

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 20, 2014

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:** None

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 3:12 p.m.

GUBERNATORIAL APPOINTMENT: **Janet Penfold** of Driggs, Idaho was appointed by the State Board of Health and Welfare (Board) to serve a term commencing May 15, 2013 and expiring January 1, 2017. **Ms. Penfold** indicated that she was raised in Owyhee County and now resides in Teton County.

Senator Nuxoll asked why Ms. Penfold would like to be on the Board.

Ms. Penfold replied that she has witnessed many changes over the course of time. The Department of Health and Welfare (Department) is comprised of compassionate people who care about the residents of Idaho, and that she is honored to work with them.

Chairman Heider asked in what capacity did she work with the Boy Scouts of America.

Ms. Penfold replied that she is a Cub Scout Leader and also the District Cub Scout Chairman.

Chairman Heider commented that her participation in the Cub Scouts had a positive influence on him.

Senator Lodge asked about Ms. Penfold's perspective serving on the Board, since she came from a farming background and grew up in Owyhee County.

Ms. Penfold stated that she represents the general public on the Board as the lay person. Her function is to aid the general public in understanding the information that is being generated by the Board.

Senator Lodge commented that it was difficult sometimes to understand the language in the Department and the Legislature, and that Ms. Penfold's efforts were appreciated. She furthered that Ms. Penfold's mother was a legislator for many years, and that has also provided valuable insight. She thanked Ms. Penfold for her service.

Ms. Penfold thanked Senator Lodge and explained to the Committee that her mother is Frances Field.

Senator Hagedorn asked what was the biggest challenge that Ms. Penfold faced in the last term, and what did she think are the biggest future challenges.

Ms. Penfold replied that the biggest current challenge is to implement Obamacare and see how it will impact Idaho.

Chairman Heider informed Ms. Penfold that the Committee would vote on her appointment next Monday, and appreciated her coming to speak.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 1).

H 394

Relating to Health and Safety: Representative Wood informed the Committee that the intention of **H 394** is to enhance the primary care physician workforce in designated shortage areas of rural and frontier Idaho. Surgical subspecialties have grown in the last few decades and the specialty of general surgery is generally viewed now as an element of a group of specialties frequently known as "primary care medicine," in conjunction with family medicine, pediatrics, obstetrics, gynecology, internal medicine and psychiatry. This legislation will help keep Idaho's rural hospitals viable by enabling them to treat a wider array of medical problems, not only for stabilization, but to allow patients to stay near their home for increased medical care of the less complicated surgical problems.

MOTION:

Senator Schmidt moved, seconded by **Senator Lodge**, to send **H 394** to the floor with a **do pass** recommendation. The motion carried by **voice vote**. Senator Schmidt will carry **H 394** to the floor.

SCR 135

Relating to a Concurrent Resolution Stating Findings of the Legislature and Encouraging the Voluntary Reduction of Toxic Substances in Household Products to Protect Children and Families: Senator Dan Johnson informed the Committee that this resolution would help raise awareness and encourage more Idaho businesses to reduce potentially harmful substances from their products. Many of these substances are found in cleaning products, furniture and other household goods. One example is flame retardants, which are chemicals that slow down the potentially flammable materials like textiles and fabrics. Flame retardants were added to upholstered furniture and other household products starting in the mid-1970s to prevent house fires. Health studies have subsequently linked flame retardants to human health concerns, such as cancer, neurological impairments and fertility problems. Some flame retardants have been banned by the U.S. government for health concerns, while others have voluntarily been phased out by manufacturers. However, many remain in use today.

Senator Buckner-Webb commented that there is no mandate associated with this legislation.

TESTIMONY:

Elizabeth Criner, speaking on behalf of the Northwest Food Processors Association, informed the Committee that they are opposed to **SCR 135**. The concerns are the components referenced in the legislation give the impression of not being safe, while scientific research shows otherwise.

TESTIMONY:

Hannah Brass Greer, Legislative Director for Planned Parenthood in Idaho, stated that Planned Parenthood supports and promotes healthy families, and are in favor of **SCR 135**. Harmful substances in household products lead to serious reproductive health and fertility outcomes. A toxin build-up in children affects them long after they have been exposed. Prevention of exposure to toxins is important.

TESTIMONY:

Pam Eaton, President and CEO of the Idaho Retailers Association (Association), stated opposition to **SCR 135**. She informed the Committee that this is the first step that states take to set up product bans. There is scientific research that shows that products are safe. There is a great deal of government oversight that will not permit anything harmful to reach consumers. Many times alternatives to perceived harmful substances end up being more harmful themselves. Families should research for themselves what is best and make decisions based on what makes them feel comfortable.

Senator Bock asked Ms. Eaton which of the items listed in the resolution (phthalates, mercury, perfluorinated compounds, bisphenol A and the flame retardant tetrabromobisphenol A) were not specifically problematic.

Ms. Eaton replied that when specific substances are listed, it creates a dilemma. If research shows that substances are safe to use, then a ban being placed on those substances should be avoided.

Senator Bock asked if it would be better to have that specific language removed from the resolution.

Ms. Eaton responded that the removal of specific substance names from the resolution would help eliminate some of the Association's concerns. However, the language that states: "...we encourage companies to avoid substances likely to be harmful and substitute safer alternatives whenever feasible in household products..." could also be misleading. It implies that some manufacturers and processors are purposely using harmful substances.

TESTIMONY:

Shaun Laughlin, of the Professional Firefighters of Idaho, stated that flame retardants are potentially cancer-causing toxins to firefighters. He thanked companies who are striving to reduce their use at the loss of potential revenues to make it safer for children and ultimately firefighters.

Chairman Heider thanked Mr. Laughlin for his service in the community.

TESTIMONY:

John Reuter, of Conservation Voters of Idaho, stated that people are asked to voluntarily make reductions in the use of toxic substances. There are companies that are already taking action. He said that last year, Walmart identified ten potentially hazardous chemicals (based on their opinion) and encouraged the industry and manufacturers to remove them from products. They started with informative labeling. Retailers and manufacturers have begun to voluntarily address the issue of toxic substances, and he commended them for doing so. There are many companies doing the right thing, and he encouraged others to follow suit.

Chairman Heider invited Senator Johnson or Senator Buckner-Webb to make closing statements.

Senator Johnson thanked the Committee for the courtesy of having him at the meeting. He said that he was aware that there may not be easy answers to this issue, but he believed that safer alternatives in our environment could be found. He commented that it appeared further work may be necessary in some parts of the resolution, and was hewilling to participate in that and to look for solutions.

Senator Guthrie commented that the resolution stated: "Whereas more than 30 years of environmental health studies that have led to a growing consensus that toxic substances are playing a role in the incidence and prevalence of many diseases and disorders." He inquired what studies were done, what is the growing consensus and what level of exposure is causing the problem. He also pointed out the following language: "...we encourage companies to avoid substances likely to be harmful..." He stated that the verbiage was general in nature.

Senator Lakey stated that he had similar concerns as Senator Guthrie regarding the ambiguities in the language.

Vice Chairman Nuxoll thanked the sponsors for bringing this to the Committee.

Senator Hagedorn stated that he appreciated the sponsors' work, but one of his concerns was listing mercury as being harmful. He said that there were tolerable levels of mercury that the human body could withstand. While he had not had the opportunity to research the other substances listed in the resolution, he thought the tolerance levels should be mentioned. He said that companies in Idaho that use some of these compounds and elements are doing it according to law and using it at a level lower than what is required by federal order.

Senator Bock commented that since World War II, DDT (dichloro diphenyl trichloroethane) was used to delouse people and was one of the first compounds that was identified as being hazardous. Its use has subsequently ceased in the United States. There are tolerable and intolerable levels of mercury, and mercury is one of the more toxic elements. He thought this was an excellent resolution and that the content is positive.

MOTION:

Senator Guthrie moved, seconded by **Vice Chairman Nuxoll**, to hold **SCR 135** in Committee. **Chairman Heider, Vice Chairman Nuxoll** and **Senators Lodge, Hagedorn, Guthrie, Martin** and **Lakey** voted aye. **Senators Bock and Schmidt** voted nay. The motion carried by **voice vote**.

S 1352

Relating to Behavioral Health Crisis Centers: Dick Armstrong, Department of Health and Welfare Director, stated that in his six years as the Director, the behavioral health crisis response is one area that law enforcement has been requesting help with to address a serious problem that continues to worsen without a solution. He informed the Committee that he provided a chart that graphically depicts the number of mental health holds compared to the psychiatric hospital commitments. The mental health holds occur when law enforcement comes into contact with an individual experiencing a behavioral health crisis and places them in custody for their protection or the protection of others. A commitment occurs when the court rules that an individual needs more intensive care in a psychiatric hospital setting. The number of Idaho citizens being committed to the State through the civil process has remained relatively flat over the past several years. The number of mental health holds has continued to rise. It shows that there is a growing gap in the number of people that law enforcement comes in contact with and the people who are ultimately committed.

Law enforcement currently has two options in dealing with mental health holds: they can take the individual to jail or they can sit with them in the local emergency department. Both options are expensive and ineffective in meeting the underlying needs. The behavioral health community crisis centers are a solution to this need that has reached a critical mass. Governor Otter addressed this in his State of the State message and talked about his recommendation to develop three crisis centers in Idaho as a starting point. **Director Armstrong** stated that he would like to yield the rest of his time to Ross Edmunds, the Administrator for the Division of Behavioral Health, to provide more detail on **S 1352**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 2).

Ross Edmunds stated that Medicaid is moving toward transforming the way behavioral health services are delivered to the Medicaid population. Most people don't seek help until they are in crisis. These crisis centers are a starting point to provide appropriate help. Mostly what this legislation does is provide the development of crisis centers in the State of Idaho that can be locally driven and have local flexibility around the way they function. These crisis centers will not be overburdened with regulation that would limit their ability to be effective.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 3).

Chairman Heider stated that relative to behavioral health crisis centers, they need to be funded some way. He inquired if the funding was coming from the Department of Health and Welfare (Department) or was it being appropriated through the Joint Finance-Appropriations Committee (JFAC).

Mr. Edmunds replied that the funding does not exist within the Department. There is a budget request recommended by the Governor and there is budget request before JFAC this year. The budget for the Division of Behavioral Health has not been set yet by JFAC, and it is uncertain what that funding will be.

Vice Chairman Nuxoll asked why would the \$4,560,000 be an ongoing operating cost.

Mr. Edmunds explained that crisis centers are not run by volunteers, but by a highly trained paid staff. There is a different model called "recovery centers" that are run by volunteers. Crisis centers must be open 24 hours a day, seven days a week, with nursing staff and trained mental health clinical staff. The State benefits from this level of care of individuals experiencing crisis.

Senator Lakey asked for clarification about the language in the bill that states: "The facility may not provide services to a client for more than twenty-three (23) hours and fifty-nine (59) minutes in a single episode of care." Why was that specific measurement of time important to include in the language?

Mr. Edmunds replied that if a patient received services into the twenty-four hour mark, it turns the facility into an inpatient facility, which puts the facility into an entirely different stratosphere of regulations and requirements. Keeping the facility at a twenty-three hours and fifty-nine minute mark makes them accessible and efficient to run.

Senator Martin referred to the provided chart, which shows there are approximately 5,172 holds throughout the State. Of that number, 1,000 are committed to the hospital. What happens to the roughly 4,000 people not committed to the hospital?

Mr. Edmunds replied that those individuals go to jail or emergency rooms and temporarily are held there until, for example, they become sober, and then are released. It is an expensive way to deal with them. While their behavior could be symptomatic of their illness, they may be trespassing, or perhaps urinating in public, or disturbing the peace. These people cycle in and out of jails or emergency departments.

Senator Schmidt also referred to the chart, and said it was his understanding that the chart indicated "involuntary" holds, while the language in the bill stated that the crisis centers shall be available on a "voluntary" basis. **Senator Schmidt** stated that his interpretation of the chart is that the people represented on the chart cannot go to the crisis center because of the conflict of voluntary versus involuntary.

Mr. Edmunds responded that the system that is currently in place has no alternative other than to do it involuntarily. There is no place for a person in crisis to go voluntarily. What the crisis centers will provide is to give that person the ability to seek their own care voluntarily, rather than wait until law enforcement is forced to intervene. In other states that have a similar approach, for the most part, initially people in crisis go there under police escort, but eventually it people go there voluntarily.

Senator Schmidt asked for further clarification. Despite an involuntary hold of people in crisis by police, would these people still be eligible to stay in these crisis centers?

Mr. Edmunds said that was correct. Law enforcement picks someone up and will be able to offer the person in crisis alternatives: either jail, the emergency department (where there is an involuntary process by which a judge could commit the person to the State of Idaho), or go to a voluntary facility (where they could check themselves in and get needed help). The crisis center is an alternative to the involuntary system.

Vice Chairman Nuxoll asked if the Idaho Department of Corrections (IDOC) had been spoken to.

Mr. Edmunds said that he had spoken to IDOC specifically about this model, and they are in support of the efforts being made. If IDOC were asked to establish a model, the result would be criminalizing mental illness. Since IDOC is a segment of the system that is intended to deal with people who are criminals, it is not proper to have IDOC handle those who are having behavioral health disorders. A symptom of mental illness is that people may do something which they do not perceive as inappropriate behavior, and it leads to law enforcement intervention.

Mr. Edmunds said it was his opinion that involving IDOC when a person was experiencing a behavioral health crisis may not be an appropriate response.

Senator Guthrie asked what would happen if a person in crisis still needed help after the 23 hours and 59 minutes expired, and what happened during holidays.

Mr. Edmunds replied that a person must be discharged so that an episode of care cannot endure any longer than 23 hours and 59 minutes. That person could then begin a new episode of care to last another 23 hours and 59 minutes, and that process could be repeated as often as necessary. The intent is that they are staffed every day of the year, around the clock. There is no closure during the holidays, and in fact, the holidays are a very important time to have crisis centers.

Senator Hagedorn asked if there was a component of this process that also utilizes community nonprofit local entities that might have the same type of interest.

Mr. Edmunds replied that there are many entities that have put forth efforts in dealing with people who are experiencing a crisis. However, these entities don't have a place for people to go. Most often, when they come into contact with someone who is in a crisis, they recognize the severity of the problem and ultimately call the police to get this person help. Those same community contributors would be contributing financially or in-kind support to the development and operation of the crisis center to meet the needs of the population.

Senator Hagedorn then asked if the crisis center would continue to provide aftercare for an individual who was stabilized in their facility, or would they utilize other resources in the local community nonprofits to help with the follow-up care.

Mr. Edmunds responded that crisis centers will not care for people discharged and will not offer ongoing aftercare. They create a discharge plan and help connect people to those resources in the community for ongoing care to resolve the revolving door of in-and-out of crisis or in-and-out of jail.

Senator Martin asked if crisis centers were for adults or could children utilize crisis centers as well.

Mr. Edmunds informed the Committee that the crisis centers were for adults only. There are significant laws in the State of Idaho that address mixing adults and children in the same space. At some point, there will be crisis centers for juveniles

Chairman Heider asked the Committee if they wished to hear from others, or was there enough information to take a vote.

Senator Hagedorn said that having local crisis centers would enable them to focus their efforts on community issues that exist before a larger problem is created.

Vice Chairman Nuxoll stated that she wanted crisis centers, but she is not comfortable that this is the solution.

Senator Lakey stated that as a prosecutor, he has seen for himself the problems with mental holds. If people had access to crisis centers, it would be a help to those in crisis and would also save counties and the State money.

Senator Bock commented that he felt that crisis centers needed to be established in order to provide the backup that comes with the more problematic citizens in the community.

Senator Lodge said that in the data collected for justice reinvestment, mental health was one of the biggest drivers of the prison population.

MOTION:

Senator Schmidt moved, seconded by **Senator Lodge**, to send **S 1352** to the floor with a **do pass** recommendation. The motion carried by **voice vote**. **Vice Chairman Nuxoll** voted nay.

Chairman Heider apologized to those who had wished to testify and did not get the opportunity.

Ross Edmunds reminded the Committee that he had asked earlier in the session to pass a loan repayment program for physicians at Idaho state hospitals, but it failed on the floor. A recommendation of improvements was made to that legislation, and it has been rewritten to encompass those recommendations. He asked for unanimous consent to have **RS 22900** be sent to the Judiciary and Rules Committee to be printed.

**UNANIMOUS
CONSENT
REQUEST:**

Vice Chairman Nuxoll moved to send **RS 22900** to the Judiciary and Rules Committee to be printed. There was no objection.

Chairman Heider indicated that there had been previous difficulty with the genetic counseling bill, and wording has been reworked. He asked for unanimous consent to send **RS 22959** to the Judiciary and Rules Committee to be printed.

**UNANIMOUS
CONSENT
REQUEST:**

Senator Martin moved to send **RS 22959** to the Judiciary and Rules Committee to be printed. There was no objection.

Chairman Heider apologized to Roger Hales for the lack of time (Administrative Attorney for the Bureau of Occupational Licenses) and invited him to return to present the remaining bills next week.

ADJOURNED:

Chairman Heider adjourned the meeting at 4:06 p.m.

Senator Heider
Chair

Linda Hamlet
Secretary