

MINUTES

(Approved by the Task Force)

HEALTH CARE TASK FORCE

January 6, 2011

Capitol Bldg., Room EW42
Boise, Idaho

Health Care Task Force members present were: Co-chair Senator Dean Cameron, Senators Joe Stegner, John Goedde, Patti Anne Lodge, Tim Corder, John McGee, Nicole LeFavour, Co-chair Representative Gary Collins, Representatives Carlos Bilbao, Jim Marriott, Fred Wood, and Elaine Smith. Absent and excused were Representatives Sharon Block and John Rusche. Legislative Services Office staff present were: Paige Alan Parker, Amy Johnson and Charmi Arregui.

Other attendees were: Representative Phylis King, District 18; Representative Sue Chew, District 17; Susie Pouliot and Molly Steckel, Idaho Medical Association (IMA); Steve Millard, Idaho Hospital Association; Richard Rainey, M.D., Idaho Immunization Assessment Board and Regence BlueShield of Idaho; Kurt Stembridge, GlaxoSmithKline; Julie Taylor and Woody Richards, Blue Cross of Idaho; Jeremy Pisca and Benjamin Davenport, Risch Pisca, PLLC; Kathie Garrett, Academy of Family Physicians; Larry Benton and Kris Ellis, Benton, Ellis & Associates; Christine Hahn, M.D., Department of Health and Welfare (DHW); Bill Roden, Delta Dental and Pharmaceutical Research & Manufacturers Association (PhRMA); Director Bill Deal and Shad Priest, Department of Insurance; Steve Thomas, Moffatt Thomas Barrett Rock & Fields Chartered; Joie McGarvin, American's Health Insurance Plans; Roger Simmons & Carolyn Brammer, Idaho Dental Hygienists' Association; Elizabeth Criner, Veritas Advisors, LLP, representing MWI Veterinary Supply, Inc.; Dave Self and Marnie Packard, PacificSource Health Plans; Neva Santos, Idaho Academy of Family Physicians; Sarah Michael, Sanofi Pasteur; Skip Smyser, Lincoln Smyser, and Bob Uebelher, Connolly & Smyser, Ctd.; Ray Amaya, KBOI News; and Lisa Reed, Delta Dental of Idaho, Community Outreach.

The meeting was called to order by **Co-chair Representative Collins** at 9:06 a.m. Guests were welcomed and a silent roll call of task force members was taken.

Senator Goedde moved that the minutes from 11-22-10 be approved, seconded by Senator Cameron, and the motion passed unanimously by voice vote.

Co-chair Collins announced that the purpose of this meeting was to review bills that may come before the Legislature.

Shad Priest, Deputy Director, Idaho Department of Insurance, presented on proposed amendments to the Immunization Assessment Board Act. The proposed amendments have been vetted with interested parties, including members of health care provider communities, and approved by the Board. The amendments would allow assessments to be used for administrative

costs, permit consultations with the Idaho Department of Health and Welfare, allow for annual assessments, allow funds to be carried forward and provide a mechanism to determine which vaccines are to be covered. Regarding this last change, **Mr. Priest** informed that the parties are close to reaching a consensus on language. **Mr. Priest** concluded that everyone benefits from this program. A copy of this proposed legislation, designated as RS19988C1, can be reviewed at the Legislative Services Office.

Representative Bilbao asked what the administrative costs have been to the Department for this program. **Mr. Priest** replied that he did not have a cost figure, but that the Department was devoting staff time as needed, although this cost has been minimal.

Co-chair Cameron stated that the proposed amendments were a reasonable approach that clarified a number of issues, although some tweaks still had to be made. He opined that it is not appropriate for the Board to make the determination of what vaccines are to be covered through the assessments.

Co-chair Cameron moved that the task force endorse RS19988C1, with minor modifications. Senator Stegner seconded the motion. In response to **Senator Corder's** request for clarification, **Co-chair Cameron** stated that he was seeking approval of the draft with minor adjustments, and not a major change in philosophy. He stated that the Department of Health and Welfare or the federal Centers for Disease Control should determine which vaccines are to be covered, not the Assessment Board, and that is the language being worked on. **The motion was approved unanimously by voice vote.**

Elizabeth Criner, Veritas Advisors, LLP, and representing MWI Veterinary Supply, Inc., presented to the task force an amendment to the Wholesale Drug Distribution Act dealing with veterinary pharmacies. A copy of this proposed legislation, designated as DRPAP185, can be obtained from the Legislative Services Office. **Ms. Criner** represented that the proposed amendments were minor and that the State Board of Pharmacy had reviewed the amendments and supported them. She informed that **Senator Broadsword** was also supportive.

No questions were asked of **Ms. Criner**. **Representative Wood moved that DRPAP185 be referred to the appropriate germane committee. Co-chair Cameron seconded the motion, which was approved by voice vote without opposition.**

Roger Simmons, representing the Idaho Dental Hygienists' Association (IDHA), discussed two legislative proposals. **Mr. Simmons'** PowerPoint presentation on these two proposals is available in the Legislative Services Office.

According to **Mr. Simmons**, DRPAP024, would permit dental hygienists to practice restorative procedures in all settings. **Mr. Simmons** thinks the current law lacks logic since the restorative endorsement, which some dental hygienists have, cannot be used anywhere except in extended access settings, where it may be unlikely to find a dentist. According to **Mr. Simmons**, this practice is permitted in Washington state (since 1972), and believes this would be beneficial by increasing efficiency, would be more economical, patients would eventually come to accept this practice, and better productivity would produce better job satisfaction. A copy of DRPAP024 can

be obtained from the Legislative Services Office.

Representative Marriott asked what the driving force was behind this legislation. **Mr. Simmons** replied that the driving force was that this endorsement has been in law for a number of years, but there was little reason to get it; only 52 have gotten the endorsement. He believes that this would benefit the hygienists, making them more productive as they earn more money.

Senator Lodge asked if Idaho dentists are in support. **Mr. Simmons** replied that support is coming mainly from pediatric dentists. Some dentists are afraid of the extended functions being performed by hygienists, while some dentists do not want to employ restorative hygienists.

Senator Lodge asked what training is available in Idaho. **Carolyn Brammer**, Idaho Dental Hygienists' Association, responded that Idaho State University offers this training on a non-mandatory basis. She said that more hygienists would get the endorsement if they could then utilize their training in private practices, rather than just in public settings.

Representative Fred Wood commented that this draft was a traditional scope of practice issue, asking which function was an expansion, in either rule or statute, from what the hygienists in Idaho are allowed to perform today. **Mr. Simmons** answered "restoration into a tooth . . . line 18 and 19 (page 1) . . . carving, contouring and adjustment . . . they are already authorized to do that, only in extended access." He said that nothing is changing, except the location.

Senator Goedde asked whether the proposed legislation addresses both white and silver fillings, pointing out that if a white filling is messed up, permanent damage to a tooth could result. He said that this draft appears to address both white and silver fillings the same way, asking for a comment on that. **Mr. Simmons** responded that the proposed legislation does not change what dental hygienists are allowed to do, but only changes the setting, allowing hygienists to function inside a dental office where a dentist is present. He assumed that on a more difficult procedure, a dentist would want to be present in the room to make sure the procedure was done properly. He said this changes nothing in the law, just the setting. **Senator Goedde** then asked why the legislation is needed, if not giving any additional authority to practice. **Mr. Simmons** replied that this would be giving additional authority for dental hygienists to practice in a dentist office since currently they are only allowed to perform these functions in extended access areas. He commented that the way the current law is written doesn't make sense to him. He sees this draft as more of a housekeeping function, allowing the law to be utilized, since it currently is not being utilized.

Co-chair Collins inquired as to what an extended access area is. **Mr. Simmons** gave examples such as public schools, public health departments, government programs, and health care facilities where there are no dentists in those facilities. Consequently, dentists don't usually go to a nursing home, so there is a law allowing restorative functions to be performed in these extended access areas, but not in the dentist office, the most logical place for a dental hygienist to perform restorative functions.

Senator LeFavour commented that the proposed legislation appears more as a technical change in extending existing practice to the dentist office. **Mr. Simmons** agreed.

Senator Stegner noted that section Chapter 9, Title 54, 54-904, Idaho Code, specifically allows

for hygienists to practice under general supervision in a private office and asked **Mr. Simmons** for clarification. He thought **Mr. Simmons** was suggesting that was prohibited by law. **Mr. Simmons** referred to administrative rules and restorative endorsement, adding that there is nothing in the law currently that allows restorative procedures to be done in a dental office. **Senator Stegner** commented that if this draft moves forward into committee, that this rule be pointed out at early onset.

Senator Goedde wondered if the proposed legislation would limit extended access area practice. **Mr. Simmons** replied that dental hygienist practice in extended access areas is already limited by law. **Senator Goedde** asked if it was correct that right now a dental hygienist can perform restorative work in an extended access facility without a dentist present. **Mr. Simmons** answered “no.”

Senator Cameron asked how restorative services would be paid for under Medicaid. **Mr. Simmons** responded that they are currently not being paid for at all under Medicaid, since they are not being performed. **Senator Cameron** asked: “Is it your belief that by allowing dental hygienists to perform restorative procedures under this provision that there would be Medicaid reimbursement.” **Mr. Simmons** responded that it was his understanding that would probably be the case.

Mr. Simmons presented DRPAP021 which would allow dental hygienists to perform specific functions in extended access areas without the general supervision of a dentist. He emphasized that this draft would not include restorative functions, and there would be no expansion of duties. A copy of this proposed legislation can be obtained from the Legislative Services Office. **Mr. Simmons** explained that the current law requires general supervision by a dentist. However, many dentists are afraid of liability, although most dental hygienists carry their own liability insurance. **Mr. Simmons** represented that two-thirds of Idaho children have a cavity by third grade and one-third will go untreated; 92% of Idaho is designated as a professional shortage area. Forty-six percent of Idaho adults have no dental insurance, as well as 70,000 Idaho children. One in four of all Idaho adults lose all teeth by age 65. In underserved areas, many patients wait until a condition is catastrophic before seeking care. **Mr. Simmons** believes that this proposed legislation would result in savings through prevention, as well as medical transport savings, since Medicaid currently pays to transport patients for dental treatment to the nearest dentist.

Representative Marriott asked about the cost savings under the Medicaid figures presented by **Mr. Simmons**. **Co-chair Collins** noted that the federal Medicaid match for dental providers is 85%, asking how **Mr. Simmons** correlated that fact since dentists tell him they received only one-third reimbursement of actual charges, asking how that is a savings. **Ms. Brammer** answered that in the extended access setting now, there is a fee schedule by Medicaid which is 85% of what it is to dental offices. **Representative Marriott** reiterated that Medicaid is paying one-third of what the final charge is in that office, so the hygienist is getting 85% of that one-third and **Ms. Brammer** confirmed that to be true.

Senator LeFavour asked if there were particular areas in the state that might benefit from this proposed legislation, since it might expand access for hygienists who might want to practice there. **Mr. Simmons** responded that 90% of the state might benefit from this proposed legislation, since

dentists set up practices in highly populated locations and there are fewer dentists in rural areas. **Senator LeFavour** asked if that would allow schools to perhaps provide services, and **Mr. Simmons** answered that one example was Melba where approximately two dozen hygienists went into that underserved school district and did evaluations on K-12 volunteer children. A dentist authorized this, but he was not present in those classrooms.

Representative Wood asked if dental hygienists are currently allowed at this point in time, by rules or in statute, to perform the functions listed in the proposed legislation DRPAP021, page 1, lines 17-42 (a) through (m). **Mr. Simmons** replied “yes, that is correct.” **Representative Wood** asked about page 2, line 1 (n): “Such other duties as approved by the board.” **Mr. Simmons** answered that was already in law. **Representative Wood** asked why the draft puts a new section into Code when the statute already deals with this topic. **Mr. Simmons** answered that the proposed legislation said this draft is basically the same language already in law with the exception of one thing. This draft removes the general supervision requirement, allowing hygienists to do what they are already doing, he said.

Senator Lodge asked if, under this proposed legislation, a dental hygienist could set up his or her own practice. **Mr. Simmons** replied that there was much misinformation about this, adding that independent practice is a long ways away from what they are asking for, although this is a concern of the Dental Association. He said he doubted that a dental hygienist would open an office, say in a nursing home, and that this draft legislation would allow hygienists to do in extended access areas what they are already allowed to do.

Representative Marriott moved that DRPAP021 be sent back to the sponsor as being too confusing. Representative Wood seconded the motion.

In discussion, **Senator LeFavour** commented that there would be a benefit to an extended discussion on the proposed legislation and suggested that the task force might allow it to move forward to the germane committee without recommendation. **Representative Bilbao** stated that he had worked with **Mr. Simmons** on the proposed legislation and saw no problem with what the proposed legislation intended to do, believing that the benefit was in the prevention of dental problems.

Representative Bilbao made a substitute motion that DRPAP021 be approved and sent to the germane committee. Senator LeFavour seconded the motion.

Senator Stegner explained to the attendees of this meeting that this task force doesn’t really have any authority to move legislation one way or the other; it can review legislation and make a recommendation, or the sponsor can take draft legislation to the germane committee if they so choose, with or without this task force.

Senator Stegner made an amended substitute motion that DRPAP021 move forward without task force recommendation. Senator McGee seconded. Representative Bilbao withdrew his substitute motion in favor of the amended substitute motion. The amended substitute motion was approved by the task force on a unanimous voice vote.

In discussion, **Representative Wood** suggested that the sponsors should seek to amend the current statute, rather than adding a new section to the Idaho Code, which might end confusion.

Senator Stegner moved that DRPAP024 be permitted to move forward to the germane committee without task force recommendation. Senator Goedde seconded. The motion was approved by the task force on a unanimous voice vote.

Molly Steckel, representing the Idaho Medical Association (IMA), presented (on behalf of **Ken McClure** who was out of town) on the “Health Care Professional Transparency Act.” A copy of this draft legislation is available at the Legislative Services Office. According to **Ms. Steckel**, the bill would require providers using the term “doctor” to clearly state their credentials on public communications, office postings and on name tags. This would allow the public to better understand and recognize the training and qualifications of different providers.

Senator McGee moved that the IMA’s draft legislation be forwarded with the task force’s favorable recommendation. Senator LeFavour seconded. The motion was approved by the task force on a unanimous voice vote.

The meeting was adjourned at 10:27 a.m.