

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 06, 2014

TIME: 3:00 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator Bock

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: **Vice Chairman Nuxoll** called the meeting to order at 3:04 p.m. and explained that she will be conducting the meeting until Chairman Heider returns. She noted that there were a number of people who wished to give testimony and informed the audience that only the presenter speaks when presenting an RS; no testimony is allowed.

RS 22685 **Relating to Radiologic Imaging: Mike Gurr**, registered radiological technologist, stated that the purpose of **RS 22685** was to establish a Board of Radiology (Board). The Board will establish minimum requirements for licensing, enforcement, fees and penalties for licensed radiologists. This will ensure that those in the practice of radiology in Idaho are licensed and qualified in proper and accepted radiology practices. He furthered that the cost of establishing the Board and creating fees for licensees will be self-sustaining once implemented.

Senator Lakey wanted to know if Mr. Gurr had worked with the medical community on this bill.

Mr. Gurr replied that he has worked with lobbyists for the medical community, such as the Idaho Medical Association (IMA) and the American Medical Association (AMA). He indicated that they had several questions and concerns, but felt a viable bill could still be put together.

Senator Lakey asked if the legwork with the medical community had taken place yet.

Mr. Gurr replied that was correct.

Senator Martin commented that he viewed this as a new chapter, and felt caution should be exercised in proceeding.

Senator Hagedorn asked for the number of radiologists who have been contacted regarding the bill proposal, and how many of those are interested in establishing a Board.

Mr. Gurr replied that there are 1,800 nationally registered X-ray technologists in Idaho. There is a national society and their board supports licensure. There are members who have received their education, paid their dues and are not interested in having to pay additional licensure for no gain. The idea is to protect the public.

Senator Lodge commented that her mother was a registered technologist from the time she was 20 years old until she quit working at age 73. She asked if radiologists support the licensing of technicians, why would they hire people who are not licensed to perform those services.

Mr. Gurr replied that radiologists are not hiring anyone without credentials. All X-rays have to be ordered through a prescription. Medical doctors in Idaho have failed to support education for the people who take X-rays.

Senator Lodge asked why the medical doctors are not supporting hiring licensed technologists.

Mr. Gurr responded that the AMA, the American Cancer Society and the American College of Radiologists support national licensure.

Senator Schmidt stated that another setting where this might have a significant effect would be in chiropractic offices, and asked if there had been a conversation with the chiropractic association.

Mr. Gurr stated yes, that he and the attorney for the chiropractic association had discussed this issue.

Senator Guthrie said he assumed that the reason for this proposed legislation is to address a problem, which would suggest that there are people performing these tasks without certain requirements. If this proposed legislation were currently law, how many people would need additional training and education to be compliant?

Mr. Gurr replied that there are people who perform these tasks without professional background. Fifty percent of the facilities in Idaho have employed people who are not qualified.

Vice Chairman Nuxoll wanted to know if, under this bill, an X-ray technologist could not practice in Idaho unless they were licensed.

Mr. Gurr replied that was correct. Anyone who is taking X-rays in Idaho will be required to have some sort of an educational background. Those who are nationally licensed would not need additional education.

MOTION: **Senator Guthrie** moved, seconded by **Senator Lodge**, to hold **RS 22685** in Committee. The motion carried by **voice vote**.

RS 22822 **Relating to Emergency Medical Services (EMS): Wayne Denny**, Bureau Chief of the Department of Health and Welfare, reminded the Committee that he had spoken on earlier occasions about the definition of EMS as it is currently written in Idaho Code Title 56. In the hearing for **S 1222**, concerns were voiced. He thanked Senators Heider, Schmidt and Tippetts for permitting the language to be reworked in hopes of addressing the concerns that had been discussed. **RS 22822** is the result of collaboration with LSO (Legislative Services Office), under the guidance of Senator Schmidt. After discussion, it was found that the key attributes of the two definitions that were previously discussed could be combined into one definition that will serve the regulatory need while meeting the need for clarity.

MOTION: **Senator Martin** moved, seconded by **Senator Hagedorn** to print **RS 22822**. The motion carried by **voice vote**.

RS 22804 **Relating to Time Sensitive Emergency System of Care: Representative Rusche** informed the Committee that this was a plan to develop a Time Sensitive Emergency System in Idaho. The Health Quality Planning Commission (HQP) was established by the Legislature in 2006, and was initially charged with developing and facilitating a plan for the exchange of electronic health information (the Idaho Health Data Exchange) and to monitor reports on issues of quality and patient safety. HQP has been focusing on issues of health care quality and safety since that time, and reported in 2013 that Idaho lacks an organized system of emergency care. As a result, there have been higher than warranted deaths and disabilities from strokes, heart attacks and traumas. Last year, the Legislature responded to that report with HCR 10, instructing the Department of Health and Welfare

(Department) to develop a plan for an emergency system for those time sensitive emergencies. The participation in the system will be voluntary.

Representative Rusche stated that the fiscal impact to the State General Fund would be \$225,750. He furthered that the cost would be offset by just two stroke patients who had significant rehab expenses. The number of lives saved and those with reduced disabilities by having a better functioning system would be tremendous.

Senator Martin wanted to know if the fiscal impact was an initial or ongoing expense.

Representative Rusche replied that it would be a one time expense.

Senator Hagedorn asked for clarification regarding the first responders' role in responding to an emergency, and how it is determined which hospital to take the patient to.

Representative Rusche replied that there is no trauma system in Idaho. There is a problem recruiting first responders and assuring there is adequate equipment. Various hospitals have varying protocols on transporting patients. That creates gaps in the system, which causes delays. For example, it would make a difference for a stroke patient if he were treated in three hours rather than in six hours. Improving the system and the timeliness of care is very important. A delay takes a tremendous toll on the ability to survive an emergency or to avoid a disability. Many states have had trauma systems for years, but Idaho does not.

Senator Hagedorn then asked if the hospitals, doctors and first responders had been involved in the development of this bill and, if so, what was their position.

Representative Rusche stated that he participated in the work group, which at times consisted of 80 people, and it included: large and small hospitals, the Hospital Association (which includes physicians, emergency physicians, trauma surgeons and community doctors), EMS providers, and Ada County and Nez Perce County first responders. Patients who have experienced a stroke or heart attack were also included. A discussion was had concerning the needs of patients. The end result of that was supported by the Hospital Association, the Medical Association, the EMS Bureau and the EMS agencies. He was unaware of any opposition.

Senator Schmidt asked for clarification on the language in the bill that stated: "Funding or, at the discretion of the department, personnel for collection and abstraction of each hospital."

Representative Rusche replied that this was existing language for the trauma registry, and is not new language. This program is in the Department and the Bureau of Public Health, and is managed by the Hospital Association for the State under contract.

MOTION: **Senator Lakey** moved, seconded by **Senator Martin**, to print **RS 22804**. The motion carried by **voice vote**.

RS 22722 **Relating to Staff of Residential Care or Assisted Living Facilities - to Revise Background Check Requirements for the Staff:** **Keith Fletcher**, owner and operator of Ashley Manor Care Centers (assisted living), said that this RS is being withdrawn at this time.

MOTION: **Senator Martin** moved, seconded by **Senator Schmidt**, that **RS 22722** be returned to the author. The motion carried by **voice vote**.

Relating to Administrators of Residential Care or Assisted Living Facilities - Revise Qualifications for Administrators: Keith Fletcher informed the Committee that there are two types of assisted living in the regulations. One is a small facility with less than 16 beds, and the other is a large facility with more than 16 beds. Approximately 73 percent of assisted living facilities in the State are small facilities with 16 beds or less. This is primarily because of the rural environment that Idaho has. In Idaho Codes 39-3321, there is a requirement that each of those facilities have a licensed facility administrator. Those licensed administrator requirements have changed to include more duties, such as familiarization with financial statements, reading balance sheets and income statements, working with banks, and familiarization with labor laws and all rules and regulations. They are usually the community contact. Those individuals have become very expensive, and to have administrators in a small facility has become problematic for that reason.

He furthered that the Department of Health and Welfare (Department) has responded by the use of variances where a request can be made to have an administrator oversee multiple buildings, whereas two administrators have been the custom. The sharing of administrators has created problems with care because a part-time supervisor in a facility is not giving proper supervision in all cases. This bill would require the qualified administrator to oversee four buildings, with a house manager in each of those buildings who would have some medical training and be attuned to the care of the facility. That combination would provide a reduced cost and improved care within small assisted living facilities. The current practice of the Department is to require a waiver for a facility that has an assisted living facilities and nursing home under the same roof. The bill proposes the elimination of the need for that waiver. The Idaho Health Care Association and small facility administrators support the bill.

Senator Guthrie asked if the language in the proposed bill: "Operating a nursing facility and an attached assisted living facility shall not be deemed operating two buildings with one license" would change with the size of the facility.

Mr. Fletcher replied that the size would be irrelevant.

Senator Guthrie referred to the language in the bill that states: "An administrator shall be allowed to oversee up to four (4) qualified house managers of a small facility that is defined as sixteen (16) beds or less." He asked that if there was another facility that they oversee, would more than one administrator be needed.

Mr. Fletcher responded that if there is a joint building and there is an administrator that holds a license of assisted living, that person would be able to oversee other buildings.

Senator Schmidt asked where "qualified house manager" is defined.

Mr. Fletcher replied that the definition could be found in rule.

MOTION:

Senator Lakey moved, seconded by **Senator Schmidt**, to print **RS 22724**. The motion carried by **voice vote**.

RS 22723

Relating to Residential Care or Assisted Living Facilities - Amending to Revise Payment Levels and Methodology: **Scott Burpee** stated that he is CEO and co-owner of Safe Haven Health Care, which operates a number of health care facilities around the State, as well as psychiatric hospitals, behaviorally complex nursing homes and assisted living facilities. He informed the Committee that the purpose of this legislation is to confirm that Medicaid funding applies to residential care and assisted living facilities. It places the responsibility of assessing each resident's needs on the residential care and assisted living facilities, as is the case with nursing homes and other similar facilities. The legislation would also ensure that residential care and assisted living facilities are reimbursed for mandatory minimum staffing levels. It also clarifies that behavioral patients will receive the care they need and the facilities will be reimbursed for providing that care. The impact to the General Fund would be \$460,000.

Senators Lodge and Hagedorn voiced concerns about inconsistencies in the proposed legislation, and stated they were not comfortable in making a decision at this time.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Lodge**, to return **RS 22723** to sponsor. The motion carried by **voice vote**.

RS 22725

Relating to Residential Care or Assisted Living Facilities: **Scott Burpee** informed the Committee that the purpose of this legislation was to direct the Idaho Department to develop, through negotiated rulemaking, a new and complete set of assessment criteria to address resident needs in residential care and assisted living facilities. The proposed legislation requests the Department to complete this process for review by the 2015 Idaho Legislature. This legislation has no fiscal impact for fiscal year 2015. **Mr. Burpee** advised the Committee that there is a lawsuit with the Department of Health and Welfare over this matter.

MOTION: **Vice Chairman Nuxoll** moved, seconded by **Senator Lakey**, to send **RS 22725** to print.

Senator Schmidt and **Senator Lodge** commented that this was not the proper place to discuss this issue at this time.

PASSED THE GAVEL:

Vice Chairman Nuxoll passed the gavel to Chairman Heider.

Senator Hagedorn stated that since this matter is in the court system under litigation, there could not be a frank discussion in this forum that could be on the record because that could impact what might happen in the judicial branch. He could not support moving forward with this RS.

SUBSTITUTE MOTION:

Senator Hagedorn moved, seconded by **Senator Lodge** to return **RS 22725** to the sponsor.

Chairman Heider called for a roll call vote on the substitute motion. **Senators Heider, Lodge, Hagedorn and Schmidt** voted aye. **Senators Nuxoll, Martin and Lakey** voted nay. The motion carried.

PRESENTATION: Relating to the Annual Report of the Community Care Advisory Council: Scott

Burpee informed the Committee that he is also the chairman of the Community Care Advisory Council (Council). The purpose of the Council is to report to the Legislature annually. He was presenting the activities of last year, and referred to the handout he had provided to the Committee. He indicated that every year, there seemed to be an increase in deficiencies, an increase in serious deficiencies, and an increase in enforcement actions and in revocation of licenses. The goal this year was to find the causes of that. One problem was the lack of funding. The amount of civil monetary penalties assessed had quadrupled since last year. The statistics indicate that there are some quality care problems within the industry. The Council is partially made up of advocates, and the objective this year is to meet with advocates, interest groups, the Department of Health and Welfare and the providers to accomplish set goals in addition to information sharing.

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

Senator Schmidt commented that graphs on certified family homes closures were interesting, and that Region 4 appeared to have 50 or 60 closures a year for three years in a row. He asked if that were a normal number.

Mr. Burpee stated that assisted living and certified family homes are part of the Council. The history of certified family homes are different than assisted living. The certified family homes were originally created by the Department to act as discharge sources for the Idaho State School and Hospital, and Region 3 and Region 4 have the largest number of those. There is a turnover, and with Region 4 being the largest region in the State, the turnover will also be large.

ADJOURNED: There being no further business before the Committee, **Chairman Heider** adjourned the meeting at 4:42 p.m.

Senator Heider
Chair

Linda Hamlet
Secretary