp.; Jane Smith, Department of Health and Welfare (DHW); Rebecca Coyle, DHW; Russell Duke, Central District Health Department; Paul Leary, DHW; Elizabeth Criner, Pfizer, Inc.; Steve Millard, Idaho Hospital Association; Dr. Christine Hahn, DHW; Kerry Ellen Elliott, Idaho Association of Counties & Public Health Districts; Kyle Breitenberg;

The meeting was called to order at 1:34 p.m. by Chairman Block.

MOTION: **Rep. Thompson** moved to approve the minutes of March 18, 2010 as written. **Motion carried by voice vote.**

S 1310: **Paul Leary**, Deputy Administrator for the Division of Medicaid, presented **S 1310** which seeks to distinguish personal care services (PCS) for children provided by PCS family alternative care providers from personal assistance services for adults. Additionally, terms have been updated to reflect current usage and establish consistency; specifically, "service coordination" has replaced the outdated "case management."

In response to committee questions, **Mr. Leary** stated that the Department had no problems with replacing language in the bill to reflect the directive of **S 1330a** which would remove the word "retarded" from state code. The new language on page 5, line 33 would read "intermediate care facility for the mentally disabled." Alternate care providers refers to those that care for children that are unable to reside in their own home. They could be foster homes or the home of a guardian for the child.

MOTION: **Rep. Chew** moved to send **S 1310** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Thayn** will sponsor the bill on the floor.

S 1322: **Robert Aldridge**, Trust and Estate Professionals of Idaho, presented **S 1322**. Many financial abuse situations involve life time gifts, rather than a bequest or devise through an estate plan. This bill amends the

“caregiver” statute to include gifts. If a gift in a will or trust is given within a certain time period it will be presumed to have been given because of undue influence. However, relatives and charitable entities are exempt from the presumption of undue influence.

Mr. Aldridge, in answer to questions, clarified that “health care services” is defined within another section of the probate code. Health care services are fairly specific. It must be provided in the home and would not include occasional help. There might be times when it is difficult to distinguish between gifts that weren’t a result of undue influence. Only those cases with a real perceived abuse of a situation would be prosecuted. Some of the worst abuse cases involve those not being paid on a regular basis so the inclusion of “paid on a regular basis” in the health care definition would not alleviate all of the concerns. It was decided that it would be better to give more protection to the elderly and filter out those cases when undue influence isn’t occurring. If an attorney were to receive a gift of an estate that would be assumed to be undue influence. There are a number of cases in which undue influence is presumed. This would not be a unique situation and would only be used in the most egregious cases. “Clear and convincing evidence” would consider the length of time the help was provided and whether they were paid.

Sharon Duncan, Policy Program Manager for the Idaho Commission on Aging, testified **in support of S 1322**.

MOTION:

Rep. Luker moved to **HOLD S 1322** in committee. He questioned whether Judiciary and Rules might not be the germane committee for this legislation to be handled in as it deals specifically with probate code. The statute as originally drafted dealt specifically with nursing homes. This bill deals with health care services and could be casting too broad of a net. It could include a neighbor that occasionally offers help and finds himself the recipient of an unexpected gift. Undue influence can only be overcome by “clear and convincing evidence” and not a preponderance of evidence. Clear and convincing evidence is the civil version of beyond reasonable doubt and could be very difficult to prove. This bill needs more work.

SUBSTITUTE MOTION:

Rep. Rusche moved to send **S 1322** to the floor with a **DO PASS recommendation**. This is a good piece of legislation that addresses a real concerns for families and individuals.

Rep. Luker spoke **in opposition** to the substitute motion. He stated that he was bothered by the legal standard being used. The presumption is guilty until proven innocent. While he can appreciate the concern that this bill addresses; it goes too far and needs more work.

Rep. Nielsen spoke **in opposition** to the substitute motion. He expressed concern that the legislation might discourage neighbors from offering help.

Rep. Saylor spoke **in support** of the substitute motion. If the committee is going to err, they should err on the side of the patient and their family. The extent of service, time spent with the patient, whether the patient is

of sound mind are all guidelines that can be used. There are clear standards that could allow attorneys to differentiate between a gift and undue influence.

Rep. Wood (27) spoke in support of the substitute motion. The protection of the elderly is an important concern and this is a needed piece of legislation.

Motion failed by a show of hands.

**ROLL CALL
VOTE ON
ORIGINAL
MOTION:**

Rep. Durst requested a roll call vote. By a vote of **9 aye and 7 nay** the motion carried. Voting in the affirmative: **Reps. Block, Nielsen, Loertscher, Shepherd (8), Luker, Marriott, Thayn, Boyle, Thompson.** Voting in the negative: **Reps. McGeachin, Gibbs, Wood (27), Rusche, Chew, Durst, Sayler.**

S 1399:

Ken McClure, Idaho Medical Association, presented **S 1399** which clarifies that a doctor that does not see a patient and only provides counsel to another doctor without expectation of compensation does not have a physician-patient relationship with that patient. Currently, if a physician answers another doctor's question as a professional courtesy they could be party to a lawsuit over the advice they gave to that doctor. This leaves those physicians with specialized knowledge reluctant to share information. This results in poorer, slower and possibly more expensive healthcare.

Mike Brassey, St. Luke's Health System, testified in support of **S 1399.**

MOTION:

Rep. Nielsen moved to send **S 1399** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Thompson** will sponsor the bill on the floor.

S 1400:

Sen. Geddes presented **S 1400** which would allow county commissioners the discretion to replace their appointed member on a public health district board when that member is no longer a county commissioner. In Franklin County the majority of board members were former county commissioners. The board was no longer reflective of those elected to represent their constituents. Board members are elected to a five year term which does not coincide with the terms of county commissioners. This legislation proposes to make it easier for counties to make a change.

In response to committee questions, **Sen. Geddes** explained that the language was drafted by the Idaho Association of Counties and there is no known opposition to the bill.

MOTION:

Rep. Marriott moved to send **S 1400** to the floor with a **DO PASS** recommendation. He disclosed that according to House Rule 38 he should note that his son-in-law is a commissioner in Bingham County could be impacted by the legislation. However, he would be voting.

Rep. Nielsen disclosed that according to House Rule 38 he should note that his son-in-law is a county commissioner in Franklin County and could be impacted by the legislation. However, he would be voting.

Motion carried by voice vote. Rep. Loertscher and Rep. Gibbs will sponsor the bill on the floor.

S 1335: Chairman Block reminded the committee that the following three motions were on the table from the previous meeting regarding **S 1335**.

ORIGINAL MOTION: **Rep. Durst** moved to send **S 1335** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Thayn** moved to send **S 1335** to **General Orders**.

AMENDED SUBSTITUTE MOTION: **Rep. Luker** moved to send **S 1335** to **General Orders** with the amendments attached presented by Mr. Sali.

Rep. Luker stated that he had a few changes that he would like to make to the amendments offered previously.

Chairman Block stated that the amended substitute motion could be withdrawn. However, it would also be acceptable to amend the previous motion.

Rep. Luker withdrew the amended substitute motion.

AMENDED SUBSTITUTE MOTION: **Rep. Luker** moved to send **S 1335** to **General Orders** with committee amendments (see attached). **Rep. Marriott** seconded the motion.

Rep. Rusche spoke **in opposition** to the amended substitute motion. The statements “because immunization may endanger the life or health of their child” go beyond the bounds of science. Asking physicians to provide statements that immunizations may endanger children is asking them to present false information. The preponderance of evidence suggests that the health and life of children are improved by these immunizations.

Rep. Luker stated that the reference is simply a basis for refusal. The hospital would not be making any representation that is the status of medicine and immunizations. Rather it is the belief of the patient and their personal grounds for refusal.

Rep. Thayn suggested that the statement include “because in the belief of the parent” to alleviate concerns. It is irrelevant if the belief is shared by the state or medical providers. It simply clarifies that the state is respecting the decisions of the parent.

Rep. Rusche expressed concerns with the language “may endanger the life of the child.” It is factually incorrect and the committee should object to having inaccurate scientific information in state law.

Rep. Luker withdrew the amended substitute motion.

AMENDED SUBSTITUTE MOTION : **Rep. Luker** moved to **HOLD S 1335** in committee. There is not an urgency with the bill. The issues should be worked out and presented in a new bill next year.

Rep. Wood (27) spoke in **opposition** to the amended substitute motion. In the last 110 years society has gained 20 years of longevity; 15 of those years were gained through improvements to clean water, non contaminated food and immunizations. Immunizations have led to the disappearance of horrible diseases and this is an important issue that should not wait.

Rep. Nielsen spoke in **support** of the amended substitute motion. There is not an urgency here. The voluntary status of the program needs to be cleared up and this bill needs more work.

Rep. Durst spoke in **opposition** to the amended substitute motion. This is an urgent need. Idaho has one of the lowest immunization rates in the country.

Rep. Loertscher spoke in **support** of the amended substitute motion. According to the IRIS website, 94% of newborns are in the system. The other 6% are probably those that would choose to opt out anyways. Anyone can request their children's information be entered.

Rep. Rusche stated that under the federal Vaccines for Children program no child will be refused vaccines because of inability to pay. Vaccines in the first nine months of a child's life require repeated doses and the reminders that IRIS could provide would be helpful to parents.

Rep. McGeachin spoke in **support** of the amended substitute motion.

Rep. Marriott spoke in **support** of the amended substitute motion. 94% of newborns are enrolled in IRIS and making the system opt-in may not necessarily pick up the other 6%.

**ROLL CALL
VOTE ON
AMENDED
SUBSTITUTE
MOTION:**

Rep. Durst and **Rep. Rusche** requested a roll call vote. By a vote of **8 aye and 8 nay** the motion **failed**. Voting in the affirmative: **Reps. Nielsen, McGeachin, Loertscher, Shepherd (8), Luker, Marriott, Thayn, Boyle**. Voting in the negative: **Reps. Block, Gibbs, Thompson, Wood (27), Rusche, Chew, Durst, Sayler**.

Chairman Block noted that anyone may offer amendments to the legislation. They do not have to be proposed by the committee. All that is needed is a legislative sponsor and a second.

Rep. Thayn withdrew the substitute motion.

**SUBSTITUTE
MOTION:**

Rep. Sayler moved to send **S 1335** to the floor **without recommendation**. The entire House should have an opportunity to debate the matter as well.

**ROLL CALL
VOTE ON
SUBSTITUTE
MOTION:**

Rep. Luker and **Rep. Durst** requested a roll call vote. By a vote of **8 aye and 8 nay** the motion **failed**. Voting in the affirmative: **Reps. Block, Gibbs, Thompson, Wood (27), Rusche, Chew, Durst, Sayler**. Voting in the negative: **Reps. Nielsen, McGeachin, Loertscher, Shepherd (8), Luker, Marriott, Thayn, Boyle**.

ROLL CALL

Rep. Luker requested a roll call vote. By a vote of **8 aye and 8 nay** the

VOTE ON ORIGINAL MOTION:

motion **failed**. Voting in the affirmative: **Reps. Block, Gibbs, Thompson, Wood (27), Rusche, Chew, Durst, Sayler**. Voting in the negative: **Reps. Nielsen, McGeachin, Loertscher, Shepherd (8), Luker, Marriott, Thayne, Boyle**.

MOTION:

Rep. Rusche moved to send **S 1335 to General Orders** with committee amendments to reinsert the word "voluntary" on page 1, line 21. **Rep. Wood (27)** seconded the motion.

In response to committee questions, **Susie Pouliot**, Chief Executive Officer for the Idaho Medical Association stated that they had proposed amendments (see attached) that would reiterate the voluntary nature of the registry. Information regarding the immunization status of a child would be included in IRIS unless a parent or guardian choose not to include them. This language would make it easier for the minority of those that choose not to have their information in the system. It would be more cost effective and efficient to operate IRIS as an opt-out system as it currently does not readily integrate with physician and state electronic health record (EHR) systems. It is current practice to provide parents with information regarding IRIS when consent documents are presented and that will not change.

In answer to questions, **Dr. Christine Hahn**, epidemiologist for the Department of Health and Welfare, stated that the change of wording from "may" to "shall" actually strengthens the provision about disclosure. Often immunizations are given and that is not reflected in the registry. If the system improves and changes to opt-out that information could be automatically entered because of the ease of integration with EHR. The contract for the registry has expired and now is the time to consider potential changes to it. IRIS is not currently being used as well as it could be and it should be as easy as possible for physicians to get information into the registry.

SUBSTITUTE MOTION:

Rep. Luker moved to send **S 1335 to General Orders** with committee amendments (see attached). **Rep. Rusche** seconded the motion. **Motion carried by voice vote**. **Rep. Luker** will sponsor the bill on the floor.

Chairman Block stated that the next committee meeting would be Wednesday, March 24, 2010.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 3:40 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** March 24, 2010
- TIME:** 1:30 p.m. or upon adjournment of afternoon House session
- PLACE:** Room EW42
- MEMBERS:** Chairman Block, Vice Chairman Nielsen, Representatives McGeachin, Loertscher, Shepherd(8), Luker, Marriott, Thayn, Boyle, Gibbs, Thompson, Wood, Rusche, Chew, Durst, Saylor
- ABSENT/
EXCUSED:** Representative Boyle
- GUESTS:** Larry Tisdale, Department of Health and Welfare (DHW); Kris Ellis, Idaho Health Care Association (IHCA); Robert Vande Merwe, IHCA; Rick Holloway, Western Health Care Corp.; Keith Holloway, Western Health Care Corp.; Dana Gover; Kathi Brink, Ashley Manor Care Center; Benjamin Davenport, RischPisca; Leslie Clement, DHW;
- The meeting was called to order at 3:09 p.m. by Chairman Block.
- MOTION:** **Rep. Rusche** moved to approve the minutes of March 19, 2010 as written. **Motion carried by voice vote.**
- MOTION:** **Rep. Rusche** moved to approve the minutes of March 22, 2010 as written. **Motion carried by voice vote.**
- H 708:** **Leslie Clement**, Medicaid Division Administrator, presented **H 708** which deals with Medicaid cost containment strategies. The changes include both short-term and on-going solutions. Reimbursement changes would impact personal care service (PCS) agencies, nursing homes, intermediate care facilities, physicians and dentists. Personal care rates would be no greater than the current rate but could be reduced based on the wage survey. Nursing home and intermediate care facility incentive payments were removed entirely. Finally, pharmacy required participation in cost surveys will allow Medicaid to expand the use of its State Maximum Allowed Cost (SMAC) methodology. The fiscal note proposes a general fund savings of \$3.4 million and a total savings of \$16.7 million. The Department of Health and Welfare (DHW) would be willing to work with providers on quality and patient care based incentives in the future.
- In response to committee questions, **Ms. Clement** noted that physicians could see an increase in utilization of services based on decreased reimbursement rates. However, dental rates are currently some of the highest in the country and it seems unlikely they would begin billing more procedures and visits. Overall, utilization should not significantly change for providers. The department believes that the removal of the efficiency incentive will not result in decreased administrative performances. She noted that Medicaid has a daunting task ahead of it and is not sure how to avoid coming back for supplemental funding next year. Currently the general fund shortfall is approximately \$42 million. If Federal Medical

Assistance Percentages (FMAP) were not continued there would be an additional shortfall of \$70 million in general funds. With regards to HR 3590, the federal health care reform resolution, the expansion of the Medicaid program will not take effect until 2014 and federal funding will be available for those newly eligible for assistance. There are maintenance of effort requirements in the legislation but they have not yet been fully analyzed.

Ms. Clement, in answer to questions, explained that every year surveys regarding rates of pay are sent to nursing home providers. Based on those responses the rate for community based providers is set. The formula for FMAP is typically based on a per-capita income but the increased FMAP also includes unemployment factors as well. Idaho is one of the top eleven states in terms of their federal share percentage. That has not changed for the upcoming fiscal year.

Kris Ellis, Idaho Health Care Association (IHCA), testified **in opposition to H 708**. There is concern with the removal of language on page 1 that gives providers a 55% supplemental adjustment. There are studies that need to be done before this should take effect. The methodology for services study took five years to implement. This change would leave providers without an understanding of what the new rate would be. To eliminate the 55% without a plan does not make sense. At a minimum the IHCA would request a sunset clause after one year. The removal of incentive payments will only hurt those facilities that do operate efficiently. The IHCA would like to propose a 6.7% cut across the board with the adding back in of the incentive payments.

Rick Holloway, Western Health Care Corp., testified **in opposition to H 708**. If a facility has no incentive to cut costs they will naturally incur them. It is understandable that budget challenges require the department to consider all possible cuts. However, the proposed plan will not result in significant cost savings. Indirect costs will simply be raised up to the cap. Increasing the overall hold back from 2.7% to over 6% would affect all facilities and would be more fair.

In response to committee questions, **Mr. Holloway** explained that an increase in the overall hold back would allow Medicaid to more than make up the \$5.3 million that is proposed to be gained from removing incentives. Without the incentive payments, facilities would try to maximize reimbursement costs to the upper payment limit allowed under Medicaid. The department would not see the reductions it is expecting.

Robert Vande Merwe, Executive Director of the Idaho Health Care Association, testified **in opposition to H 708**. The removal of the 55% supplemental adjustment is quite a large cut. It is a dramatic cut off the top of next year's budget for assisted living facilities and home care. With these cuts facilities will not be able to take on new patients. Those patients will be forced to seek more costly care in nursing homes. The IHCA would be more than willing to negotiate further reductions in the quarterly rate reduction rather than see the incentive go away. Rate freezes would be preferable to automatic reductions.

In response to committee questions, **Mr. Vande Merwe** suggested that last year's 2.7% cut be increased to approximately 6% which would more than make up for the incentive program. The IHCA favors a more equitable cut than a disincentive to cut costs. The incentive program is working to reduce costs and the IHCA would like to see it kept.

Ms. Clement, in answer to questions, explained that an assessment for intermediate care facilities, similar to the one hospitals put in place, would be something worth considering in the future. Medicaid is trying to reduce expenditures now in order to be sustainable for the long term. The department deliberately chose to cut incentive payments rather than increasing fees and would prefer the bill pass as written.

Kathi Brink, Ashley Manor Assisted Living Facilities, testified in **opposition to H 708**. In the past the department worked closely with providers to address issues. This legislation was created without any input from stakeholders. Assisted living facilities are being asked to accept cuts without any idea of the impact it will have. Budgets have already been set for the 2011 fiscal year. These providers need some kind of predictability in their rates. The weighted average hourly rate (WAHR) is depended on by assisted living facilities. Eliminating the WAHR may force these facilities to cut staff. Ashley Manor is simply asking to be invited to the table to try and work this out with the state. They cannot afford to indiscriminately take a cut like this.

In response to questions, **Larry Tisdale**, Bureau Chief of Medicaid Financial Operations, noted that the department did look at potentially asking for deeper cuts to rates. However, a 6% cut would affect direct care. Facilities in rural areas would be forced to file distressed facility claims. This legislation would not drop the WAHR it would simply allow Medicaid to review the rate. It is not known if the rate will even go down. Right now assisted living facilities can still expect to get paid. This is simply an attempt to stay in compliance with intent language. As long as it stays the same nothing can be done to review the WAHR. This bill takes the 55% supplemental out of statute. Medicaid needs to be able to study costs in order to set an accurate rate for the industry. There is no evidence that costs went up as the result of the reduction in incentive payments last year.

MOTION:

Rep. Thayn moved to send **H 708** to the floor with a **DO PASS** recommendation. The department has worked hard on this legislation and has explained their position sufficiently.

In response to questions, **Mr. Vande Merwe** noted that the fiscal year has not yet ended and DHW won't know if reducing incentives changes provider actions until it ends. The incentive does encourage more efficient behavior.

Rep. Wood spoke in **support** of the motion. Assessments are extremely complicated and there is a risk with respect to getting reimbursements back to public facilities. The department is on the right track in trying to avoid an increase in assessments at this time.

Ms. Clement, in answer to committee questions, clarified that the department would like to see the bill approved as presented. It is a good and prudent approach as written.

Rep. Nielsen noted that DHW was eager to accept an assessment with the hospitals. It is a program that should be extended to assisted living facilities as well.

SUBSTITUTE MOTION:

Rep. Nielsen moved to send **H 708** to **General Orders** with committee amendments to keep the language that was stricken from page 2, section 2, subsection 3; to keep all of subsection 9 and to add language that would create a 6% assessment across the board.

Rep. Luker spoke **in opposition** to the substitute motion. Supplemental payments are not going away they are simply going to be evaluated. There is still the possibility that gaps can be filled with an assessment for nursing homes.

Rep. Rusche expressed concern about the potential decrease in wages and loss of jobs in the industry.

In response to committee questions, **Ms. Clement** noted that nursing homes could use an assessment mechanism to draw down additional federal matching dollars. Regardless of the outcome of this bill, facilities can still get together and pursue an assessment similar to the hospitals. This legislation attempts to minimize impacts to Idaho.

Motion failed by voice vote.

ROLL CALL VOTE ON ORIGINAL MOTION:

Rep. Nielsen requested a roll call vote. By a vote of **12 aye and 3 nay** the motion passed. Voting in the affirmative: **Reps. Block, Nielsen, McGeachin, Loertscher, Shepherd (8), Luker, Marriott, Thayn, Gibbs, Thompson, Wood (27), Chew**. Voting in the negative: **Reps. Rusche, Durst, Saylor**. **Rep. Block** will sponsor the bill on the floor.

Chairman Block expressed her appreciation for the hard work of the committee members. She thanked the page, Katrine Franks, and the secretary, Sarah Hendrick, for their service to the committee. She stated that the next committee meeting would be Friday, March 26, 2010 to approve the minutes.

Vice Chairman Nielsen thanked the Chair for her work this year.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 5:16 p.m.

Representative Sharon Block
Chairman

Sarah Hendrick
Secretary