

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Tuesday, January 24, 2012

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/  
EXCUSED:**

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:03 p.m. and passed the gavel to **Vice Chairman Broadsword** to continue rules review.

**DOCKET NO. 19-0101-1101** **Relating to Rules of the State Board of Dentistry (Pending).** **Susan Miller**, Executive Director of the Idaho Board of Dentistry, stated the purpose of the proposed rule change is to: 1) correct an unintended negative impact to licensees regarding continuing education requirements; 2) delete an advertising standard which was ruled unconditional; 3) change reference to documents incorporated by reference as professional standards; 4) correct potential conflict in rules regarding dental hygienist rules of practice; 5) clarify the Board's role in approving dental assistant curriculum; and 6) general housekeeping changes. **Ms. Miller** requested the Committee approve **Docket No. 19-0101-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #1)

**Senator Bock** asked what type of restorative functions dental hygienists would be allowed to perform. **Ms. Miller** responded that the restorative endorsement allows a dental hygienist in an extended access care setting to place filling material in a tooth that has been prepped by a dentist. **Chairman Lodge** asked if the rule contains a definition of "verifiable" as it pertains to verifiable credits. **Ms. Miller** advised that the Board did not define "verifiable" in the rule, but that applicants could provide a receipt for an online study course or a copy of a completed test which would verify the credit, and that it would be looked at on a case by case basis.

**Ed Holly** with the Division of Administrative Rules was present and **Vice Chairman Broadsword** asked him if the term "verifiable" is defined anywhere in Idaho Code. **Mr. Holly** indicated he did not know if that term is defined in code. **Vice Chairman Broadsword** suggested that if it is not, perhaps it should be looked at in the future.

**MOTION:** **Senator Vick** moved, seconded by **Senator Heider**, that the Committee adopt **Docket No. 19-0101-1101**. The motion carried by **voice vote**.

**DOCKET NO. 19-0101-1102** **Relating to Rules of the State Board of Dentistry (Pending).** **Ms. Miller** stated the Board proposes to change the rule to allow qualified dentists to administer moderate enteral sedation to patients who are 16 years of age and older and 100 pounds and over. **Ms. Miller** requested the Committee approve **Docket No. 19-0101-1102**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

**Senator Nuxoll** asked for a definition of enteral sedation. **Ms. Miller** advised that is a term used for oral sedation.

**MOTION:** **Senator Nuxoll** moved, seconded by **Senator Heider**, that the Committee adopt **Docket No. 19-0101-1102**. The motion carried by **voice vote**.

**DOCKET NO. 15-0202-1101** **Relating to Rules of Vocational Rehabilitation Services (Pending).** **Angela Jones**, Administrator, Idaho Commission for the Blind and Visually Impaired (Commission), stated these changes will put the Commission in compliance with federal regulations. The Commission is adding a policy outlining who may refer applicants to the Vocational Rehabilitation (VR) Program, and the information required by the referring agent. Under this policy each referred individual must be seen or contacted by Commission staff within three working days. The application for VR services is changed to indicate all ways that a client is considered to have applied, and the policy requiring SSA beneficiaries to use those funds for maintenance, rent and food while in the training center is being removed, as this is not allowed under federal regulations. She noted that maintenance costs have increased and thus those limits have increased. **Ms. Jones** advised this change will make the forms and process more accessible to clients and requested the Committee approve **Docket No. 15-0202-1101**.

**Vice Chairman Broadsword** asked for a clarification as to whether **Ms. Jones** was referring to the applicant's Social Security number, or Social Security check. **Ms. Jones** advised that the Commission cannot require the use of the Social Security Check.

**Vice Chairman Broadsword** commented that the Maintenance cost is limited to \$500 per month and \$3,000 per year. **Ms. Jones** confirmed that statement.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Heider**, that the Committee adopt **Docket No. 15-0202-1101**. The motion carried by **voice vote**.

**DOCKET NO. 23-0101-1002** **Relating to Rules of the Idaho Board of Nursing (Pending).** **Sandra Evans**, Executive Director, Idaho Board of Nursing, advised that Board rules currently require that applicants for certification as a medication assistant must pass an examination as a measure of beginning competence. Because of the anticipated very low volume of applicants, it is not financially feasible for vendors to develop an examination for use in Idaho; however, a national examination for initial certification as a medication assistant is in the process of being developed for use by all states with an anticipated implementation in the very near future. This rule allows applicants applying for initial certification as a medication assistant to demonstrate initial competence through processes other than testing. By removing language requiring success on an examination and by authorizing issuance of temporary certification, the Board of Nursing has been able to establish alternative processes for competence determination until an acceptable examination becomes available. **Ms. Evans** requested the Committee approve **Docket No. 23-0101-1002**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

**Senator Schmidt** asked if under temporary certification an applicant needs to be recertified every six months until a national examination is available. **Ms. Evans** responded, "No," and explained that temporary certification is a provision to allow the medication assistant graduate to enter practice for a preceptor 80-hour experience and the preceptor would then attest to their competence and certification would be based on that.

**MOTION:** **Chairman Lodge** moved, seconded by **Senator Nuxoll**, to adopt **Docket No. 23-0101-1002**. The motion carried by **voice vote**.

**GAVEL  
CHANGE:**

**Vice Chairman Broadsword** returned the gavel to **Chairman Lodge**, who thanked her for the excellent job on rules review.

**RS 20780**

**Relating to Nurses.** **Ms. Evans** advised that this legislation grants the Board of Nursing clear statutory authority to develop and implement an alternative to formal discipline in cases where minor substandard practice has occurred and there is no showing on the part of the nurse of intentional or reckless behavior and where there is no evidence of substantial harm caused by the deficiency. **Ms. Evans** requested the Committee send **RS 20780** to print.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #4).

**Senator Symser** asked **Ms. Evans** to give an alternative discipline example. **Ms. Evans** noted that should an operating room nurse transfer to the Pediatrics floor, the nurse may be clumsy in the unfamiliar practice. Rather than disciplining the license because of the nurse's lack of experience the Board might agree with the individual to take further training or work under a preceptor for a period of time.

**Senator Smyser** asked if someone was clumsy in the past, would this action be written up and placed in the nurses file with no recourse. **Ms. Evans** explained that some nurses might have been referred for further orientation or education. In other instances the employer might file a formal complaint with the Board. The Board then investigates the complaint and the ability to remediate is limited. **Senator Schmidt** asked if the Board did become aware of someone with a deficiency and set up a remediation program, would there be record keeping on what had been done and what was required. **Ms. Evans** stated, "Absolutely." She added that even though the process would be an alternative to formal discipline it would be a formal process and she would anticipate, based upon what other states have done, that a formal contract would be used to document the requirements and time limits.

**MOTION:**

**Vice Chairman Broadsword** moved, seconded by **Senator Nuxoll**, that the Committee send **RS 20780** to print. The motion carried by **voice vote**.

**RS 20801**

**Relating to Nurses.** **Ms. Evans** stated the proposed legislation authorizes the Board of Nursing to use its dedicated resources to support nursing workforce initiatives that will serve to improve the delivery of quality health care in Idaho. She added that she would anticipate that the Board will do a line item budget each year to fund initiatives. **Ms. Evans** requested that the Committee send **RS 20801** to print.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #5).

**MOTION:**

**Senator Darrington** moved, seconded by **Vice Chairman Broadsword**, that the Committee send **RS 20801** to print. The motion carried by **voice vote**.

**RS 20802**

**Relating to Nursing.** **Ms. Evans** advised that a recent FBI audit of the Board of Nursing's conduct of criminal background checks identified that statutory language does not specify the basis for the background checks to be applicant fingerprints, thereby preventing the Board from accessing the national fingerprint database. The proposed legislation is sufficient to correct the deficiency and satisfy the FBI's requirements. **Ms. Evans** requested that the Committee send **RS 20802** to print.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #6).

**Senator Bock** asked how this issue arose. **Ms. Evans** commented that every three years the Board undergoes a FBI audit, and during one of the latest audits, the FBI identified that the Board did not have the ability to do a fingerprint based background check. **Senator Bock** asked if adequate information is given to the applicant who is being asked to consent to the use of fingerprints. **Ms. Evans** replied that part of the Board's processing includes the applicant's agreement to submit to the fingerprint background check.

**MOTION:** **Senator Bock** moved, seconded by **Senator Heider**, that the Committee send **RS 20802** to print. The motion carried by **voice vote**.

**ADJOURN:** **Chairman Lodge** recognized **former Representative Margaret Henbest** and thanked her for her attendance at the meeting. There being no further business to come before the Committee, the meeting was adjourned at 3:35 P.M.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Janet Drake  
Assistant Secretary