

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, January 25, 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 3:05 p.m. and passed the gavel to **Vice Chairman Broadsword** to conduct rules review.

**DOCKET NO. 24-1001-1101** **Relating to Rules of the State Board of Optometry (Pending). Roger Hales**, representing the Bureau of Occupational Licenses and the Licensure Boards it serves, advised that the 2011 Legislature passed S 1137 which eliminated the ballot process for appointment of board members. This rule change will eliminate the ballot process language in the rule to be consistent with the current statute. He recognized **Dr. Rodney L. White**, Chairman of the State Board of Optometry, and requested that the Committee approve **Docket No. 24-1001-1101**.

**Senator Schmidt** asked if this ballot process was incorporated in some other rule. **Mr. Hales** advised that the statute sets forth the process for appointment of board members and allows any association to submit nominations to the Governor.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Schmidt**, that the Committee approve **Docket No. 24-1001-1101**. The motion carried by **voice vote**.

**DOCKET NO. 24-1101-1101** **Relating to Rules of the State Board of Podiatry (Pending Fee). Mr. Hales**, on behalf of the Board of Podiatry (Board), advised that the Bureau of Occupational Licensing has a single fund that accumulates all Board revenues to provide flexibility for the various occupational boards. The Board of Podiatry, which currently has 73 licensees, has had a number of very significant disciplinary actions and as of December 31, 2011, this board had a negative fund balance of \$171,000. The Board recognizes that it needs to start working through its deficit balance and with this rule is proposing an increase in the annual license renewal fee from \$400 to \$500. The anticipated impact is a total positive impact of \$7,100 annually. He requested that the Committee approve **Docket No. 24-1101-1101**.

**Vice Chairman Broadsword** asked why the Board did not also raise the initial license fee to mirror the renewal. **Mr. Hales** indicated that the easiest way to generate revenue is with the renewal fee. The Board felt they do not generate a lot of revenue on new licenses and that they should maintain the initial license fee for new doctors. **Senator Schmidt** asked how this renewal fee compares with surrounding states and if there is an intent to make further incremental changes. **Mr. Hales** indicated he does not have information on surrounding states, but Idaho is typically pretty reasonable in its fees. At this point the Board has taken this intermediate step of raising fees and he indicated the disciplinary actions are very close to being resolved. They intend to keep a close eye on expenses and hope they start trending in the right direction with this fee increase. They recognize it will take a number of years to become self sufficient.

**Senator Broadsword** asked if there is a potential for the Board to recoup expenses in any of the pending disciplinary cases. **Mr. Hales** responded that typically there is. He indicated that in one current case the licensee won some issues and the Board won others and the Board is not asking that the licensee reimburse fees. He added that the licensee had requested the Board reimburse him for \$200,000 in attorneys fees which was denied.

**MOTION:** **Senator Heider** moved, seconded by **Chairman Lodge**, that the Committee approve **Docket No. 24-1101-1101**. The motion carried by **voice vote** with **Senator Vick** voting "Nay."

**DOCKET NO. 24-1301-1101** **Relating to Rules of the Physical Therapy Licensure Board (Pending).** **Mr. Hales**, on behalf of the Physical Therapy Licensure Board, advised that these rules amend the continuing education rules to allow for additional credit and courses that may be pre-approved. This change will provide more pre-approved courses to licensees for fulfillment of continuing education requirements. He requested that the Committee approve **Docket No. 24-1301-1101**.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Nuxoll**, that the Committee approve **Docket No. 24-1301-1101**. The motion carried by **voice vote**.

**DOCKET NO. 24-1401-1101** **Relating to Rules of the State Board of Social Work Examiners (Pending).** **Mr. Hales**, on behalf of the State Board of Social Work Examiners (Board), recognized **Robert Payne**, a member of the Board, and advised that this rule sets forth the criteria to be an approved college or university and establishes requirements for an approved social work program. The rule identifies the Northwest Commission on Colleges and Universities as an accrediting body and the Council on Social Work Education as an entity that approves social work programs. He requested that the Committee approve **Docket No. 24-1401-1101**.

**Senator Smyser** asked if the Council on Social Work Education is a national organization. **Mr. Hales** responded that is correct. **Senator Nuxoll** asked why some colleges and universities are not accredited and if private colleges are included. **Mr. Hales** advised that it is not unusual to require that a college or university be approved by an accrediting body that is approved by the U.S. Department of Education and that private colleges are included. **Vice Chairman Broadsword** asked if this would prevent an on-line college with no physical presence from providing credentials for social work. **Mr. Hales** advised that is correct.

**Senator Nuxoll** asked what criteria is used for setting up a social work program. **Mr. Hales** asked to defer the question to **Mr. Payne** who advised that a university starts months in advance of accreditation. They look at curriculum, expertise of faculty, and they must go through this accreditation process every five years. He noted that at this time all the social work programs in the State of Idaho are accredited.

**MOTION:** **Senator Heider** moved, seconded by **Senator Vick**, that the Committee approve **Docket No. 24-1401-1101**. The motion carried by **voice vote**.

**DOCKET NO. 24-1501-1101** **Relating to Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists (Pending).** **Mr. Hales**, on behalf of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists (Board), recognized Board member, **Piper Ann Field**. **Mr. Hales** advised that the Board is amending several sections of its rules to update them to current standards, to provide clarification, and to simplify licensure by endorsement. The rule updates references and definitions; provides flexibility in times of Board meetings; requires secure links for on-line supervision; requires that supervision must be provided in compliance with the ACA code of ethics for counseling supervision, evaluation, remediation, and endorsement; clarifies the ratio for supervision; requires that supervision obtained in another state must conform with the state's requirements provided they are substantially equivalent to Idaho's

requirements; and requires that interns must explicitly state that they are interns in their documentation provided to clients and advertising materials. **Mr. Hales** requested that the Committee approve **Docket No. 24-1501-1101**.

**Senator Smyser** asked if there is a cost to register as a supervisor and how difficult it is to meet face-to-face supervision requirements in rural areas. **Mr. Hales** advised that there is no charge and explained the requirements for supervision. He stated that secure on line supervision is available for some of the required hours when a supervisor is located a distance from the intern. **Senator Nuxoll** asked if any regulation regarding interns is being changed. **Mr. Hales** advised that the rule clarifies the definition of a Registered Intern. **Senator Schmidt** asked if there are Counselors and Marriage Therapists among the Board members. **Mr. Hales** advised there is an equal number of Counselors and Marriage Therapists and also a public member on the Board. In response to questions from **Senator Heider**, **Mr. Hales** advised that there are different codes of ethics depending upon the nature of the profession and each profession requires a study of those codes to pass a national licensing exam. He stated that once an individual becomes licensed they are obligated to fulfill annual continuing education requirements and three contact hours of that continuing education must be in ethics.

**Vice Chairman Broadsword** noted that **Tana Cory**, Director, Bureau of Occupational Licenses, was in the audience and thanked her for her attendance.

**MOTION:**

**Senator Smyser** moved, seconded by **Senator Schmidt**, that the Committee approve **Docket No. 24-1501-1101**. The motion carried by **voice vote**.

**DOCKET NO.  
24-1601-1101**

**Relating to Rules of the State Board of Dentistry (Pending Fee).** **Mr. Hales**, representing the State Board of Dentistry (Board), advised that there are currently about 25 licensees in the State. Currently this Board has a \$27,000 deficit. They are cognizant of the situation and are increasing the renewal fee from \$600 to \$750 to help balance the Board's annual budget and maintain the services necessary to protect the health and safety of the public. The anticipated impact is a total positive increase of \$3,150 to the dedicated fund. He requested that the Committee approve **Docket No. 24-1601-1101**.

**Senator Darrington** commented that when this Board was created they agreed as a matter of record in this Committee that they were willing to pay a very high licensure rate for the privilege of licensure. The scenario described was anticipated by this Committee at that time. **Mr. Hales** agreed with his comment. **Vice Chairman Broadsword** asked if this increase will clear the Board's debt and put them in the black. **Mr. Hales** indicated that with this increase it will still take the Board about three years to get in the black, but they are trending in the right direction.

**Senator Vick** asked for a clarification that fees for all of the Boards goes into the same account and so if one runs a deficit, they take the money from another Board that has a surplus. **Mr. Hales** responded that is correct. **Senator Vick** asked what if the Board of Dentistry decided they did not want to raise their fees, then what is the course of action. **Mr. Hales** advised that these Boards need to be self sufficient and the Bureau of Occupational Licenses has never had that happen. The Bureau must contract with the Boards and they could refuse to contract.

**MOTION:**

**Senator Darrington** moved, seconded by **Senator Schmidt**, that the Committee approve **Docket No. 24-1601-1101**. The motion carried by **voice vote**.

**DOCKET NO.  
24-1701-1101**

**Relating to Rules of the State Board of Acupuncture (Pending Fee).** **Mr. Hales**, on behalf of the State Board of Acupuncture (Board), advised that the 2011 Legislature passed H 46, which amended multiple sections of the Acupuncture Act, replacing the technician certificate with the acupuncture trainee permit and grandfathering those now holding the technician certificate. This rule complies with the statute and is a Pending Fee Rule because of the new classification. **Mr. Hales** explained the different license classes of acupuncturists:

- Licensed Acupuncturists - individuals who have a substantial amount of education;
- Certified Acupuncturists - individuals with advanced medical degrees;
- Technician Certificate - now being changed to Trainee Permit.

**Mr. Hales** requested that the Committee approve **Docket No. 24-1701-1101**.

**Senator Schmidt** noted that it appears from Section 200.02.e that allopathic physicians cannot become trainees. **Mr. Hales** indicated that MD's and DO's are exempt from the entire Act.

**MOTION:**

**Senator Heider** moved, seconded by **Senator Schmidt**, that the Committee approve **Docket No. 24-1701-1101**. The motion carried by **voice vote**.

**DOCKET NO.  
24-1901-1101**

**Relating to Rules of the Board of Examiners of Residential Care Facility Administrators (Pending).** **Mr. Hales**, representing the Board of Examiners of Residential Care Facility Administrators (Board), introduced Board Member **Shirley Meyer**. **Mr. Hales** advised that the 2011 Legislature passed H 49 which revised the education and experience qualifications necessary for licensure as a Residential Care Facility Administrator. This bill also provided the Board discretion to accept other combinations of education and experience. This rule change implements the qualifications for licensure consistent with the statute. He requested that the Committee approve **Docket No. 24-1901-1101**.

**MOTION:**

**Senator Nuxoll** moved, seconded by **Senator Vick**, that the Committee approve **Docket No. 24-1901-1101**. The motion carried by **voice vote**.

**DOCKET NO.  
24-2301-1101**

**Relating to Rules of the Speech and Hearing Services Licensure Board (Pending).** **Mr. Hales**, representing the Speech and Hearing Services Licensure Board (Board), advised that the 2011 Legislature passed H 47, which provided for licensure by endorsement and educational equivalency. This new rule implements the statute and Rule 310 provides the qualifications for licensure by endorsement. **Mr. Hales** introduced Board members **Gayle Cheney** and **Barbara Osterhoudt**, and requested the Committee approve **Docket No. 24-2301-1101**.

**MOTION:**

**Senator Smyser** moved, seconded by **Senator Nuxoll**, that the Committee approve **Docket No. 24-2301-1101**. The motion carried by **voice vote**.

**DOCKET NO.  
24-0501-1101**

**Relating to Rules of the Board of Drinking Water and Wastewater Professionals (Pending).** **Mr. Hales**, representing the Board of Drinking Water and Wastewater Professionals (Board), introduced Board members **John R. Lee** and **Barry N. Burnell**. He advised that the Board is amending several sections of its rules to update them to be in line with current national standards and to provide clarification. He stated that over the years the Board has tried to be responsive to various concerns from the industry, such as creating license classes for very small water systems, and restricted licenses good for a particular system. In response to complaints regarding the amount of time needed to qualify for a Class III license, the Board reviewed the issues and eliminated the stair step approach to licensing.

There is one point in the rules that has brought disagreement among the industry. That disagreement is based on the educational requirements versus experience requirements. Under this proposed rule, the Board struck a compromise and reduced the amount of substitution of experience for education to a one-to-one ratio; however, the Board did set a minimum for both Class III and Class IV licensees in that they must possess at least 50 percent of the education required which cannot be substituted by experience. He stated this is a national standard and the Board feels strongly that some education is required in these advanced systems to protect public health. **Mr. Hales** reviewed the specific rule changes and requested that the Committee approve **Docket No. 24-0501-1101**.

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

**Vice Chairman Broadsword** asked if someone who has a high school diploma but no college education has been operating a system for 25 years and knows the system inside and out, would the Board make an exception for that person to operate a Class III or Class IV system. After a discussion relating to restricted licenses between **Mr. Hales** and the Committee, **Mr. Hales** asked to defer the question to Board Member **Barry Burnell**. **Mr. Burnell** advised that an existing employee at a facility can have a Class I restricted license and they can operate that facility, they just would not be able to be the responsible charge operator if the classification of that facility was a Class II or higher. They could be the responsible charge operator of a Class I or very small water system.

**TESTIMONY:** **Barry Burnell** spoke in support of **Docket No. 24-0501-1101**. He outlined the composition of the Board and indicated he represented DEQ on the Board. He stated The Association of Boards of Certification (ABC) is the national licensure association used by the State for licensing, that the 50 percent cap on education is a national standard, and reciprocity is important to the licensed operators in the State of Idaho. He further added that continuing education credits can be used to obtain education equivalency, with on line classes being offered by the Idaho Rural Water Association and DEQ. In response to questions he indicated that a Class I restricted license and a very small system license are both Idaho only licenses.

**TESTIMONY:** **Doug Amick**, an Idaho licensed operator, with the City of Greenleaf, spoke in opposition to **Docket No. 24-0501-1101, Section 375.02.c**, relating to education requirements. He stated education is not a fair exchange for experience and related how it will affect the City of Greenleaf.

**TESTIMONY:** **Mike Shepherd**, a licensed Class III Operator, City of Weiser, spoke in opposition to **Docket No. 24-0501-1101**. He stated he agreed with **Mr. Amick**, adding that the 50 percent education rule will negate the experience of many licensed operators.

**TESTIMONY:** **Richard Dees**, Deputy Director of Public Works, City of Meridian, and representing the Association of Idaho Cities, spoke in opposition to **Docket No. 24-0501-1101**. His objection was also to **Section 375.02.c**, relating to education requirements.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachments #2 through #5).

**Senator Bock** asked how **Mr. Dees** would suggest the Committee approach this issue. **Mr. Dees** stated the Bureau has done a good job of cleaning up the rule and if it could just strike the line at **Section 375.02.c** he would have no objection to the remainder of the rule. **Senator Schmidt** questioned what the pay rate is for operators at different levels. **Mr. Dees** advised it is about \$14.00 per hour for a Class IV and the range is pretty tight but would go down a bit for a Class I.

**TESTIMONY:** **Shelley Roberts**, CEO, Idaho Rural Water Association, spoke **in opposition** to **Docket 24-0501-1101, Section 375.02.c**. She advised her organization is in agreement with the previous testimony.

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

**TESTIMONY** **Bruce Evans**, representing City of Emmett and a Board member of Idaho Rural Water Association, spoke **in opposition** to **Docket No. 24-0501-1101, Section 375.02.c**. He stated he could not recommend that his community invest in additional education for seasoned operators.

**Senator Smyser** asked if **Mr. Evans'** opposition is only to **Section 375.02.c**. He responded yes, and added the testing requirement should satisfy the licensing. He acknowledged there is a huge responsibility in the field and safety training is required, but feels the amount of time necessary for an individual to complete two years of post high school education while working a full time job would be difficult for some older operators.

**TESTIMONY:** **Colby Armstrong**, a Class II operator with the City of Kuna, spoke **in opposition** to **Docket No. 24-0501-1101, Section 375.02.c**. He stated this rule would adversely impact the City of Kuna, requiring all operators to complete additional education.

**Vice Chairman Broadsword** asked if **Mr. Armstrong** has any post secondary education and how important it would be to him for Idaho to set rules that would allow reciprocity with other states. **Mr. Armstrong** stated reciprocity is important, but he does not feel it is the most important factor for the smaller communities.

**Chairman Lodge** asked if he has considered more education. **Mr. Armstrong** stated he has, but added that he is required to complete CEU credits to maintain his license and he has the required CEUs to do his job and provide safe drinking water. He stated that there are lots of ways for him to continue his education other than in a classroom.

**Senator Schmidt** noted that **Mr. Evans** had testified that the required educational courses are not readily available at Boise State University or the University of Idaho and asked **Ms. Roberts** if the Rural Water Users Association is working to make these courses more available. **Ms. Roberts** indicated they are interested in offering more classes, but struggling with funding. They currently offer four classes a month, charging a fee of \$100 per class, and are losing money. **Senator Schmidt** indicated he was asking if they would partner with institutions that do offer classes. **Ms. Roberts** indicated they would be interested in partnering with others.

Committee members discussed with **Mr. Burnell** what types of classes would meet the education requirements. He listed several classes in the science and engineering fields and stated each applicants education is individually reviewed by the Board. He stated that the decision to add the education requirement was one the Board struggled with, but ultimately felt it is important for the industry and the operators.

**Vice Chairman Broadsword** asked **Mr. Burnell** if there is a possibility the Board could sit down with the operators and perhaps come to an agreement where current licensees might be grandfathered, or eliminate Section 375.02.c from the rule altogether. **Mr. Burnell** indicated the Board has always tried to have a good relationship with the operators. They have worked together and collaborated on such things as restricted licensing and very small system licenses. If given the chance, he feels the Board could work with the operators.

**TESTIMONY:** **Lynn Tominaga**, representing Idaho Rural Water Users, spoke **in opposition** to **Docket 24-0501-1101, Section 375.02.c**. He indicated this rule affects large and small water user associations, and presented letters written to the Bureau during rule negotiations (see Attachments #7 and #8).

**Roger Hales** commented that the Board has listened to the operators and has made significant changes in this rule. They ultimately have the responsibility to make sure the operators are competent.

**MOTION:** **Senator Smyser** moved, seconded by **Chairman Lodge**, that the Committee approve **Docket 24-0501-1101 with the exception of Section 375.02.c**.

**Chairman Lodge** commented that she does understand the position of the Board and the importance of education, but she also understands how difficult this is for the small rural communities and the Board needs to work closely with those communities to make sure those people who have technical experience are able to provide the services that are needed.

**Senator Bock** noted he understands the problems those in the small rural communities face and does not think we can impose these education requirements on them at this time. **Senator Heider** commented that this does not affect just the smaller communities, but all cities across Idaho. **Vice Chairman Broadsword** commented that she feels the Board is trying to do what is in the best interest of the health and safety of citizens, but she feels there is room to work with these concerns.

**VOTE:** The motion carried by **voice vote**.

**ADJOURN:** **Vice Chairman Broadsword** returned the gavel to **Chairman Lodge** who thanked all those who testified and adjourned the meeting at 5:27 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary