

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, March 15, 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:** None

**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 3:15 p.m.

**MINUTES APPROVAL:** **Senator Bock** moved, **seconded** by **Senator Heider**, that the minutes of the February 15, 2012 meeting be approved. The motion carried by **voice vote**.

**H 487**

**Relating to Mental Health Commitment. Tony Poinelli**, Deputy Director, Idaho Association of Counties, presented this bill relating to the mental health commitment process. He stated there is a period of time of four to five days or sometimes longer that the county has the responsibility for that individual. The purpose of this bill is to amend *Idaho Code*, Section 66-327, to specify that the reimbursement for services shall be either at the Medicaid Rate, contract rate, or for a freestanding facility the Medicaid rate of the closest hospital providing similar services. The bill also clarifies that costs are fixed from the time services are received and that an order of commitment shall be sufficient to require a release of all necessary information related to the person committed. There would be no impact on the state general fund. There would be a savings at the county level in those cases where a hospital would not accept the Medicaid Rate or approve a contract rate.

**Senator Darrington** said that Utah has been doing something similar to this for the past 30 years. **Mr. Poinelli** said that was correct. He said he believed that in Utah they do a lot of contracting. **Senator Darrington** noted that Idaho counties would have a visitor from Utah pass through and get in a wreck and they would require indigent care. He said we would end up paying the full rate as opposed to Utah paying at a discounted rate. **Mr. Poinelli** advised that one of the differences with the state of Utah compared to Idaho is that Utah has a Medicaid union program and the State of Idaho does not have this program. He said the positive thing about this piece of legislation is the ability to contract. This bill will resolve the problem of a facility not contracting and not accepting the Medicaid rate.

**Senator Schmidt** commented that this really isn't indigent care. **Mr. Poinelli** said that in a way it is, and the Supreme Court has ruled that the counties pay full customary cost.

**Senator Schmidt** asked **Mr. Poinelli** when the county's obligation starts. **Mr. Poinelli** said many times, when an individual is brought to a facility, usually law enforcement is involved or in many cases, protective custody holds, and after a day or two, a designated exam was usually ordered. Then, within a specific time, after the initial 24 or 48 hours, a second designated exam is ordered. Once there are two positive designated exams, that means that the individual could be committed to the state of Idaho. The prosecutor brings that before the court and the court makes the determination whether they should be committed or orders a 30 day abeyance for additional treatment.

**Senator Schmidt** asked if the initial evaluation when one is in custody would fall directly to the County. **Mr. Poinelli** said, yes, it would. He stated it is a county responsibility up to the point the court orders a commitment and 24 hours after that.

**Vice Chairman Broadsword** stated that once the commitment is made, it is the state's responsibility to pay the hospital bill. She indicated those hospital commitments can sometimes be up to a week or ten days before a bed is available. **Mr. Poinelli** said that is correct. He said when the court orders the commitment, if there are no beds available in a state facility, the state has the responsibility to pick up private facility costs. **Vice Chairman Broadsword** said this allows counties to have a fixed Medicaid rate and that would be a benefit.

**TESTIMONY:** **Representative Wendy Jaquet**, District 25, said she was in the JFAC meeting when they were hearing the county's budget presentation and she asked whether the county had access to the same rates as the state did. They indicated no, and this prompted her to work with the counties to bring this legislation. She asked for the Committee's **support**.

**Vice Chairman Broadsword** asked if the hospitals or providers are upset they are going to get a lesser rate? **Representative Jaquet** said they have worked with the providers and they all seem to be on the same page.

**MOTION:** **Senator Broadsword** moved, seconded by **Senator Nuxoll**, that the Committee send **H 487** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Vice Chairman Broadsword** will carry this bill on the floor.

**H 632** **Relating to Youth Athletes and Concussions.** **Matt Kaiserman**, representing Gallatin Public Affairs and its client, the National Football League, advised he also works with a large Idaho coalition working to correct Idaho's need for this legislation. He related a personal experience with an undiagnosed concussion sustained during his high school days and with inadequate education and protocol in place related to concussions, he returned to play before he was ready to do so. He noted that when he suffered an additional concussion during college, he had the proper education and the appropriate protocol and sports structure with athletic trainers was in place to assist him and he was able to recover fully.

He indicated this bill was for youth athletes where the risk of catastrophic injury or death is significant when a concussion or head injury is not properly evaluated and managed. This legislation adds a new section to *Idaho Code*, Section 33-1625, which provides for coaches, referees, athletic trainers, parents, and youth athletes to receive information regarding the signs and symptoms of concussions and the risks associated with continued play after receiving a concussion. It also provides guidelines for middle schools, junior high schools and high schools to follow in developing a concussion protocol for removing young athletes from play who are suspected of sustaining a concussion by exhibiting outward signs or symptoms consistent with the injury. An athlete may not return to play until he or she has received written medical clearance from appropriate medical professionals trained in the evaluation and management of concussions.

**Mr. Kaiserman** said he had two concerns. 1) Those who suffer a concussion, but return to play when they are not completely ready, as a subsequent even minor impact can cause a rapid swelling of the brain; and 2) The liability is on Idaho and Idaho schools, administrators, coaches, etc. He said there is a duty of care that is already in place, established by the National Federation of High Schools by the Centers for Disease Control and Prevention (CDC). He reviewed the education materials from the State Board of Education and the Idaho High School Athletic Association and discussed liability issues of the schools. He noted that the legislation allows other community sports organizations to opt in for liability coverage under this legislation by putting into place the required protocol.

**Mr. Kaiserman** said that in summary, this would be a natural progression of athletic safety on a national level and it has been specifically tailored to Idaho's needs. This bill provides for needed protection for athletes, gives local control and it helps to protect our schools. This bill is not intended to change how the game is played in Idaho, but concussion is recognized as a serious injury. He asked for support from the Committee with a do pass recommendation.

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

**Chairman Lodge** asked how this legislation would apply to the athlete who is a senior and has reached their 18th birthday. **Mr. Kaiserman** said that the intent is to protect those under 18, beyond that, technically, they are adults. He said even though someone is over 18, he thought the coaches would still take the recommended precautions.

**Senator Schmidt** noted the requirement for every school to develop a protocol and asked if there is a way to check whether the schools have the protocol in place.

**Mr. Kaiserman** said he would assume that whatever protocol would be developed, there would have to be a record. There are guidelines for the schools to develop that protocol.

**Senator Darrington** noted if a school fails to develop a protocol and watch the visual training and an injury occurs resulting in some debilitating effect, then the trial lawyers would come into play. Absent the protocol, absent the visual training, then the school is liable. There is a sanction by lack of immunity from liability, even though there isn't a stated criminal sanction within the legislation. He asked if that is correct. **Mr. Kaiserman** replied that if he understood **Senator Darrington** correctly, yes, that is right. Essentially what this bill does is to help make sure a school develops a protocol. Currently, if a school does not have a protocol or is not following it, then they will be liable. He said the real teeth behind this bill is the liability piece that will protect the schools.

**Senator Bock** related a personal situation where he received a concussion and was fortunate in that he had the kind of physician who was willing to say no, when he was willing to play at any cost. He said the parents need to be told kids can't play if a head injury occurs. He indicated this is a good bill and it should be passed.

**Senator Darrington** recalled a family incident where a child took a hit in football when he was a senior in high school, resulting in a cervical fusion. He was approached by a friend in Boise who had heard about it and said they had good grounds to sue the equipment manufacturer and the school but they didn't want to do that. He said this reminded him of the importance of this legislation.

**Chairman Lodge** noted her husband, who was an All American three times, was very concerned about the fact that one could be taken out of the game and not be able to return. She stated she appreciated the education provided by **Mr. Kaiserman**.

**TESTIMONY:** **Alan Crothers**, President, Idaho Physical Therapy Association, said they have had similar protocols in place for a couple of years. He is **in support** of this bill.

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

**MOTION:** **Senator Bock** moved, seconded by **Senator Darrington**, that the Committee send **H 632** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Darrington** will sponsor the bill on the floor.

**Senator Darrington** noted that **Mr. Kaiserman** works as an intern with Gallatin Public Affairs where he worked closely with **McKinsey Miller**. He asked that the record indicate for purposes of conflict that his daughter, **Lyn Darrington**, is a partner with Gallatin Public Affairs.

**Vice Chairman Broadword** commented that she had a young athlete in her district that was fatally injured in a football game this last year. She said she thought this legislation was good public policy and having those protocols in place would help keep future athletes from permanent damage.

**ADJOURNMENT: Chairman Lodge** noted that future meetings will be at the call of the Chair and adjourned the meeting at 3:50 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Linda Kambeitz  
Assistant Secretary