

MINUTES
HOUSE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, March 13, 2013

TIME: 7:00 A.M.

PLACE: Room EW20

MEMBERS: Chairman Wood(27), Vice Chairman Perry, Representatives Hancey, Henderson, Hixon, Malek, Morse, Romrell, Vander Woude, Rusche, Chew

**ABSENT/
EXCUSED:** None.

GUESTS: Tracie Cunningham, Jess Overgard, Jane Wittmeyer, American Suntanning Association; Scott Pirnie, Palm Beach Tan; Sharee Skinner, and Val Sinner, Southern Exposure; Lisa Winters, Joanne Graff, Patti Moran, Vicky Jekich, citizen; Linda Penwarden, St. Luke's MSTI; Erik Makrush, Idaho Freedom Foundation; Stacey Saterlee, American Cancer Society; Christian Enloy, Robin Martin, Mary Karol, Lisa Bulow, SOL Survivors.

Chairman Wood(27) called the meeting to order at 7:00 a.m.

H 268: **Ken McClure**, Attorney, Representing the Idaho Medical Association (IMA), presented **H 268**, legislation to restrict the use of tanning beds by minors. He said science teaches that some previously considered harmless practices do cause harm. Tanning device use is proving to be a risk factor, especially when begun at a young age. With the scientific evidence, it is important to prevent the early onset of diseases, particularly when there are minimally disruptive alternatives to the desirable glow. This legislation is a mechanism to educate our community to protect the most vulnerable in our society.

Mr. McClure said the devices defined in **H 268** are tanning beds or other tanning devices in a facility that charges a fee for their use, not in-home devices or spray-on tanning. Use is restricted for individuals fifteen years of age, or younger, with no therapeutic use allowed. Parental consent is required for anyone sixteen or seventeen years of age. The in-person parental consent form is valid for twelve months, or a lesser time as indicated by the parent, and is renewable, if the parent desires. The consent form advises of associated risks. Use is restricted to twice a week. The civil penalties also protect against the use of false identification and employees not following established procedures. Additional stipulations prevent false health benefit claims. The civil penalties are included as a deterrent and are expected to be used infrequently.

Dr. Steven Mings, Idaho Medical Association, Idaho Dermatology Association, testified in support of **H 268**. He said ultraviolet (UV) exposure, whether artificial or natural, is shown to cause skin cancer. Young people are uniquely susceptible to this type of UV light, and evidence indicates that childhood exposure increases the likelihood of melanomas.

Dr. Mings explained how normal and abnormal cell division occurs, the built in security immune system that eliminates problem cells, and what happens when the process fails and cells continue to grow. Cancer risk analyses show that certain conditions or behaviors predispose individuals to cancer, ranging from mild to dramatic increases of risk.

Dr. Mings described three UV wave length components. UVA, 320 to 400 nm, is most common, found in tanning beds, penetrates the skin the deepest, produces sunburns, and inhibits immune systems. UVB, 290 to 320 nm, is more intense, but is blocked by the ozone layer. It does not penetrate as deeply and less successfully suppresses immune systems. Narrow band UVB is used in Dermatology treatments for certain skin conditions. UVC, 200 to 290 nm, penetrates the least and is also blocked by the ozone layer. UVA and UVB accelerate cell mutations and the aging process. Tanning booths are listed as "Group 1" carcinogens, along with asbestos, arsenic, and tobacco smoke.

Explaining melanoma, basal cell, and squamous cell skin cancers, **Dr. Mings** summarized meta-analyses that confirm the association between indoor tanning to all three skin cancer forms. The Federal Trade Commission reprimanded the tanning industry for misrepresentations, placing restrictions on what they can represent about the safety and government approval of indoor tanning. He explained that childhood UV exposure is especially dangerous with disproportionate life-long damage. He noted that lifetime skin cancer risk is related to the childhood residence climate region more than adult residence climate region. Evidence also reveals possible tanning addiction, even in the face of a significant health impact.

With the absence of a self-policing industry, and the continued risk of misrepresentation, nothing stops a young customer attending multiple salons or finding a salon that does not follow any restrictions. Uniquely susceptible young people, who are also dealing with self image, need to be protected from medical harm until they can make an informed decision.

Responding to questions, **Dr. Mings** said tanning beds have eliminated most of the quick burn UV, so customers get significantly more UVA, which is more intense than natural sunlight. Idaho's higher melanoma rates may be caused from our higher elevation with less ozone protection, our outdoor lifestyle, and even the disproportionate number of fair skinned people.

Tracy Cunningham, American Suntanning Association, testified **in opposition**, stating salons already practice controls and education about UV light. She agreed with the spirit of **H 268**, but shared concerns about the statistical information, citing discrepancies in the studies and meta-analysis limitations. She expressed concern that the legislation targets women-owned small businesses, which are already suffering economically. Ms. Cunningham shared a report that melanoma is actually decreasing in women and increasing in men, with the rise in rates starting before tanning beds existed. A light photon is the same, no matter where it originates, and controlled indoor tanning is consistent.

Scott Pirnie, Palm Beach Tan, testified **in opposition to H 268** because they meet and exceed existing standards. Responsible tanning centers train employees and have their own industry standards in place. He described the Fitzpatrick Classification Scale and set tanning schedules based on Federal Drug Administration (FDA) equipment guidelines. They also use biometric fingerprinting to prevent overuse or abuse. They inform their clients about UV side effects and require a signed release. They do not allow tanning for children under fourteen years of age without a doctor's permission. Their standards and procedures are voluntary, without cost to the state, so further legislation is unnecessary.

In answer to committee questions, **Mr. Pirnie** stated that FDA schedules are specific to each piece of tanning equipment and are affixed equipment labels. Every client has a skin analysis, and the FDA requires the use of the Fitzpatrick scale. An analysis several years ago indicated five percent of their customers were eighteen years of age or younger. Mr. Pirnie indicated they have two salons in Boise, but was unaware of their market share numbers. He also has other salons in Texas and are the largest chain in the country, with a goal to bring professionalism to their industry. Texas regulations follow current Idaho statutes, with an age restriction of sixteen and a half. Texas inspectors frequently visit his salons and are encouraged to drop in, since they want to be ahead of compliance. His Boise salons have not been inspected yet, but they are authorized and invite such an inspection. He did not know who would be conducting the Boise inspections.

ShaRee Skinner, Owner, Southern Exposure Tanning Center, testified **in opposition**, stating that they would be agreeable to licensing. She said her salon advocates moderate usage and skin types each new client. They require parental signature for minors and do not advertise that indoor tanning is free from risk. Their signs and client cards include warnings that overexposure can result in premature aging or skin cancer. She related that growing Vitamin D deficiency concerns have celebrity physicians speaking in favor of moderate sun bed use. Ms. Skinner explained why a parent might encourage tanning bed use for their children. 1.01% of her client base would be affected by this legislation. More importantly, it is a matter of big government encroaching on the rights of parents to make decisions on behalf of their children. Responding to a question, Ms. Skinner said she was unaware of any scientific proof that tanning beds can cure a variety of illnesses, but she sees proof of it everyday in her salon.

Lisa Winters, citizen, testified **in support of H 268**. She shared her story of tanning bed use beginning at fifteen years of age, her belief in what tanning experts told her, and disbelief of dermatology statements. She explained the impact on her family when her use became addictive, with salons willing and encouraging continued tanning for herself and her children. Ms. Winters said, as a tanning salon sales person, young people were the easiest sale, since they wanted the tan look. Her subsequent melanoma diagnosis and scar are a constant reminder of the harm she did to herself and potential future diagnoses for her children. She said children depend on us to protect them from a potential killer.

Linda Penwarden, Oncology Clinical Nurse Specialist, Mountain States Cancer Institute, testified **in support**, saying we need to protect our youth from tanning bed use. She cited a 2011 youth survey that indicated tanning use by 13% of High School students, 21% High School girls, 32% girls in the 12th grade, and 22% Caucasian High School girls. Melanoma treatment can be very difficult, with serious side effects. The disease cannot be cured, it can only be controlled. Effects impact family members and society, not just the patient. Treatment cost is staggering at \$12,000 per month to \$250,000 per cycle of therapy. Protecting our youth from a preventable risk is a starting point.

Eric Makrush, Idaho Freedom Foundation, spoke **in opposition**, pointing out that many things lead to cancer, including individual gene background. We cannot regulate individual protection and addictive behaviors. A public policy position questions what will be regulated next. The FDA regulation already exists. People should make educated decisions for themselves and their children. Salons use regulatory efforts to administer within their appropriate guidelines.

Stacey Saterlee, American Cancer Society, Cancer Action Network. Testified in support, stating they would support legislation to prohibit all minors from tanning bed use. They estimate 400 Idahoans will have melanoma diagnoses this year. Idaho has the seventh-highest melanoma rate in the nation, with the highest death rate. This legislation sends a message that we choose to keep our children away from things that could cause them harm. Kids need to know that tanning beds are dangerous.

Christina Enloy, Member, SOL Survivors, testified in support of H 268, detailing her Stage 4 melanoma, treatment in San Francisco, Intensive Care Unit stays, and remission, emphasizing that there is no cure for metastatic melanoma and few treatment options. Emotional stress was the greatest toll, changing her family's perspective and financial situation. She said it costs her \$50,000 per treatment. Speaking on behalf of other survivors, and those who have not survived, there is a common denominator of tanning bed use, mostly in their youth, and lack of melanoma family history. She was told it was safe, would make her tan, not burn, and not cause cancer. It is an addictive device, giving a high from the warmth of the rays and compliments from other people. She noted that Australia is planning to shut down all tanning salons by 2016.

Robin Martin, Member, SOL Survivors, testified in support, describing her teenage tanning, melanoma experience, current treatment, emotional scars, and wishes that this type of age restriction was in place when she was a teenager. She wondered if tanning salon owners would oppose this bill if they had a diagnosed family member.

Lisa Bulow, Boise School District, Idaho SOL Survivors, described learning that she had a malignant melanoma. She said this bill can help the statewide need for education. Restrictions would have made an impact on her thinking process when she included her teenage daughter in tanning bed use.

Blake Sampson, Pocatello Native, Medical Student, University of Washington, testified in support of H 268. He shared his interest in the legislation, which began after his wife experienced skin lesions, with increased malignant melanoma risk, related to her heavy teenage use of tanning salon beds. Idaho is among fourteen states without legislation. Societal treatment costs are staggering, while the industry cost is minimal, as evidenced by previous testimony. Spray tanning revenue, which is a higher cost, would likely increase at the salons. He questioned the continued bed use, when a viable option is available. The impression that it offers health benefits has a large impact on teenagers.

Kristi Christensen, citizen, testified in support of H 268. She cited her experience as a health teacher, explaining that students often do not understand the severity of potential tanning health problems and equate safety with legality. This bill demonstrates that the Legislature cares about them and their health. It was her opinion that her parental rights are respected with this bill, teaching children informed decision making.

Jane Wittmeyer, American Suntanning Association, testified in opposition to H 268. The restrictions are not useful, impinging on small businesses and parents. She said this is not a public health issue, citing conflicting scientific evidence.

For the record, no one indicated their desire to testify.

In closing remarks, **Ken McClure** said the celebrity physician mentioned in previous testimony has posted an article stating that indoor tanning poses health risks. There are good and bad operators in the tanning industry, and the message of the dangers is not getting transmitted. Evidence shows a strong correlation between the use of tanning and skin cancers, with outlying studies indicating the importance of the meta-analysis. H 268 gives parents another tool to help their children.

Rep. Rusche commented that FDA regulation pertains to the manufacture and sale of devices, not their use. The industry has no licensing, no regulations, and no enforcement standards. He noted that those in opposition have a pecuniary tanning interest and those in favor have or treat the cancers. This is good public policy to protect children, maintain parental freedom, and protect public health

MOTION: **Rep. Rusche** made a motion to send **H 268** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Vander Woude** made a substitute motion to **HOLD H 268** in committee.

Rep. Vander Woude commented that the under sixteen parental consent requirement and the unenforceable civil penalties, are legislative overreach into parental responsibility.

Rep. Hixon stated youth tanning risks are clear, as is the demonstrated industry cognizance of those risks. He would support restrictions for sixteen and under. This is a personal responsibility issue for informed parents and he would also support educational programs. However, he is not able to support the original motion.

Rep. Malek commented that overregulating an industry can be crippling, so the risk to teens and the industry burden must be balanced. What is proposed is minimally onerous to the industry, while protecting teens from drastic future consequences. This legislation provides a tool to protect unknowledgeable teens from risks, and he will support the original motion.

Rep. Henderson stated his support of the original motion. The significant data shows conclusively the relationship between unrestricted tanning and incidences of melanoma. It is wise for reasonable legislative regulations for a potentially harmful procedure.

Rep. Romrell said he will support the original motion. He expressed his concern for an unregulated industry with serious consumer consequences. In his rural area, he has seen tanning beds for public use located in beauty shops and garages, with little or no supervision.

Vice Chairman Perry stated that regulation of this industry is needed to provide professional integrity, but questions if this bill accomplishes that goal. Better options would be industry licensure and board oversight. She will be supporting the substitute motion with the hope of a future regulatory bill.

Rep. Chew expressed her appreciation for alternative suggestions. However, since vulnerable children will still be exposed, she will support the original motion while the suggestions are developed.

Rep. Vander Woude emphasized the use of education to change attitude and behavior, as evidenced by the use of sun block.

Rep. Rusche stressed that this legislation will save lives.

Rep. Morse expressed his dilemma at comparing consumer education and parental responsibility to a risk to the public and youth. He is in support of the original motion so the floor debate can occur.

Chairman Wood(27) said the scientific evidence is sufficient to secure his support of this legislation. As a hazard, this must be dealt with to protect the children, while helping parents take care of their children in a manner that supports parental rights.

ROLL CALL VOTE: Roll call vote was requested on the substitute motion to **HOLD H 268** in committee. **Motion failed by a vote of 3 AYE and 8 NAY. Voting in favor** of the motion: **Reps. Perry, Hixon, Vander Woude. Voting in opposition** to the motion: **Reps. Wood(27), Henderson, Hancey, Malek, Morse, Romrell, Rusche, Chew.**

VOTE ON ORIGINAL MOTION: **Chairman Wood(27)** called for a vote on the original motion to send **H 268** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Vander Woude** and **Hixon** requested they be recorded as voting **NAY. Rep. Rusche** will sponsor the bill on the floor

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 9:07 a.m.

Representative Wood(27)
Chair

Irene Moore
Secretary