

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 05, 2014

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Hagedorn, Guthrie, Martin, Lakey, Bock, and Schmidt

ABSENT/ EXCUSED: Senator Lodge

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 3:03 p.m. and welcomed the audience.

RS 22627 **Relating to dentists - amendments: Bill Roden**, Delta Dental, a professional service corporation that provides dental plans throughout Idaho, stated that this bill is the result of finding a problem in an existing statute that provides provision for extended oral health programs that can be offered by governmental agencies, schools, clinics, and certain corporations. He went on to explain that those programs in terms of nonprofit corporations can be offered by a 501(c)(3) corporation. Delta Dental has been offering these programs for several years and is a 501(c)(4) corporation. He pointed out that if we expand the 501(c)(4) corporations, there may be corporations that could engage in activities which would be in conflict or competition with the private practice of dentistry. **Mr. Roden** stated that **RS 22627** was developed in cooperation with the Idaho State Dental Association and has been presented to the State Board of Dentistry with both of these parties being in agreement with this bill.

Mr. Roden went on to say that extended oral health programs offered by a 501(c)(3) or a 501(c)(4) corporation will be offered for no fee, rather than a reduced fee which the current law permits.

Senator Lakey asked why they are switching from reduced fee to no fee.

Mr. Roden replied that the suggestion came from the Dental Association, and that Delta Dental is in agreement with it. If there is no fee the 501(c)(4) corporations would be less likely to engage in programs that would be in conflict with the private practice of dentistry. He continued that the reduced fee program was intended to apply to migrant clinics and other programs that are more governmental in nature. That has been removed. The no fee program which has been in the statute was intended to apply primarily to the 501(c)(3) corporations. **Mr. Roden** stated that there are clinics that have these programs but they are covered under subparagraph A of this bill. The nonprofit organizations are addressed in subparagraph B and would be on a no fee basis. Other units that offer these programs can do a reduced fee program.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Guthrie**, to print **RS 22627** . The motion carried unanimously by **voice vote**.

Relating to Dental Practice - Amendments: Michael Kane, Counsel for the State Board of Dentistry, introduced Susan Miller, Executive Director of the State Board of Dentistry (Board), and Tina Wilson, a Board member. **Mr. Kane** stated that the intent of **S 1225** is to get dentists who are convicted of crimes to tell the Board within 30 days because currently they are not required to do so, even in cases of felonies. It has been up to the Board to find out when a dentist is charged and convicted of a criminal act. **Mr. Kane** explained that the Board is charged with protecting the health and safety of the public, so they would like to know when dentists are convicted, especially for felonies. The Legislature has, over the years, also asked the Board to look into cases of misdemeanors involving moral turpitude. At the print hearing there was considerable discussion involving the meaning of "moral turpitude", and Mr. Kane said he had been asked to find a good definition. Defined by the Idaho Supreme Court, moral turpitude includes acts of baseness, depravity, intentionally committing crimes, and inherently criminal acts that everyone knows are wrong. He stated that this is the definition the Board has been charged with enforcing and he then gave real-life examples of these types of cases.

Mr. Kane pointed out that the Board is not trying to change the law as to moral turpitude, but is trying to get practitioners, when they are convicted, to report the conviction so the Board can consider the circumstances and determine if discipline is needed. He said that practitioners have a right to trial, and if a hearing officer tells the Board that this is not within their statute then the case is over. He emphasized that the Board is simply trying to get the information so they can consider it.

Senator Heider pointed out that it may be months after a crime is committed before a trial is held and more months before a conviction. He then asked, "What happens to an individual during the time between the committing of the crime and the conviction."

Mr. Kane replied that the Board is only charged with doing something at the time of conviction. Nothing is done until there is a conviction.

Senator Guthrie asked if speeding, jaywalking, etc. are misdemeanors.

Mr. Kane responded that those are infractions resulting in a fine and are not misdemeanors, which are crimes punishable by a \$1,000 fine or six months in jail. He gave examples of DUI, battery, and trespassing as misdemeanors, but pointed out that they are not crimes of moral turpitude. The Board wants to know about the misdemeanors so they can look into the circumstances.

Senator Guthrie asked Mr. Kane for three or four of the most benign misdemeanors because he sees it as an intrusion to expect someone to report those kinds of things.

A benign misdemeanor, according to **Mr. Kane**, might be inattentive driving, petty theft, or shoplifting, etc. He stated that the Board tried to establish a list of things that would or would not be reportable, but it was a daunting task because there are so many misdemeanors in Idaho. The Board just wants people to tell them and they will take it from there. They are not going after every inattentive driving.

Senator Lakey stated more innocuous misdemeanors: dog at large, sign violations in a city, land use violations. The city has the option of making these infractions or misdemeanors. He also stated that he trusts the Board's judgement in what they will carry on to disciplinary action, but he asked what would happen to someone if they don't report an innocuous misdemeanor.

Mr. Kane mentioned that Senator Guthrie had used the term "intrusion", but misdemeanors are public records so the Board is not trying to intrude. He explained that the Board has a process of writing letters of concern which they use for someone who does not report the conviction within 30 days, or perhaps not at all. It states the Board's rules relating to the concern and encourages the offenders to comply in the future. They are not as concerned with having the report made within the time frame as they are in knowing that it happened, but it would be a violation to not tell the Board. In certain egregious cases the Board would do something about it.

Senator Lakey said he agrees that in most cases people know they are pleading to a misdemeanor, but sometimes a misdemeanor is enforced through a counter system where the person goes to the court clerk and pays the fine. You don't go to a judge and enter a plea, you just go and say, "I'm guilty" and pay the fine. That person may not know that he committed a misdemeanor and not just an infraction. He also stated that he would not want to see someone lose his/her license over a dog at large.

Mr. Kane explained that he has done this job for ten years and that the dental Board is made up of dentists, hygienists, and a public member. He went on to say that the Board members have no interest in affecting a dental license because the offenders miss the deadline or do not report it at all, but they do want something that requires offenders to report offenses to prevent them from avoiding discipline in appropriate cases.

Senator Hagedorn emphasized that he understands what the Board is trying to accomplish and that he is comfortable with the felony. But he stated that he is very uncomfortable with the misdemeanor because there are misdemeanors that have no basis around having a dental license. Dog at large is a perfect example. He asked why the Board doesn't identify those misdemeanors with which the Board is concerned.

Mr. Kane replied that the Board already has a responsibility, under the direction of this Legislature as a matter of state law, to look into certain kinds of misdemeanors. He then explained that if the Board is unaware of the misdemeanor conviction, it cannot fulfill that responsibility. He reminded the Committee that the original question was why don't we just ask for them to report misdemeanors of moral turpitude, and the answer was that it would leave it up to the dentist or hygienist to decide whether it was a misdemeanor of moral turpitude. **Mr. Kane** added that the Board just wants to be told, and they will decide from there. He pointed out that the focus is not on the misdemeanor itself, but rather on the circumstances surrounding the misdemeanor that makes it a crime of moral turpitude, for example the difference between a simple battery and a battery on a patient, or the difference between a theft and a theft from a client.

Senator Guthrie referred to Mr. Kane's statement that these misdemeanors are public record. He then asked if he could use technology to cross-reference the dentist and sweep the public information once a month.

Mr. Kane answered partially yes and partially no. The Board can go online and find out if a crime has been committed, but they don't know the circumstances surrounding it. There is also no way of knowing about the out-of-state convictions, even at the felony level.

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

MOTION: **Senator Schmidt** moved, seconded by **Senator Martin**, to send **S 1225** to the floor with a **do pass** recommendation. The motion passed by **roll call vote** with four ayes and two nays. **Senators Schmidt, Heider, Martin, and Lakey** voted aye, and **Senators Hagedorn and Guthrie** voted nay. Senator Schmidt will carry **S 1225** to the floor.

DISCUSSION: **Senator Martin** mentioned that he previously had questions and concerns that implied that he did not trust the Board to do what is right. He stated that the Committee needed to trust the Board or to do away with it. He then said that he does trust the Board and will vote for the bill.

Senator Hagedorn said that misdemeanor involving moral turpitude is already defined and is our legislative direction to the Board. He went on to say his concern is that this legislation will be asking anyone licensed as a dentist to provide more information than what the Legislature has directed them already to provide, and for the Board to look at situations to a greater extent than they have been directed. He will not support this bill.

Senator Guthrie stated that he appreciated the intent, but he could not support it as written.

RS 22379 **Relating to Child Support - Amendment: Andrea Sorenson**, Child Support Program Manager, Division of Welfare, Department of Health and Welfare (Department), presented this RS. She stated that the Idaho Child Support Program (Program) supports Idaho families by establishing paternity, and establishing, modifying, and enforcing court orders for financial and medical support for children. She indicated that a key goal of the Program is to help children by ensuring parents ordered to pay child support become current and then remain current. She reported that even though the collection rates for both current and past due support are increasing, recent data indicates that the collection of past due support is improving much faster than the collection of current support. She pointed out that **RS 22379** will help increase collection of current support.

Ms. Sorenson pointed out that Idaho Code § 7-1203 specifies remedies available to the Program to collect past due child support, but not all of these remedies are available to collect child support due in the current month. She explained that after all past due child support is paid a parent must begin making payments on their own for current support by submitting by a check or money order, or by paying online. **Ms. Sorenson** stated that parents in this situation have requested that the Program continue using the automatic payment plan used to pay their past due support to now pay their current support. She indicated that it would be more convenient for them, and it would not cost them or the State anything for this added convenience. She continued that in situations when parents fail to pay the current support on their own, children go without support until the parent falls behind, and the Program can use the same enforcement remedy used for the past due support. This pattern may repeat, causing interruptions in child support for families and duplicate work for the Program to set up an income withholding order, then cancel it when the parent becomes current, and then set it up again when the parent falls behind. **Ms. Sorenson** went on to say that this change expands § 7-1203 to allow the Department to utilize all remedies that are currently available for past due child support to collect the current month's support as well.

Motion: **Senator Guthrie** moved, seconded by **Senator Martin**, to print **RS 22379**. The motion passed unanimously by **voice vote**.

Senator Lakey stated that he would vote to print, but that he was concerned about making the government the regular collection agency on just regular payments.

Senator Schmidt said that he would vote to print also, but he asked **Ms. Sorenson** to come with a definition of "support obligation" if that's in the Code when she comes back.

RS 22700

Relating to adoption: Robert Luce, Administrator, Division of Family and Community Services, Department of Health and Welfare (DHW), presented **RS 22700**, a proposed bill pertaining to technical corrections in the adoption statutes. **Mr. Luce** reminded the Committee that during the 2013 Legislative Session they passed **H 214** which concerned putative fathers and it touched multiple sections of Idaho Code. He stated that the legislation was needed to clarify statutes and strengthen adoptions in Idaho, and that it established a date and time certain for putative fathers to take action to protect their rights with respect to children born out of wedlock.

Mr. Luce then reported that following passage of H 214, it was discovered that DHW had overlooked establishing a date and a time certain for private adoptions that may not have involved a termination of the birth mother's parental rights, for example a step parent adoption. He also pointed out that currently the statute has no provision for a date and time certain for the timing of when actions need to be filed. In this proposed legislation the first change is on page 2, lines 32 through 35, and establishes two dates certain for private adoptions as follows: "... the filing of any proceeding to adopt the child; or the execution of a consent to terminate the birth mother's parental rights under the provisions of Idaho Code § 16-2005(4), whichever occurs first." The same change can be found on pages three, four and six. **Mr. Luce** explained that the need for this bill is due to the oversight from last year. At the time, the DHW was focused on foster care type of adoptions and this brings Idaho Code up to date with respect to private adoptions.

Mr. Luce said that the DHW does not anticipate any opposition to this RS or any opposing testimony if it is printed. Senator Davis has agreed to sponsor this legislation.

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 Lakey moved, seconded by **Senator Hagedorn**, to print **RS 22700**. The motion passed unanimously by **voice vote**.

RS 22603

Relating to Licensure of Genetic Counselors: Heather Hussey, MS CGC, Department of Health and Welfare, represents the Idaho genetic counselors who are asking for consideration of this legislation which would provide licensure for genetic counselors in the state of Idaho. **Ms. Hussey** reported that genetic counselors have master's degrees with specialized graduate training in medical genetics and counseling. She explained that they work in various clinic settings interpreting family and medical histories to assess risk of disease, and educating families about inheritance, genetic testing, disease management, and resources. She continued that patients may use the information they get to change their screening recommendations.

Ms. Hussey informed the Committee that nationally genetic counselors have a voluntary certification process with standardized testing and continuing education. She added that currently there are nine genetic counselors in Idaho, and there are potentially hundreds out of state who could provide counseling through telemedicine services to Idaho residents. She then pointed out that with increased complexities in genetics, development of additional genetic testing, as well as the availability of direct to consumer and internet based genetic testing, it is important to ensure that Idahoans are counseled by qualified genetics professionals.

Ms. Hussey stated that Idaho should license genetic counselors to protect Idahoans, improve access to genetic counseling services, ensure that genetic counselors are qualified, and hold those counselors accountable for providing accurate information. All suggestions made by the Idaho Bureau of Occupational Licensure (Bureau) have been incorporated into this bill, ensuring that it conforms to Idaho's licensing standards, with no anticipated fiscal impact.

Chairman Heider asked if there is a licensing board in place, and if not what the cost would be to setting up a licensing board.

Ms. Hussey replied that the bill would provide a licensing board consisting of three genetic counselors, one physician, and one community member, and the cost would be incorporated into the Bureau's budget.

Chairman Heider asked what the cost of that would be.

Ms. Hussey stated that she did not have an exact figure, but that the Bureau assured her that there would be no fiscal impact.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Guthrie**, to print **RS 22603**. The motion passed unanimously by **voice vote**.

RS 22626 **Relating to Immunization:** **Senator Guthrie** presented **RS 22626** repealing Section 2, Chapter 134, of the Laws of 2010, i.e. the sunset clause of the Idaho Childhood Immunization Policy Commission (Commission) set to go into effect on July 1, 2014. He informed the Committee that the sunset clause would disband the Commission. He explained that the Commission has eight regular members and two ex-officio members (a Senate and a House member), with the Commission's purpose being to improve Idaho's childhood immunization rates. He reported that in 2009 Idaho was 50th in the nation in childhood vaccination rates for children from 19 to 35 months, behind only Guam, Puerto Rico and U. S. Virgin Islands, and the Legislature decided we needed to be proactive.

Senator Bock asked if there is specific language that they are deleting from the statute.

Senator Guthrie replied that he had that same question. He said he checked with the Legislative Services Office and it is in the Idaho Session Laws, in Section 2, Chapter 134 of the Laws of 2010. He continued that this section delineates the Commission's charge, and Section 2 contains the sunset language that will terminate the Commission this July. He explained that physicians are required to have two stocks of vaccine, one for those receiving free or reduced price immunizations and one for immunizations covered by insurance. The Commission appealed to the CDC for relief and got a favorable response. **Senator Guthrie** said this is the kind of thing they do to help not just improved immunization rates, but to protect providers in some cases.

MOTION: **Senator Hagedorn** move, seconded by **Senator Bock**, to print **RS 22626**. The motion passed unanimously by **voice vote**.

ADJOURNED: **Chairman Heider** thanked everyone and adjourned the meeting at 3:47 p.m.

Senator Heider
Chair

Linda Hamlet
Secretary

Carol Cornwall
Assistant Secretary