

MINUTES  
**HOUSE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, March 25, 2013

**TIME:** 7:30 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:** Kathleen Mercer, National Alliance on Mental Illness (NAMI); Liza Long, Resident; Jean Uranga and Mary Leonard, Board of Medicine; Ken McClure, Idaho Medical Association; Howard Belodoff, Attorney; Jim Baugh, Disability Rights of Idaho; Martha Ekhooff, Office of Consumer Family Affairs

**Chairman Wood(27)** called the meeting to order at 7:33 a.m.

**MOTION:** **Rep. Malek** made motion to approve the minutes of the March 12, 2013, meeting. **Motion carried by voice vote.**

**MOTION:** **Vice Chairman Perry** made motion to approve the minutes of the March 13, 2013, meeting. **Motion carried by voice vote.**

**MOTION:** **Vice Chairman Perry** made motion to approve the minutes of the March 14, 2013, meeting. **Motion carried by voice vote.**

**MOTION:** **Vice Chairman Perry** made motion to approve the minutes of the March 18, 2013, meeting. **Motion carried by voice vote.**

**MOTION:** **Rep. Rusche** made a motion to approve the minutes of the March 19, 2013, meeting. **Motion carried by voice vote.**

**S 1135:** **Jean Uranga**, attorney, Idaho State Board of Medicine, presented **S 1135**, legislation that gives the Board authority to ensure a licensee, subsequent to drug or alcohol related criminal charges, can practice medicine with reasonable skill and safety. It also amends current laws that prevent disciplinary action until after an adverse event occurs. Earlier action avoids potential patient harm. The ultimate goal is to encourage participation in a monitored recovery program.

**Ken McClure**, Idaho Medical Association (IMA), testified that this legislation was presented to the IMA for input. It is a good idea, and they support it.

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

**MOTION:** **Rep. Hancey** made motion to send **S 1135** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Hancey** will sponsor the bill on the floor.

**S 1114aa:** **Ross Edmunds**, Department of Health and Welfare (DHW), presented **S 1114aa**. He described the state behavioral health transformation that began over a decade ago. The proposed changes combine the existing regional advisory committees and substance abuse health boards into regional behavioral health boards, moving the decision making to a community level. Additional changes maintain the Mental Health Planning Council as advisory, and expand the State Planning Council to review the entire spectrum, including substance abuse disorders. Statute changes reflect the delivery system. This is a major change to a managed-care approach, with a statewide provider network that could affect future behavioral health benefits. With these changes, the Division of Behavioral Health becomes a backstop to assure no one slips through the benefit system.

**Mr. Edmunds** said concerns have been expressed that the legislation codifies a reduction in services, which it does not. The Division of Behavioral Health is driven by Code that defines their service population, and is reflected in this legislation. The regional recovery support services development and delivery will remain the Division's responsibility until, and if, the regional boards want them. The DHW is the state's behavioral authority and delegates to the Division of Behavioral Health, who works closely with other departments to provide services. The funds anticipated from the South West Idaho Treatment Center land sale were appropriated to another division for Medicaid readiness. Alternate funding has been found in personnel and operating cost savings in the Children's Mental Health Program, with a re-appropriation trailer bill passed by the Joint Finance and Appropriations Committee (JFAC).

Responding to questions, **Mr. Edmunds** said adequacy of regional services will be monitored through information reported from the regional boards. Advisory by nature, the boards will be moved into a government entity in each region. Funding allows the volunteer board members to hire a full-time employee. The Division will provide in-kind support to create a close data connection to produce reports that will indicate regional needs. The severe and persistent mentally ill (SPMI) also require services; however, the amount of resources is not adequate at this time. The regional boards will have identical membership, resources, funding, and a major hub with supporting DHW offices.

The Division of Mental Health has been the service delivery arm for assertive community treatment and the Mental Health Court. This role, based on a memorandum of understanding and handshake, needed clarification and codification as a primary role and responsibility. The Mental Health Court aligns two segments to provide individuals with mental health issues sentencing alternatives for community transition. This requires accountability to the Court and stabilizing mental health services, for a high level of care. He noted that an individual's mental health illness may have had a role in leading to the criminal activity.

**Mr. Edmunds** explained that the legislation was presented to National Alliance on Mental Illness (NAMI). Their suggested expanded services is unavailable due to funding. As an evolving system component, **S 1114aa** provides the opportunity to move to a local approach.

Regional behavioral health boards will be able to get additional funding from local entities willing to invest in a less expensive, more efficient, and more effective way of covering mental health insureds in their community. The DHW would not oversee the board bylaws, but they will create sample bylaws to help them. Although the boards have DHW, judicial, and medical professional representation, they are not a pseudo extension of the DHW. **Mr. Edmunds** explained the available start up and ongoing funding. He said the DHW is unable to comply with requests to expand the Division's role, increase the dedicated funds, and change the bill's wording to cover the SPMI population. He emphasized they have not eliminated any population, but have diluted services in order to survive the economic downturn. He said his Division will continue to collaborate with all entities in the future.

**Kathleen Mercer**, NAMI, testified that economic improvements would lead to improved services for mental health individuals. She described NAMI's educational programs and defined psychotic breaks. She said limiting services to only a crisis base lengthens recovery and excludes wage earning capabilities.

Answering questions, Ms. Mercer explained that the codification of a six month requirement can exclude system reentry and handicaps regional services. The Patient Protection and Affordable Care Act (PPACA) insurance will leave a gap between Medicaid and optional insurance for an emotionally fragile population that may not be able to afford a private policy. Medicaid expansion would alleviate a lot of problems, with no denial of services prior to psychotic breaks.

**Liza Long**, Citizen, testified that her main concern was with regional board funding from the Children's Mental Health Programs, when the surplus funds can provide needed services within the program. She described her child's mental illness, uninsured services, and incarceration suggestions by professionals. She emphasized that proactive early diagnosis, intervention, and treatment saves money and lives.

**Howard Belodoff**, Attorney, expressed his concern that funding would be from Children's services. Having a child arrested to get appropriate services is extremely detrimental to the children, is not treatment, is punishment, and has to be court ordered. His second concern is the use of untrained volunteers to oversee a complicated system that has failed within the DHW. Responding to questions, Mr. Belodoff said he is a long-time participant of the Idaho Council on Mental Health, parent meetings, and regional meetings. He was of the opinion the DHW could fund the regional boards without this legislation and they are in violation of consent decrees.

**Jim Baugh**, Executive Director, Disability Rights of Idaho, testified that this is a seriously broken system, with long-time issues. Although this work has been ongoing for three or four years, this legislation was developed a few days before the session started and presents a number of problems. He agreed that it codifies the current state of services. Amended language can be crafted to include increased services upon resource availability.

The Affordable Care Act (ACA) provides insurance subsidies up to 138% of the FPL, with the assumption that every state expands their Medicaid, with no provision for individuals above 138% of the FPL. **Mr. Baugh** said 45% SPMI people are eligible for Medicaid, with the remaining 55% receiving coverage from other state services or private insurance. Those with the most severe mental health illness have to be in crisis or in a correctional institution before they can get services. Prevention of a mental illness crash is important, as are resources when a crash happens. This need will still exist after the Medicaid and private insurance expansion, although they will provide some relief. He supports the regionally managed mental health systems approach, with the further suggestion to pool funding resources for the boards' use.

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

**MOTION:** **Vice Chairman Perry** made a motion to send **S 1114aa** to the floor with a **DO PASS** recommendation. She stated her agreement that regionalization should occur, have a wide variety of board members, and include services beyond drugs and doctors.

**SUBSTITUTE MOTION:** **Rep. Hancey** made a motion to **HOLD S 1114aa** in committee. He commented that it is flawed and needs further review.

**Rep. Hixon** spoke in favor of the original motion, stating that Idaho's mental health system needs a lot of work, but he views this outreach with the local boards as a better way to provide community services. He would like to see how this system work for a year and encouraged **Mr. Edmunds** to continue his progress.

**AMENDED  
SUBSTITUTE  
MOTION:**

**Rep. Chew** made an amended substitute motion to send **S 1114aa** to General Orders to amend the flexibility wording. She commented that a change would provide for severe cases that have not crashed for six months. This legislation takes funding that may be needed from the Children's program, and additional time is necessary to do it right.

**Rep. Morse** commented that the testimony has been persuasive and influential. He complimented **Mr. Edmunds'** intentions, but expressed concern that this legislation still needs work. Codifying the current standard of SPMI is not good policy. He expressed his concern for each motion, stating that the majority of the bill is good policy, and he is in favor of holding or amending **S 1114aa**.

**Rep. Malek** invoked Rule 38, stating a possible conflict of interest. He spoke **in favor** of the original motion, agreeing with frustrations expressed over the lack of resources. Although this legislation is a good step toward what is needed, the funding needs to remain where it is, with limited resources for the development of the Boards.

**Rep. Vander Woude** spoke **in support** of the substitute motion, stating his original approval of the regional board creation is now tempered by the re-appropriated funding. The fiscal note indicates the cost for the Boards, but does not reflect whether or not the funding is needed in the other programs. He expressed concern about codifying the current system into law and expressed his desire for a better drafted bill.

**Rep. Rusche** commented **in support** of the amended substitute motion, stating that during his participation in the Western Interstate Commission for Higher Education (WICHE) evaluation, regionalization was a universal value. He expressed concern with the statutory limitation language, agreeing that a referral to General Orders to correct the language is appropriate. The real issue is providing adequate budgeted funds. The Legislature has voted for corporate tax cuts and mental health services cuts, hurting our citizens.

**Chairman Wood(27)** spoke **in support** of the amended substitute motion, expressing concern about the statutory codification to limit treatment to a certain class. He agreed with **Rep. Rusche** that it is an appropriations process, and he was certain the DHW would appreciate adequate appropriations to take care of individuals before they interface with the criminal justice system.

In closing remarks, **Mr. Edmunds** said, although he agrees with the testimony, the challenge is the consistency required between the Idaho Administrative Procedures Act (IDAPA) and this legislation. His original more liberal definition was changed upon direction from the Supreme Court to achieve that consistency. Current resources do not allow service to a larger population.

**Vice Chairman Perry** commented that sending **S 1114aa** to General Orders at this late in the session could mean it dies, leaving nothing changed, and a loss of all of the good. She suggested sending the bill to the floor and working on corrections during the interim.

**Chairman Wood(27)** said, if **S 1114aa** goes to General Orders, he will assure the Speaker that the intent is to have an appropriate amendment to codify the narrow segment of population that needs to be treated.

**Rep. Vander Woude** asked if the intent is to amend the funding and the IDAPA language. **Chairman Wood(27)** said a trailer bill for the funding of this legislation already exists and changing appropriations at this point in time is not an option.

**Rep. Vander Woude** reminded the committee that sending **S 1114aa** to General Orders opens it to any amendment, which is a risk.

**VOTE ON  
AMENDED  
SUBSTITUTE  
MOTION:**

**Rep. Chew** requested a roll call vote on the amended substitute motion to send **S 1114aa** to General Orders. **Motion carried by a vote of 8 AYE and 3 NAY.** Voting in favor of the motion: **Reps. Wood(27), Henderson, Hancey, Hixon, Morse, Romrell, Rusche, Chew.** Voting in opposition to the motion: **Reps. Perry, Malek, Vander Woude.** **Rep. Chew** will sponsor the bill on the floor.

**MOTION:**

**Rep. Rusche** made a motion to add **H 308** and **H 309** to the committee agenda for Tuesday, March 26, 2013.

**Chairman Wood(27)** stated that the motion was in order, but ill advised at this time.

**Rep. Hixon** commented **in opposition** to the motion, stating that the issues need to be looked at closer.

**Rep. Vander Woude** spoke **in opposition** to the motion, because the agenda is set by the Chairman, and he respects that procedure.

**Vice Chairman Perry** spoke **in opposition** to the motion, stating that to proceed would require a twenty-four hour public notice, which may not be possible.

**Chairman Wood(27)** speaking **in opposition** to the motion, said there will not be a meeting tomorrow or in the near future. He said the motion expresses frustration over the amount of money being left on the table and is understandable. Although allowing the motion, there will not be a meeting tomorrow, which is his discretion.

**VOTE ON  
MOTION:**

**Chairman Wood(27)** called for a vote on the motion to add **H 308** and **H 309** to the committee agenda for Tuesday, March 26, 2013. **Motion failed by voice vote.** **Reps. Rushe** and **Chew** requested they be recorded as voting **AYE**.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 9:20 a.m.

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Representative Wood(27)  
Chair

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Irene Moore  
Secretary