

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, January 16, 2013

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, 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.

**CONVENED:** **Chairman Heider** called the meeting to order at 3:02 p.m. and welcomed guests. He explained that on the pending rule docket, **Pending Rule 16-0202-1201** will be postponed until another day.

**RS 21577** **Relating to Nurses. Sandra Evans**, Executive Director of the Idaho Board of Nursing, stated that **RS 21577** proposes three changes to Idaho Code, Title 53, Chapter 14. She indicated that the changes include: 1) Serve to clarify language related to the Board of Nursing's authority to conduct fingerprint-based criminal background checks. The changes are consistent with recommendations resulting from a recent Federal Bureau of Investigation audit; 2) Correct an oversight in current language that allows room for argument that the statute does not apply to applicants for licensure but only to current licensees; and 3) Authorize the Board of Nursing to impose discipline if a nurse applicant or licensee has had any professional license, not just a nursing license, formally disciplined in Idaho or by another state. This specific change is consistent with uniform licensure requirements adopted by the National Council of State Boards of Nursing that have been endorsed by the Idaho Board of Nursing. This proposed legislation has no fiscal impact on the General Fund and will not result in any increase in nurse licensure fees.

**MOTION:** **Senator Lakey** moved to print **RS 21577**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**RS 21578** **Relating to Nurses and Disciplinary Fine. Sandra Evans** stated that the Board of Nursing's authority to impose a disciplinary fine is currently limited to cases of practicing nursing in Idaho without benefit of a current license. **RS-21578** amends Idaho Code §54-1404 to extend the Board's authority to impose a disciplinary fine when a licensee has violated Board statutes or administrative rules and discipline is clearly warranted, but where license revocation or suspension would constitute an unreasonably harsh sanction. This proposed legislation has no negative fiscal impact on the General Fund and will not result in any increase in nurse licensure fees.

**MOTION:** **Senator Guthrie** moved to print **RS 21578**. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

**RS 21579** **Relating to Nurses.** **Sandra Evans** stated that unlike many other Idaho professional licensing boards, the Board of Nursing currently has limited statutory authority to share investigative information with law enforcement and other regulatory agencies, including the Board of Medicine and Pharmacy as well as other boards of nursing. She furthered that this limited authority has hampered Board attempts to cooperate with officials in criminal investigations and also obstructs concurrent disciplinary investigations by nursing boards in other states. **RS-21579** amends Idaho Code 54-1413 to authorize the Board's executive director to share information and otherwise cooperate with appropriate regulatory and law enforcement agencies. The proposed legislation "mirrors" legislation passed in 2010 granting this same authority to the 29 regulatory boards within the Idaho Bureau of Occupational Licenses. **Ms. Evans** indicated that this proposed legislation has no fiscal impact on the General Fund and will not result in any increase in nurse licensure fees.

**MOTION:** **Senator Schmidt** moved to print **RS 21579**. **Senator Guthrie** seconded the motion.

**SUBSTITUTE MOTION:** **Senator Hagedorn** moved to send **RS 21579** back to the sponsor for further definition of "information" and "government regulatory agency." **Vice Chairman Nuxoll** seconded the substitute motion. The motion failed by **voice vote**.

The original motion carried by **voice vote**.

**RS 21601** **Relating to Mandatory Income Withholding for Child Support.** **Kandace Yearsley**, the Department of Health and Welfare Director of Child Support Services, indicated that use of the federally approved income withholding form is a requirement under the Social Security Act and mandated by the Administration of Health and Human Services. She indicated that this federal mandate requires states to apply the federally approved Income Withholding for Support form in all Title IV-D child support cases, and in non-IV-D child support cases with child support order initially issued in the state on or after January 1, 1994. **Ms. Yearsley** stated that, in addition, this rule requires states to administer all withholding payments through the State Disbursement Unit.

**MOTION:** **Senator Lodge** moved to print **RS 21601**. **Senator Bock** seconded the motion.

**RS 21651C1** **Relating to Behavioral Health Services.** **Ross Edmunds**, the Department of Health and Welfare Administrator of Behavioral Health, advised the Committee that there are four primary changes, which include:

- the integration of the substance use disorder and mental health systems;
- allow local communities to have more influence over the Behavioral Health System of Care (BHSC);
- clearly articulate the roles of system partners, public agencies, and Branches of Government; and
- create a BHSC that is recovery oriented and consumer driven.

**Mr. Edmunds** continued that this legislation also prepares for overall changes that are forthcoming to behavioral health and health care. He furthered that the BHSC in Idaho and nationally are gearing toward a payer driven system. Insurance companies and Medicaid will chiefly be responsible for clinical treatment services (excluding support services). He continued that this legislation will integrate the Regional Advisory Committees (advisory to the substance abuse system) and the Regional Mental Health Boards into a singular entity, called the Regional Behavioral Health Board (RBHB), which will be responsible for the support services missing under a payer driven system. **Mr. Edmunds** stated that this legislation would improve the description of the role of the State Behavioral Health Authority, the Department of Health and Welfare's (DHW) Behavioral Health Division. He advised that the creation of the RBHB will require startup funds, but will not require any new general or federal funds.

**MOTION:** **Senator Hagedorn** moved to print **RS 21651C1**. **Senator Lodge** seconded the motion.

**PASSED THE GAVEL:** Chairman passed the gavel to Vice Chairman Nuxoll.

**DOCKET NO. 16-0304-1201** **Rule Relating to Food Stamp Program in Idaho (Pending).** **Rosie Andueza**, the Program Manager (Department of Health and Welfare), informed the committee that **16-0304-1201** pertains to policy for households with shared custody of a minor child. She stated that Idaho has long struggled with a method to provide Food Stamp benefits to households that share custody of minor children. At issue is which parent gets to claim the children for purposes of food stamp eligibility. She informed the committee that federal rules do not allow a split of monthly issuances between two households, so Food Stamp benefits for a child is only issued to one household. Before this rule change, Idaho had an approach of first come, first served, whereby the first parent to apply was allowed to include the child in their food stamp household, regardless of the amount of time the child lived with that parent. That permitted a parent who had their child only one day per month to receive food stamp benefits for that child, even though the other parent was responsible for providing for the child the remainder of the month. **Ms. Andueza** stated that in an effort to more equitably determine eligibility and the benefit amount in the shared custody situations, a temporary rule was implemented on October 1, 2012. The new rule states that when two households are requesting assistance for the same child, the child will be considered a member of the household where the child lives 51 percent or more of the time. She advised that this determination will be based on where the child spends the majority of nights during the course of the month.

**MOTION:** **Senator Lodge** moved to approve **16-0304-1201**. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO. 16-0304-1202** **Rule Relating to Food Stamp Program in Idaho (Pending).** **Rosie Andueza** informed the committee that there were four minor policy changes to Idaho's Food Stamp Program:

- change the words "guide dog" to "service animal";
- remove the verbiage "person who are living together and holding themselves as man and wife" to reflect that Idaho no longer recognizes common law marriage;
- modify outdated application processing requirements to reflect that applications can be processed from any location throughout the state, rather than the office serving the area where the applicant resides; and
- the final change clarifies that the Department will screen the applicant for potential eligibility rather than the application.

**Ms. Andueza** explained that Food and Nutrition Services (FNS), the federal entity which administers food stamps, clarified that out-of-pocket expenses shall be for all trained service animals, not just guide dogs, will be allowed when determining food stamp eligibility.

**MOTION:** **Chairman Heider** moved to approve **16-0304-1202**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO. 16-0305-1201** **Regarding Eligibility for the Aged, Blind and Disabled (AABD).** **Shannon Epperley**, the Program Manager of Medicaid Eligibility for the Department of Health and Welfare, Division of Welfare, informed the committee that AABD participants must be over the age of 65, blind or disabled and low income. In addition, they must meet strict asset guidelines. If applicants transfer assets to another individual for less than fair market value in an effort to become, or remain, eligible for Medicaid, they must either recover the value of the asset, so that it will be counted toward their asset limit, or serve a penalty. **Ms. Epperley** stated to the committee that the rule addresses the application of these penalties. Asset Transfer Penalties are levied on the participant as a period of ineligibility. The duration of the penalty period is calculated on the value of the asset that was transferred. During the penalty period, participants pay out-of-pocket for received services. Medicaid benefits resume upon completion of the penalty period. **Ms. Epperley** advised the committee that added language will permit an individual to serve an asset transfer penalty while receiving long-term care services in their home. The current policy states that an individual can only serve a penalty while receiving care in a Nursing Home, which unnecessarily prompts clients to enter the Nursing Home in order to serve a required penalty and access Medicaid benefits. **Ms. Epperley** indicated that a clarification in the rule that penalties may be served while a participant is receiving services either in a long-term care facility or in a residential setting through Home and Community-Based Services (HCBS). With this clarification, individuals will be encouraged to remain in the community if possible, which reduces the overall care cost, and increases health outcomes for individuals. She pointed out to the committee that the rule change does not affect the way penalties are calculated or the way they are levied on the participant, not do the rule changes affect the Department's Estate Recovery efforts.

**MOTION:** **Senator Bock** moved to approve **16-0305-1201**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO. 16-0305-1202** **Regarding Eligibility for the Aged, Blind and Disabled (AABD).** **Callie King**, Medicaid Program Specialist for the Department of Health and Welfare, Division of Welfare, advised the committee that when there is cost of living adjustment (COLA) in Social Security benefits, each allowance is increased to reflect the change in Social Security income. The total dollar amount of the increase has been typically split by applying 80 percent of the increase toward the rent, utility and food allowance, which goes to the provider, and 20 percent toward the basic allowance that the client keeps. She continued that the Department realizes the increases in the cost of living affects both the provider and participants, and that any future adjustments to budget allowances should be fair and equitable. Thus, the AABD rules are being amended to do away with the typical 80/20 split, and replaced with a percentage-based calculation, using the cost-of-living increase rate, as published by the Social Security Administration.

**MOTION:** **Senator Martin** moved to approve **16-0305-1202**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
16-0612-1201**

**Regarding the Idaho Child Care Program (ICCP).** **Martha Garcia**, the Medicaid Program Specialist for the Department of Health and Welfare, Division of Welfare, presented the committee with changes to the rules governing the Idaho Child Care Program that were temporary rules during the 2012 legislation, and that she was asking the committee to make the rules permanent. She stated that the rule changes fell into three categories:

- The ICCP rules were aligned with other critical work support programs, specifically Food Stamps, by changing the eligibility level to 130 percent of Federal Poverty Level so that it is current with other programs; aligning ICCP rules by changing the reporting requirements; and simplifying the calculation of activity hours by creating two categories: full-time and part-time care. Part-time care is now considered twenty-five hours or more per week. These two categories now match child care industry billing standards, eliminate unnecessary fluctuations in payments because of varying work hours, and help families manage their monthly child care payment responsibilities.
- The second category of changes supports families who are actively engaged in federally funded work and self-sufficiency programs such as the cash assistance program and the refugee program. These changes eliminate federal assistance as income and help individuals afford child care while they obtain skills and experience that will lead to permanent employment.
- The third category of changes increases the health and safety of children supported by ICCP subsidies by assuring that foster care children who are supported by ICCP are in state-licensed foster care facilities, and adding immunization records to the records that providers are required to keep so that in times of disease outbreaks, health officials can easily identify vulnerable children in ICCP-eligible child care facilities.

**MOTION:** **Senator Bock** moved to approve **16-0612-1201**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

**PASSED THE GAVEL:** Vice Chairman Nuxoll passed the gavel to Chairman Heider.

**ADJOURNED:** Having no further business before the committee, **Chairman Heider** adjourned the meeting at 4:30 p.m.

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Senator Heider  
Chairman

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Linda Hamlet  
Secretary