

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, March 14, 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 Health and Welfare Committee to order at 3:00 p.m., and a silent roll was taken.

**MINUTES:** **Chairman Heider** asked for the approval of the January 24, 2013 meeting minutes.

**MOTION:** **Senator Martin** moved to approve the January 24, 2013 minutes as written. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

**MINUTES:** **Chairman Heider** asked for the approval of the February 6, 2013 meeting minutes.

**MOTION:** **Senator Martin** moved to approve the February 6, 2013 minutes as written. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

**MINUTES:** **Chairman Heider** asked for the approval of the February 18, 2013 meeting minutes.

**MOTION:** **Senator Hagedorn** moved to approve the February 18, 2013 minutes as written. The motion was seconded by **Senator Lakey**. The motion carried by **voice vote**.

**MINUTES:** **Chairman Heider** asked for the approval of the February 20, 2013 meeting minutes.

**MOTION:** **Senator Lakey** moved to approve the February 20, 2013 minutes as written. The motion was seconded by **Senator Bock**. The motion carried by **voice vote**.

**MINUTES:** **Chairman Heider** asked for the approval of the February 27, 2013 meeting minutes.

**MOTION:** **Senator Lakey** moved to approve the February 27, 2013 minutes as written. The motion was seconded by **Senator Bock**. The motion carried by **voice vote**.

**MINUTES:** **Chairman Heider** asked for the approval of the March 6, 2013 meeting minutes.

**MOTION:** **Senator Lakey** moved to approve the March 6, 2013 minutes as written. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.

**S 1135** **Relating to Medical Discipline; Licensees.** **Nancy Kerr**, Executive Director of the Board of Medicine, informed the committee that this legislation proposes changes to section 54-1814, the Medical Practice Act, grounds for discipline, and it adds additional grounds for discipline. Every person licensed to practice medicine, licensed to practice as a physician assistant or registered as an extern, intern or resident in this state is subject to discipline by the Board of Medicine (Board). The first addition provides the Board with the statutory authority to ensure the ability of its licensees to practice medicine with reasonable skill and safety subsequent to being convicted of or pleading guilty to drug or alcohol related criminal charges, such as driving under the influence. The second addition states that failure to comply with a board order entered by the Board will be grounds for medical discipline. **Ms. Kerr** informed the committee of a Supreme Court case, *Wright v. Board of Psychological Examiners*, that specifically said that the Board's

enforcement authority for board orders must be clearly stated. The purpose of the change to Idaho's medical discipline is to provide clarity. She stood for questions.

**Senator Bock** commented that the changes were good. However, he indicated there were many cases where people are charged with Driving while Under the Influence (DUI), the DUI is then reduced to a lesser charge, and this proposed change does not address that. He expressed that those cases are as equally important as those where there was a conviction with a guilty plea. He asked Ms. Kerr for her thoughts.

**Ms. Kerr** replied that she spoke about this once before, and this was one of the issues that came up at that time. The concern at the time was that the charge could be pleaded down to a lesser charge. That was considered. These would be beyond that first occasion of a DUI.

**Vice Chairman Nuxoll** asked what the discipline would be.

**Ms. Kerr** responded that, hopefully, discipline could be avoided. A third charge of DUI is a felony in Idaho. That could revoke a physician's license, they would be unable to obtain or maintain Board certification or hospital privileges; the impact is tremendous. She stated that the goal is to get a physician into an evaluation and treatment program.

**Senator Lakey** asked Ms. Kerr to explain the second addition of language, and asked if this matter has come up before, as it looked familiar.

**Ms. Kerr** responded that she believes he is referring to the disciplinary case related to that Supreme Court decision.

**Senator Lakey** stated he was not sure, but if she wanted to expound on that, he was wondering about the scope of things that the Board issues orders for, and asked her to provide an example.

**Ms. Kerr** responded that the Board issues orders for violations of the Medical Practice Act, 54-18, related to the standard of care. Generally, Board orders are related to the practice of medicine, criminal convictions and disciplinary actions.

**Senator Lakey** asked what the two sentences were on the case that Ms. Kerr referred to.

**Ms. Kerr** replied that this was from a different disciplinary board, the Bureau of Occupational Licenses that handles the psychological examiners. She remembered that it was related to the board enforcing some requirements. There was a requirement that a particular provider in this case pay some fees relating to the initial case that came before the Board, and that they entered an additional order for the failure to pay fees.

**Chairman Heider** asked how the Board responds on the first offense.

**Ms. Kerr** replied that the Board takes all charges very seriously. If there were some indication of drug diversion or if they were investigating a physician suspected of having a problem with drugs or alcohol, and DUI charges were filed, that would obviously be more serious in comparison to someone who drank a little too much at a party and made the poor decision of getting behind the wheel. All of those decisions affect the public adversely.

**Senator Hagedorn** asked if this has come before the committee before, because it seemed familiar.

**Ms. Kerr** replied that the perhaps it was the discussion of rules of full disclosure of charges related to drug or alcohol that made this sound so familiar.

**TESTIMONY:** **Molly Steckel**, Policy Director of the Idaho Medical Association, voiced support of this bill. She indicated that they had work with the Board of Medicine, and physician members are in support.

**Chairman Heider** stated that the bill was before the committee.

**MOTION:** **Senator Hagedorn** moved that **S 1135** be sent to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business before the committee, **Chairman Heider** adjourned the meeting at 3:15 p.m.

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Senator Heider  
Chairman

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Linda Hamlet  
Secretary