AMENDED AGENDA #1

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Monday, January 13, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Welcome and Introductions	Chairman Heider
RS22479	Relating to Motor Vehicle Registration; to Amend a Provision Relating to Contributions to the Organ Donation Contribution Fund and Make Technical Corrections	Chairman Heider
58-0101-1301	Rules for the Control of Air Pollution in Idaho (Update of federal regulations incorporated by reference)	Tiffany Floyd, Air Quality Administrator, Idaho Dept. of Environmental Quality
	Pending Rules Review	Vice Chairman Nuxoll
16-0101-1301	Emergency Medical Services - Advisory Committee (EMSAC)	Chris Stoker, EMS Section Manager, Idaho Bureau of EMS & Preparedness
16-0102-1301	Emergency Medical Services (EMS) - Rule Definitions	Chris Stoker
16-0103-1301	Emergency Medical Services (EMS) - Agency Licensing Requirements	Chris Stoker
16-0107-1301	EMS - Personnel Licensing Requirements	Chris Stoker
16-0112-1301	EMS - Complaints, Investigations, and Disciplinary Actions	Chris Stoker
16-0203-1301	Emergency Medical Services	Chris Stoker

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Monday, January 13, 2014
TIME:	3:00 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Heider, Vice Chairman Nuxoll, Senators Hagedorn, Guthrie, Martin, Lakey, Bock, 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** convened the meeting at 3:12 p.m. and said this was their first chance to meet as a Committee due to conflicting schedules, but welcomed all in attendance and thanked the members of the Committee and excused those who were absent. **Chairman Heider** introduced and welcomed Senate Page Allison McCarthy, and also introduced Linda Harrison, Assistant to Senator Fulcher, who will assist the Committee Secretary as needed.
MINUTES:	**Chairman Heider** noted that the purpose of the meeting was to mainly review rules, but prior to starting the rule review, there was one RS that the Committee would like to get printed as soon as possible. Since he would be presenting **RS 22479**.
PASSED THE GAVEL:	Chairman Heider passed the gavel to Vice Chairman Nuxoll.
RS 22479	**Relating to Motor Vehicle Registration; to Amend a Provision Relating to Contributions to the Organ Donation Contribution Fund and Make Technical Corrections: Chairman Heider** introduced **RS 22479** stating that it is a clean-up bill from last year when a bill was passed relating to organ donations. There was an option for a $2 donation with driver's licenses as well as a $2 with vehicle registrations that could go to the organ donation fund. After the session ended, the Idaho Transportation Department (ITD) informed **Chairman Heider** that ITD did not have the ability to take the $2 from the vehicle registration and apply it to the organ donation fund. **Chairman Heider** confirmed that the organ donation fund is going well along with the $2 from the driver's licenses. The change was noted on page 2, item 7 which strikes out the option for the $2 donation from motor vehicle registration. **Chairman Heider** introduced Jay Lugo, Executive Director for the Idaho Lions Eye Bank, to discuss how the fund is working, thanked Jay for being with the Committee and asked him to address the Committee.
TESTIMONY:	**Mr. Lugo** stated that part of the bill last year was to get Idaho State Police and first responders involved in donation in general. Prior to that happening last year, there was no process in place for someone who died in a motor vehicle accident to acquire the accident victims, or allow them to be donors. He said that they have been able to contact the Idaho Communications Center in gathering information on traffic fatalities throughout the State. As an example, there were two fatalities in Bonner County just last week with both fatalities becoming tissue donors with the result that skin, bone, connective tissue and eyes were donated to enhance the lives of fifty individuals because of the bill that was passed last year. He thanked the Committee and expressed thanks on behalf of the recipients and their families because of the bill that was passed last year.

Chairman Heider thanked Mr. Lugo and noted how impressive an example it was that the loss of two lives, though very unfortunate, could benefit so many through the organ donor program. **Chairman Heider** then moved to send **RS 22479** to print unless there were any questions or concerns.

Senator Hagedorn noted that with the proposed change due to ITD not being able to move the funds from the vehicle registration, there was no emergency clause. Since this change will not take effect until July 1, 2014, the Senator wondered if it would be appropriate to add an emergency clause.

Chairman Heider stated that it was not necessary to add the emergency clause since the bill itself has been in effect since July 1, 2013 and had not being implemented by ITD as far as the donation from vehicle registration. The change is not an emergency but more of a necessity so it does not hang on the books with ITD unable to fulfill this role.

MOTION: **Senator Martin** moved, seconded by **Senator Lakey**, to send **RS 22479** for printing. The motion carried by **voice-vote**.

Docket No. 58-0101-1301 **Rules for the Control of Air Pollution in Idaho (Update of federal regulations incorporated by reference): Tiffany Floyd**, Air Quality Administrator with the Idaho Department of Environmental Quality (DEQ), stated the purpose of this rule making, much like every year, is to make sure Idaho's Rules for Control of Air Pollution are consistent with federal regulations revised as of July 1, 2013. This is a critical part of maintaining DEQ's delegated authority from the EPA, to administer Idaho's air quality program as required by the Clean Air Act. The process is referred to as referencing federal regulations in Idaho's rules as "incorporation by reference." DEQ has found that incorporation by reference is much cleaner and less confusing for the regulated community. Instead of trying to duplicate or copy numerous pages of federal regulations into Idaho's rules, where possible, they merely reference the federal regulations within the rules. This reduces confusion and potential for conflicting interpretations.

Ms. Floyd went on to address the public participation and outreach related to this rule making. DEQ did not conduct a negotiated rule making. They determined it was not feasible because DEQ has no discretion with respect to adopting the federal regulations necessary to maintain authority to administer Idaho's air quality program. Even though a negotiated rule making was not conducted, DEQ did conduct public outreach as they do with every rule making. In addition to publication of the Notice of Intent to Promulgate Rules in the Idaho Administrative Bulletin, DEQ creates a web page for each rule docket. The web page includes all documents and information relevant to the rule docket. Additionally, the DEQ website offers a subscription option, known as the list-serve, for the public and regulated community to receive automated alerts when a new rule docket is added or an existing rule docket's status is changed. There are currently 187 people signed up to receive automated email notifications through this list-serve. The DEQ also, in this case, personally reached out to the industries and facilities that they knew might be interested in this rule making. A public comment period and hearing were also held and concluded on September 9, 2013. A representative from Larson-Miller Medical Waste Disposal Company attended the hearing to hear other comments, but no others attended, and no comments were received.

Ms. Floyd continued by giving an example of a newly incorporated federal regulation that is in this rule docket, stating that added text has been incorporated by reference to identify the rules and implementation plans that apply only to Idaho and not to other states. There are a number of subparts to this federal regulation and DEQ wanted to specify those which apply to Idaho. It's basically a clarification.

There are federal plan requirements for "existing" Hospital/Medical/Infectious Waste incinerators (HMIWI units or medical waste incinerators). In looking at how these new federal plan requirements affected Idaho, DEQ determined there were only two facilities with operable incinerators that could be affected; University of Idaho (with incinerators in Moscow and Nampa) and Larson-Miller Medical Waste Disposal Company in Boise. However, given their current operations, the effect of this rule revision on these facilities will be minimal, because they burn below the regulatory thresholds outlined in the federal requirements. Therefore, they are identified as "exempt" from the majority of the new requirements, with the exception of record keeping and to provide appropriate notification if operations change. DEQ contacted both facilities to explain these rule changes and provided an explanation of what's minimally required.

Lastly, Idaho Code §§ 39-128 pertains to medical waste combustors. It consists of general provisions regarding capacity, zoning and local government involvement. This addition is to ensure compliance with this existing statutory provision. Therefore, it too has been incorporated by reference. In summary, this rule making incorporates by reference the new federal plan requirements for existing medical waste incinerators, cleans up the obsolete State rules, and provides consistency with federal regulations as required. As **Ms. Floyd** mentioned earlier, consistency is vital, if not approved, DEQ would have rules that are inconsistent with federal regulations. Not to mention, these federal regulations will still be in effect and the regulated community will still be subject to the EPA enforcing them as opposed to DEQ doing so. **Ms. Floyd** then allowed time for questions.

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

Senator Hagedorn voiced concern in wiping out 3-5 pages of our regulations so that we can be consistent with federal regulations that he is not familiar with. Asked if that copy is available and what is the delta of the federal regulations and what are the regulations we're aligning to?

Ms. Floyd responded to Senator Hagedorn's concern by giving the website address of www.ecfr.gov for the Code of Federal Regulations (CFR). She stated that you can type in the section you are looking for and the rules will come up and represents about 42 pages. All the materials before the Committee stricken will be in the 42 pages electronically or in a hard copy book. DEQ works with the different agencies to show them where and how to find the information for one place to go.

Senator Hagedorn voiced concern that it seemed we are replacing 15 pages of State regulations with 42 pages of federal regulations to make it easier for our medical waste institutions that have incinerators to manage their business. He was unable to understand how that made it easier or made sense. He also mentioned that his concern is not so much in the number of pages, but the "delta" in those regulations, the difference between the two.

Ms. Floyd responded to Senator Hagedorn and the Committee that there really aren't that many differences. She stated that if you were to compare the two as seen outlined as being stricken, the exemptions are listed as well as the definitions and things defined as mission guidelines, the federal are just a little bit longer but the information is basically the same.

Vice Chairman Nuxoll commented that when they went through the information, they found that there were no facilities in Idaho that fit the changes since the

changes seemed to apply to larger incinerators, so there must be some changes, and the Senator asked what those changes might be.

Ms. Floyd responded that the regulation being addressed before the Committee deals with existing facilities and they have been labeled as to their size and then you look at what the exemptions in areas would be and compare that with the two facilities in Idaho, and they fall within that exemption (burning less than 10 percent of the weight in their incinerators), therefore the requirements in the federal regulations that are being incorporated that apply to them are only for record keeping and any other notification.

Senator Guthrie asked for clarification on what was stated earlier in regard to the need to avoid inconsistencies so that the State could remain in compliance. The Senator asked if this meant we had been out of compliance in years past.

Ms. Floyd responded that the State is not out of compliance since the new federal plan requirements just came out in May 2013, so the revisions as of July 2013 mean that we are not and have not been out of compliance since the new ones are now being incorporated.

Senator Guthrie voiced concern that once a State yields to the federal government you run the risk that they could decide to change their requirements next month, or year, and the State is in a position where it will have to automatically follow them, so where's the protection of the State with its own agencies such as DEQ versus delegating all it's decision making to the federal level and the Environmental Protection Agency (EPA)? He also stated that the forty-two pages mentioned by Senator Hagedorn would increase to many more than that.

Ms. Floyd responded that Senator Guthrie's remarks and concerns could be true, if the State were to adopt the regulation changes and incorporated them by reference between the federal government regulations. She also added that the DEQ does track with a spreadsheet to monitor the federal changes so that when they are being incorporated with the State, they can be consistent with them. She went on to say that it is important to have State agencies such as DEQ to regulate within the State since they work closer with the local governments and industries, know the needs of the various groups, how to interact with them, are easier to reach, and find that they can be more effective and are more appreciated by the regulated community to work along with the State instead of the federal agencies. For DEQ's program to be a delegated authority through the EPA it is required through the Clean Air Act, and her agency feels it is better to serve the State with its own State programs and for the people to be able to interact with their own with State entities.

Senator Guthrie asked for clarification on the fact if the Committee does not adopt this measure we will be out of compliance, but she had also noted that the pages being stricken are in lieu of referencing the federal information. So if we kept the stricken pages, how could we be out of compliance if they're the same as the federal? There must be something beyond what we have that's in the federal reference or there would be no worry of being out of compliance.

Ms. Floyd stated that she understood Senator Guthrie's concern for being out of compliance but invited the Committee to look at the bigger picture for other areas where the federal government has made changes that need to be adopted within the State. The changes may not be for the area being discussed before the Committee now, but in other areas where if not adopted DEQ could be potentially out of compliance. She gave an example of the revised National Ambient Air Quality Standards (NAAQS) PM 2.5 reducing the annual standard from 15 micrograms per

cubic meter to 12. She pointed out that if DEQ did not make the change, they could be seen as out of compliance. This shows the bigger picture for the changes being made at the federal level.

Senator Lakey asked if the federal agencies have their set of regulations and so does the State, if the State's are different, does a company need to comply with both the State and the federal.

Ms. Floyd responded that the federal regulations would override the State regulations and a business would have to comply with the federal regulations first and foremost.

Senator Lakey clarified that with our adoption of the federal rules and regulations, it basically enables the State and DEQ to be a buffer with the local agencies versus the federal agencies. **Ms. Floyd** commented that yes, that was correct, and very well put by Senator Lakey.

Senator Lakey continued to ask about the current addition that seems to fit the old pattern but before there would be multiple pages at the end where they could list out their own. Asked if this was a new pattern, a trend, or something we're just now catching up to, and wanted to know the intent of just citing the federal? **Ms. Floyd** responded that the reason for citing the particular piece for the Committee is what is referred to as Federal Plan Requirements that are mission guidelines for these incinerators. Since these are existing facilities, where the numbers have changed that represents new facilities, NSPS or medical incinerators that are new. The existing facilities have been captured in the 861 and 862, but not here. The EPA has come out with existing mission guidelines and requirements DEQ is simply incorporating that information, and have not had that listed there before.

MOTION: **Senator Bock** moved, seconded by **Chairman Heider** to approve **Docket No. 58-0101-1301**. **Senator Hagedorn** voiced his concern over the primacy of State law over federal regulations. He concurred with the previous comments from Senator Guthrie that you have to watch the Federal Registry every day for changes in regulations. If we are to accept this CFR as our regulation and tomorrow HHS comes out with another regulation that amends this it then becomes our State regulation. The Senator re-iterated his concern regarding primacy of State regulation over federal and how that would come about, as well as giving up our sovereignty over this particular issue, which is just one of many. **Senator Hagedorn** said he is concerned especially with turning so much of our regulatory authority over to the EPA, and that should not be when we have DEQ and use DEQ as a buffer. With his concerns, he will be voting no at this time.

Senator Bock mentioned that whatever the federal regulations are, they are the laws that we have to abide by assuming they are legitimate under the commerce clause and other constitutional provisions. By eliminating our regulations we (1) shorten our regulations and (2) the people that are responsible to comply to the regulations only have to go to one place to look for rules and changes. If an agency only looks to the State and there are inconsistencies between the State and federal regulations, the EPA can still come in and enforce its own regulations. It seems best to streamlines the regulation, helps the State and helps the people required to comply with the regulations.

Senator Lakey requested to ask Ms. Floyd a question on sub-section H that references the CFR and its sub-part and notes that it was revised July 1, 2013. The Senator was curious if that date was in reference to the version of the CFR or in reference to this regulation in itself at the State level. **Ms. Floyd** responded that it is in reference to what we have here as of July 1, 2013. Again, this is an annual

thing, so it will be looked at again in 2014. The Federal Plan Requirements came out in May so this incorporates up to that point. Those promulgated in May are simply being accepted as of that date to match and to be consistent with the rest of them. **Senator Lakey** confirmed that there is and will be an opportunity to look at this every year and vote and say we are adopting the previous year's version and it will not be an automatic to be adopted without a say in the matter. **Ms. Floyd** confirmed that was correct.

Senator Hagedorn requested to know if the changes as of July 1, 2013 had a basis in change in the federal law or not? **Ms. Floyd** stated that to her understanding there was no change in federal law. **Senator Hagedorn** continued that he is concerned with either approving or disapproving the various CFRs that come before the Committee, with their regulation changes in the EPA not based on federal law, but on changes within the EPA itself. Those particular rules and regulations, unlike Idaho, are not reviewed by Congress, they are based on what the EPA has decided is best for our country. The Senator repeated his concern over relinquishing our state sovereignty to the EPA. He understands Senator Bock's argument to have one source, but if that were the case, there would be no need for any State agencies, we would allow everyone to go by the federal regulations. But we don't allow that because we are a sovereign State. He has not heard any valid arguments or discussions on why we should relinquish our control of management and oversight of these particular medical devices. He assured the Committee that he would be bring up that argument time and time again when the Committee is looking at something that would encourage giving up our State rights to govern over to a federal department (EPA).

Senator Bock re-iterated what Ms. Floyd had stated by repeating that this places DEQ in the position of dealing with these regulations and takes the EPA out of the picture which is a benefit that allows the groups required to comply to deal with a local State agency instead of at the federal level. If we do not follow the federal guidelines and the EPA comes in, it can disregard DEQ since DEQ is not consistent with federal law.

Senator Lakey added his concerns to Senator Hagedorn's as well as the concern over local companies having to deal with the EPA instead of DEQ. Since our State businesses that are being regulated did not show up to oppose the measure, he will vote in favor but will reserve the right to look into this further and perhaps change his vote when it comes around again.

Senator Schmidt commented that he understands that sovereignty is an important issue but if Idaho is going to regulate this industry it will have to grow government to invest, study, understand so it can make its own regulations. There is a certain amount of compromise that is required. He stated that he would be supporting this and understands the "dance that we do" between the State and federal government and their agencies is something to keep an eye on, but also has to be done.

Chairman Heider confirmed that the DEQ has to be in compliance with the EPA. So, if the EPA changes their regulations, regardless of what they are, in this particular case it is the regulation of burning medical waste in incinerators nationwide, it is up to the DEQ to insure that they are keeping in compliance with the EPA regulations. This way Idaho stays in compliance with what we are required to do. In our case we have the DEQ that is the enforcement agency for the EPA in the State of Idaho, which is better than having the EPA in Idaho even though the requirements they have to go by are the same. The question is which is more comfortable, a federal prison or a State prison if we're in violation. We should just as well be in compliance with what is required and let DEQ do their job to keep us

in compliance with the regulations. He went on to say that we don't have much of a choice, we can buck the system if we want, but the DEQ is required to comply with federal EPA regulations, so that is what we are trying to do here by setting the standard.

Senator Guthrie commented that there was more than one way to do things and it seemed as though the pages being deleted were in an effort to remain in compliance and that could be accomplished by adding a few lines to what already exists. Instead it appears as though we took the route to cede to the federal regulation instead of just adding the needed lines to the existing State regulations. The Senator voiced his concern over the process being taken and said he feels it could've been solved another way.

Vice Chairman Nuxoll stated that she appreciated the presentation by Ms. Floyd and the information presented on both sides. She reminded the Committee that the statement was made that we do have to follow the federal regulations, so in a sense the State really doesn't have any sovereignty. It's seems as though, with that fact, we don't even really need this since it doesn't apply to anything currently in the State. She noted that she understands that DEQ needs to follow the federal regulations for the State, but is concerned that the EPA is causing problems throughout the State as it is, and she will not vote for the measure.

ROLL CALL VOTE: **Vice Chairman Nuxoll** called for a Roll Call Vote to approve **Docket No. 58-0101-1301**. The results of the vote were: **Senators Heider, Martin, Lakey, Bock and Schmidt** voted Aye. **Senators Nuxoll, Hagedorn and Guthrie** voted Nay. The motion carried.

PRESENTATION: **Chris Stoker**, EMS Section Manager, Idaho Bureau of EMS & Preparedness, gave some background to the six dockets before the Committee. **Mr. Stoker** stated that these dockets are a continuation of the revision process that the EMS rules have been undergoing over the past few years. He stated the primary motivation for these revisions is that many of the rules governing EMS in Idaho date back to the 1990s (a few even to the 1970s). Much has changed in EMS over the last 20-30 years and there is a need for the rules to reflect current practices and advancements. They find themselves trying to apply outdated rules to modern concepts and it becomes very challenging for us as well as our stakeholders. None of the six dockets have a fiscal impact on the EMS program's dedicated funds or the State General Fund.

Docket No. 16-0101-1301 **Emergency Medical Services - Advisory Committee (EMSAC): Mr. Stoker** stated that he would be asking the Committee to adopt this docket effective July 1, 2014. He also stated that, while in the process of moving EMS rules into individual chapters they've found it cumbersome for each chapter to include its own definitions section. It requires their office and stakeholders to reference multiple chapters in order to find certain definitions. Also, there are many of the same or similar definitions found in multiple chapters of a rule. The docket before the Committee today addresses this issue by removing the definitions section from IDAPA 16.01.01 "EMS – Advisory Committee" and consolidating them in the proposed chapter, IDAPA 16.01.02 "EMS – Rule Definitions". This is the only change made to these rules.

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 Guthrie** moved, seconded by **Senator Martin**, that the Committee approve **Docket No. 16-0101-1301**. The motion carried by **voice vote**.

Docket No. 16-0102-1301

Emergency Medical Services (EMS) - Rule Definitions: Mr. Stoker stated that this docket is also to be adopted effective July 1, 2014. This docket creates a rule chapter specifically for EMS definitions. It consists of a consolidation of all EMS definitions from IDAPA 16 Title 1 rule chapters. Creation of this rule chapter will provide a single source for EMS definitions and will ensure that the definitions are contemporary and consistent. EMS presented IDAPA 16.01.02 "EMS – Rule Definitions" at 13 town hall meetings throughout the State. During those meetings EMS gathered comments, concerns and recommendations from those in attendance. Whenever feasible, EMS made changes to the rule based on feedback we received.

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 asked that since there were no line outs in this section, he was wondering if it was just a matter of the numbering that changed, or what exactly the changes were.

Mr. Stoker responded that there are no line outs since this is a new chapter. EMS has lined out the previous definitions from the old chapter and moved them to this new chapter.

Vice Chairman Nuxoll clarified that there were no changes made, just definitions moved.

Mr. Stoker did concede that there were a few definitions that had some slight modifications, but the majority of the changes, additions or modifications, are in the new chapter which is the next docket he will present to the Committee.

Vice Chairman Nuxoll asked for the number of definitions that have been changed, three or four?

Mr. Stoker confirmed that the number of definitions that had modifications made were four.

MOTION:

Senator Martin moved, seconded by **Senator Bock**, that the Committee approve **Docket No. 16-0102-1301**. The motion carried by **voice vote**.

DOCKET NO. 16-0103-1301

Emergency Medical Services (EMS) - Agency Licensing Requirements: Mr. Stoker noted this docket is also being requested to be adopted effective July 1, 2014. Work on this rule was initiated in 2008. A task force of EMS representatives was organized and the proposed rule was drafted. It was presented at 12 town hall meetings where those in attendance could comment on the rule. After careful consideration of some problematic areas that were identified in the chapter we decided to withdraw the proposed agency licensure rules at that time. Early in 2013 we reengaged our stakeholders to address those problematic areas and rewrite the rules. EMS reconstituted their task force to assist in the negotiated rule writing process. EMS approached representatives from various EMS agencies in the State to include frontier, volunteer, professional, county, city, fire, hospital, tribal, and search and rescue based agencies. The task force successfully carried on the work that started in 2008. The EMS agency presented the rules at 13 additional town hall meetings throughout the State to gather comments, concerns and recommendations from EMS personnel and the public. Whenever feasible, they made changes to the rule based on feedback that was received. Following the 13 town hall meetings the Rule chapter was opened for public comment at 3 public hearings. During the public comment period no unfavorable testimonies were given. EMS took this as evidence that they had reached consensus with the vast

majority of stakeholders.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 4).

Senator Schmidt noted that he appreciates the strategy that has been used to modify the rules, but wanted to walk through the process of how one would get set-up an ambulance business, get a license, but only cater to a certain area or population, how would he get a license.

Mr. Stoker answered that each license can be unique based on the business model of the particular needs of the organization requesting the license. There are different categories for the different service types of licenses being requested (first responders, ambulance, etc...) There are also operation declarations where a business would describe what they do (hospital, 911, inter-facilities transfers, etc...). Then the agency would identify a clinical level as well (basic, paramedic, EMT, intermediate, etc...). **Senator Schmidt** confirmed that answered his question.

Senator Hagedorn stated that he was unable to find the definition to the term "agency" and who determines what an "agency" is. **Mr. Stoker** answered that the definition is located in the previous docket, **Docket No. 16-0102-1301**, under the definition of "EMS Agency". **Senator Hagedorn** noted the information for "Affiliating EMS Agency" as well as "Air Medical Agency" but can see no information for what Senator Schmidt spoke about in regards to a private EMS Agency, where someone wants to start an air service or ambulance service and where the term "agency" can be defined for them. The Senator noted that typically an "agency" is a subdivision of a political organization, whether it's a fire or ambulance company, it's not typically a privately owned company being run as an "agency". Does the private citizen know that they can start an ambulance agency since it's not in the information before the Committee? **Mr. Stoker** referred Senator Hagedorn to page 18 under "EMS Agency" which states any organization licensed by the department then gives the section of code as well as the current docket under discussion, for any organization that operates an air, ambulance or non-transport service. There's also a definition in the Idaho Code that he could find for Senator Hagedorn if needed. **Senator Hagedorn** confirmed that he would be fine with that, he is just concerned that a private individual might be discouraged from opening or operating an ambulance service for the fear that he would not fit under the definition of an "agency".

Vice Chairman Nuxoll asked Mr. Stoker to answer for a scenario if she were in an accident or hurt in some way and needed ambulance service, who would be the least licensed person that could assist her in getting to the hospital and what would their requirements with this rule. **Mr. Stoker** answered that the Idaho Code has established that it must be, at the minimum, an EMT to treat and provide care in the back of an ambulance when transporting. There are agencies that do employ Emergency Responders (EMRs), but to actually transport, per code, it needs to be an EMT. **Vice Chairman Nuxoll** then requested information on the minimum licensing requirements for an EMT. **Mr. Stoker** answered that the information for licensing requirements will be addressed in the next docket before the Committee IDAPA 16-0107 EMS-Personnel Licensing Requirements. It consists of finishing their initial education, completing the National Registry Exams for licensure which is both a written and practical exam, a criminal history background check, and then going through the licensing process through the State EMS office. **Vice Chairman Nuxoll** asked if there was no ambulance service available at the time, would a private citizen get in trouble for taking her to the hospital. **Mr. Stoker** responded that anyone responding as a "Good Samaritan" can offer first aid and CPR at the scene of an accident. The problem comes when they start to advertise their service

as an EMS service they would need to be licensed as an EMS provider under an EMS agency with medical supervision.

MOTION: **Chairman Heider** moved, seconded by **Senator Martin**, that the Committee approve **Docket No. 16-0103-1301**. The motion carried by **voice vote**. **Vice Chairman Nuxoll** wanted to commend the EMS for their efforts to include both rural and city units in their discussions and studies.

DOCKET NO. 16-0107-1301 **Emergency Medical Services (EMS) - Personnel Licensing Requirements: Mr. Stoker** noted that this docket is also to be adopted effective July 1, 2014. The intent of this docket is to remove the definitions section from IDAPA 16.01.07 "EMS – Personnel Licensing Requirements" and places them in the proposed chapter, IDAPA 16.01.02 "EMS – Rule Definitions." This is the only change that they have made to these rules.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 5).

MOTION: **Senator Schmidt** moved, seconded by **Senator Martin**, that the Committee approve **Docket No. 16-0107-1301**. The motion carried by **voice vote**.

DOCKET NO. 16-0112-1301 **Emergency Medical Services (EMS) - Complaints, Investigations and Disciplinary Actions: Mr. Stoker** informed the Committee that this docket is to be adopted effective July 1, 2014. The purpose of this docket is to remove the definitions section from IDAPA 16.01.12 "EMS – Complaints, Investigations, and Disciplinary Actions" and placing them in the proposed chapter, IDAPA 16.01.02 "EMS – Rule Definitions". This is the only change to these rules.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 6).

Senator Guthrie asked if the change from "EMS Bureau" to " EMS Service and Preparedness" incurred any costs as far as signage, stationary, etc.. and what was the reason behind the change.

Mr. Stoker responded that the Public Health Preparedness Program existed previously under another bureau, then due to some re-organization in the division, the program was adopted by EMS, so the personnel just moved over in a lateral move within the division. This change is in line with a nation-wide move with a lot of states that are merging their preparedness program with their EMS program which is a natural fit that's been happening over the past year.

MOTION: **Senator Guthrie** moved, seconded by **Chairman Heider**, that the Committee approve **Docket No. 16-0112-1301**. The motion carried by **voice vote**.

DOCKET NO. 16-0203-1301 **Emergency Medical Services (EMS): Mr. Stoker** advised the Committee that this docket is also to be effective July 1, 2014. The EMS has been actively moving rules out of IDAPA 16.02.03 – "Emergency Medical Services" and into separate rule chapters. This docket is what remains of 16.02.03 after the existing agency licensing requirements have been removed and placed in 16.01.03 – "Agency Licensing Requirements". This change has required EMS to make some minor administrative changes to the section titles but the remaining content is unchanged.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 7).

MOTION: **Senator Martin** moved, seconded by **Senator Bock**, that the Committee approve **Docket No. 16-0203-1301**. The motion carried by **voice vote**.

PASSING OF THE GAVEL: Vice Chairman Nuxoll returned the gavel to Chairman Heider.

ADJOURNED: **Chairman Heider** thanked the Committee members and participants. He requested that the Committee members preview the items on the agenda before the meeting, and with that the meeting was adjourned at 4:30 P.M.

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Senator Heider
Chair

_____

Linda Hamlet
Secretary

_____

Linda Harrison
Assistant Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Tuesday, January 14, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Welcome and Introductions	Chairman Heider
16-0304-1301	Food Stamp Program in Idaho (Pending Rule)	Kristen Mathews, Program Manager, Idaho Health & Welfare
16-0305-1301	Eligibility for Aid to the Aged, Blind and Disabled (AABD) (Pending Rule)	Callie Harrold, AABD Medicaid Program Specialist, Idaho Health & Welfare
16-0306-1301	Refugee Medical Assistance (Pending Rule)	Callie Harrold
16-0402-1301	Idaho Telecommunication Service Assistance Program Rules (Pending Rule)	Sara Herring, Program Specialist, Idaho Health & Welfare
16-0612-1301	Idaho Child Care Program (ICCP) (Pending Rule)	Ericka Medalen, Program Manager, Idaho Health and Welfare
16-0612-1302	Idaho Child Care Program (ICCP) (Pending Rule)	Ericka Medalen
16-0612-1401	Idaho Child Care Program (ICCP) (Temporary Rule)	Ericka Medalen
16-0301-1301	Eligibility for Health Care Assistance for Families and Children (Pending Rule)	Lori Wolff Deputy Administrator, Idaho Health & Welfare
16-0301-1302	Eligibility for Health Care Assistance for Families and Children (Pending Rule)	Lori Wolff

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Tuesday, January 14, 2014
TIME:	3:00 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Schmidt
ABSENT/ EXCUSED:	Senators Lodge, 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: **Chairman Heider** called the meeting to order at 3:02 p.m. and welcomed the audience. He asked the secretary to take a silent roll. He announced that Senator Bock and Senator Lodge were excused from attending the meeting.

PASSED THE GAVEL: Chairman Heider passed the gavel to **VIce Chairman Nuxoll** for the pending rule review, who then called upon Kristen Mathews to present the first pending rule.

DOCKET NO. 16-0304-1301 **Rules relating to the Food Stamp Program in Idaho (Pending): Kristen Mathews**, Program Manager with the Idaho Department of Health and Welfare, for the Division of Welfare (Department), stated that the Idaho Food Stamp Program (SNAP) provides food assistance to Idaho's neediest families, and is one hundred percent funded by the United States Department of Agriculture Food and Nutrition Services (FNS).

She advised the Committee that there are three proposed rule changes that permit aligning State policies with SNAP requirements and Department processing standards. The first rule change mandates that the State per federal regulations exclude federal tax refunds and earned income tax credits from counting as a resource when determining food stamp benefits. The exclusion lasts for a period of twelve months from the date the refund or tax credit is received.

Ms. Mathews furthered that the second rule change is to allow a flat rate, or standard deduction, for medical expenses for elderly and disabled individuals, thus improving customer service to Idaho's most vulnerable populations by streamlining the application process. In order to streamline, the Department requested and was granted a waiver form FNS to offer a standard medical expense deduction. A person who can show they spend more than $35 each month in out-of-pocket qualifying medical expenses will receive a standard medical expense deduction, under the approved waiver. The Standard Medical Expense deduction of $144 will be applied to help calculate the total amount of food stamp benefits the individual receives.

She concluded that the third proposed rule change is to streamline and align the Idaho Administrative Procedures Act (IDAPA) with food stamp regulations in the Code of Federal Regulations (CFR) that require how a state must act upon reported changes in an open food stamp case. The proposed rule change eliminates the detail in IDAPA so the Department may implement practices that align with any changes made to the CFR.

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

Senator Lakey asked if the requirements are federal rules that Idaho is trying to mirror, or are they rules that we feel are appropriate for Idaho. **Ms. Mathews** responded that rules one and three are mandated by the federal regulations, and that there is a requirement to offer a medical expense deduction to elderly and disabled individuals, if they can show that they have $35 or more a month in out-of-pocket medical expenses. There was a proposal regarding the structure of how the medical expense deduction would be offered.

Senator Lakey asked for clarification, and used the example that if someone received a federal income tax refund, is that not counted toward their income for twelve months. **Ms. Mathews** replied that Senator Lakey was correct, and that if a person received a federal income tax refund or credit, it is not counted for the first twelve months. **Senator Lakey** then asked if that was regardless of the amount of the refund, and **Ms. Mathews** confirmed that the amount does not matter.

Senator Guthrie referred to page 158, and asked that if the federal tax refund is not counted, could that make a person eligible for a higher benefit. **Ms. Mathews** replied that benefits are calculated on income, resources and expenses, so in some cases, it could result in a higher benefit amount for the participant, but from the standpoint of the State and processing, it should not increase the cost to Idaho to process that application.

Senator Guthrie then pointed out that such a scenario could drive up the amount of federal dollars spent for food stamps, and asked if the increase was a known number. **Ms. Mathews** responded that, at this point, the amount would be unknown.

Senator Lakey asked what the consequences would be if these rules were not adopted. **Ms. Mathews** responded that the consequences would be to the State, since the state is required to comply with federal regulations that are set and govern the food stamp program, and the result could be a fine.

Vice Chairman Nuxoll asked if Idaho had been fined at some point in the past. **Russ Barron**, the Administrator for the Division of Welfare, approached the podium and responded that Idaho has been fined in the past, but it was for poor performance and not for noncompliance.

MOTION: **Chairman Heider** moved, seconded by **Senator Martin**, to adopt **Docket No. 16-0304-1301**. The motion carried by **voice vote**; however, **Senator Lakey** voted nay and wished to be recorded as such.

DISCUSSION: **Vice Chairman Nuxoll** then asked Ms. Mathews for clarification regarding the associated temporary rule. **Ms. Mathews** introduced Dennis Stevenson, Administrative Rules Coordinator, and deferred to him to assist in clarification. **Mr. Stevenson** indicated that he had spoken to the Chairman prior to the meeting, and explained that this temporary rule will not go into effect until July 1, 2014, as outlined in the Notice of Pending Rule. He furthered that a temporary rule will expire at the end of the legislative session, and because this rule will not be in effect until July 1, a gap will result. He recommended the Committee approve the extension of the temporary rule, which will then be returned to the House for their approval, and then operations will continue under the temporary rule until July 1, in which time the rule will become final. He continued that there needed to be a motion to adopt the temporary rule.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Schmidt**, that **Temporary Rule 16-0304-1301** be extended until July 1 until the permanent rule becomes effective. The motion carried by **voice vote**.

DOCKET NO. 16-0305-1301

Rules relating to the eligibility for aid to the Aged, Blind and Disabled (AABD) (Pending): Callie Harrold, AABD Program Specialist for the Department of Health and Welfare (specializing in Medicaid eligibility), indicated to the Committee that there are a number of language changes made to this rule that align language with other programs, but do not change eligibility for Idaho's population. She stated to the Committee that when an individual is determined eligible for services, the Department of Health and Welfare (Department) assesses their income situation and determines an appropriate amount that the participant must contribute to their cost of service, referred to as a share of cost. Once a share of cost has been determined, the Department reimburses the provider for the cost of service, minus the share of cost. The provider then bills the participant for the share of cost and collects that portion of the total cost for service.

Participants are required to report changes in their financial situation that may change their share of cost. Typically this is done within the required 10 day time frame, and the Department can adjust the share of cost for future months, if necessary. Occasionally, participants fail to report changes in a timely manner, and the Department is made aware of the required adjustments to the participant's required share of cost some time after the fact. In such situations, the Department may need to go back and adjust the share of cost retroactively.

When changes to a participant's financial situation are reported after the fact, the Department determines if adjustments to the share of cost are needed, even if the bills to the provider have already been paid. Historically, when a participant reports new or additional income or a change in financial circumstance, the Department would collect the additional money owed from the provider. This rule change allows the collection of the additional money owed for the share of cost directly from the participant. The reason the change was made is because adjustments in the share of cost that increase the amount owed by the participant is more appropriate for the Department to collect directly from the participant, since past bills have already been billed and collected from the provider. This rule was discussed and negotiated with providers to ensure providers could depend on the share of cost amount communicated at the beginning of a month, and to ensure proper billing could occur.

Ms. Harrold informed the Committee that the second item in this docket concerned the definition of service animal, which removes the language indicating that a service animal needs to be trained by a recognized school. The rule now reflects that the animal must be trained. This change was made in response to a request from Division of Operational Services, Human Resources, to broaden the definition of service animals per civil rights consideration.

Ms. Harrold advised that there are no anticipated cost impacts to the State with either of these rule changes.

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

Senator Martin asked what citizen's verification entailed. He cited that on page 170, it mentions citizen verification, but page 167 states a citizen includes a citizen of the United States and non-citizen nationals of the United States. He inquired what is a non-citizen national.

Ms. Harrold replied that in her experience with Medicaid, a non-citizen who would be eligible for Medicaid would be a legal permanent resident who has met the five-year bar, or has been in the country for five continuous years.

Senator Hagedorn asked about the change in the definition of child on page 167, where a child is now any individual from birth through the end of the month of his nineteenth birthday. He asked if that change was a State change or a federal code change. **Ms. Harrold** indicated that the change was made to align all the Medicaid programs, so that the definition of child is consistent. Sometimes a child is on multiple Medicaid programs, and the age spread of that child differs.

Ms. Harrold returned to the question that Senator Martin posed earlier, furthering that refugees, who are not citizens, were also eligible for Medicaid.

Vice Chairman Nuxoll asked why the term "non-citizen national" was being used.

Ms. Harrold responded that the language is federal, and she is uncertain as to the reason of the language.

Vice Chairman Nuxoll asked if the changes in the rule had to do with terminology and definitions, and **Ms. Harrold** concurred.

Senator Martin observed that the terms "national of the United States or nationals of the United States" were listed throughout the document, and asked for clarification.

Lori Wolff, Deputy Administrator for the Idaho Department of Health and Welfare, approached the podium and stated that she would attempt to explain the non-citizen nationals. She stated that non-citizen nationals include individuals from Puerto Rico and other American territories.

MOTION: **Senator Schmidt** moved, seconded by **Senator Martin**, to adopt **Docket No. 16-0305-1301**. The motion carried by **voice vote**.

DOCKET NO. 16-0306-1301 **Rules relating to the Refugee Medical Assistance (Pending Rule): Callie Harrold** stated that this docket contains rule changes to the Refugee Medicaid eligibility section. She explained to the Committee that refugees are individuals who have been living in internment camps in their respective countries, sometimes for years. They are chosen without warning to leave to be "re-homed" to another country, and typically have no choice in the matter. They are given one hour to pack what belongings they can fit into a shoe box and say good-by to their families before they begin travelling to their new destination. Often these refugees have aided the United States or our allies in conflicts involving their countries, which have made them a target. These are individuals who are in desperate need of intervention and assistance, including medical assistance.

Ms. Harrold informed the Committee that while there were a number of language changes made to this Refugee Medicaid rule, most of these changes did not change the eligibility for this population, but rather aligned language with family Medicaid. She pointed out that there was a policy change which removed reference to a resource limit. Resources include bank accounts, vehicles, and real property. The resource limit was removed due to the changes with the new Modified Adjusted Gross Income (MAGI) methodology and to align refugee determinations to those new rules. Refugees who are eligible to receive refugee medical assistance have been in the country less than eight months and have typically either left all resources behind, exhausted them trying to get out of their country, or have never had any resources of value. There are no anticipated cost impacts to the State with this rule change.

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

Senator Martin commended those involved in this program, and inquired as to the number of individuals involved per year. **Ms. Harrold** replied that the number of refugee Medicaid participants, as of December 2013, was 195.

MOTION: **Senator Martin** moved, seconded by **Chairman Heider**, to adopt **Docket No. 16-0306-1301**. The motion carried by **voice vote**.

DOCKET NO. 16-0402-1301 **Rules relating to the Idaho Telecommunication Service Assistance Program (ITSAP) Rules (Pending Rule): Sara Herring**, Program Specialist of the Idaho Department of Health and Welfare, gave an overview of ITSAP. She stated that ITSAP began in Idaho in 1987 and is a state-level program which historically has augmented the Federal Communication Commission's Lifeline program. The purpose of this program is to help low income households have vital phone service: for emergencies, to connect with potential employers, and to obtain access to medical assistance. Combined, the Lifeline program and ITSAP program can provide a reduction of up to $11.75 a month in low income household's phone bills. This amount is a combination of a $9.75 reduction from the federal Lifeline program, and a $2.50 reduction from the Idaho ITSAP program. These reductions in costs are funded by surcharges that all phone subscribers pay as part of their monthly phone bill. The ITSAP Rules and Statute were presented during the 2013 Legislative Session. The Rules were presented and passed early in the session. The Statute was presented and passed later in the session, but changes were made that created an inconsistency between Rule and Statute. **Ms. Herring** stated the purpose to come before the Committee was to incorporate those statutory changes from the 2013 Legislative Session in rule, and align the ITSAP Rules with Statute.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 4).

Senator Schmidt asked if the charge collected is on all phone services, both land line phones and cell phones. **Ms. Herring** confirmed that it was. She furthered that on a cell phone bill, there is a charge listed for ITSAP. **Senator Schmidt** then asked if the benefit of the $11.75 is provided to any phone service. **Ms. Herring** explained that it can be provided on a land line or a cell phone, but not all cell phone providers are ITSAP providers. They have to be an approved telephone communication provider to participate in the ITSAP program.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Lakey**, to adopt **Docket No. 16-0402-1301**. The motion carried by **voice vote**.

DOCKET NO. 16-0612-1301 **Rules relating to the Idaho Child Care Program (ICCP) (Pending Rule): Ericka Medalen**, Program Manager with the Department of Health and Welfare, Division of Welfare, advised that ICCP provided critical work in the form of child care subsidies to families, to assist with child care expenses so that parents can maintain employment or complete their higher education. Eligibility in the child care program requires parents to meet income guidelines and be participating in an eligible activity. She furthered that the pending rule before the Committee will provide clarification around in-home child care. In-home child care is unique in that children are cared for by a child care provider in the child's own home instead of being taken to a child care center, group or family provider. If a family qualifies for ICCP and requests in-home child care, they must have certain criteria to be granted this type of care.

Ms. Medalen furthered that in Idaho, there is a rule that all ICCP providers must have a health and safety inspection; however, there is the ability to exempt in-home settings from this requirement. These children should still be assured a safe environment, and recognizing that these children are in their own home, the belief is that Idaho can best achieve that rule ensuring health and safety through training instead of an inspection.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 5).

Chairman Heider asked if there were in-home inspections in the past? Are they being discontinued now, or are we saying that they are not needed any longer. **Ms. Medalen** responded that there have not been in-home inspections in the past, which is in conflict with our rule, which states that all of our ICCP providers must have a health and safety inspection.

Senator Guthrie asked who pays for the health and safety training, and what is the amount for each. **Ms. Medalen** said it is all through federal funds, but she did not know the cost of each.

Senator Martin asked clarification of "in-home". Did that mean in the child's home or in another home? **Ms. Medalen** replied that it is in the child's home.

Vice Chairman Nuxoll inquired about the type of training and how much time is spent on training. **Ms. Medalen** replied that they will supply the same level of training to the child care provider as if an inspection were taking place, but it will not be a pass-or-fail. The health districts are contracted to go out statewide to provide those inspections, and they usually take one or two hours to complete an inspection of their home, and it covers everything from food safety, CPR and first aid, hazardous items in the home, child abuse and neglect, and other things that are listed in the rules. **Vice Chairman Nuxoll** asked if it was actual training or inspecting, and **Ms. Medalen** replied that it was training. The child care providers are educated on all the aspects listed in the rules to ensure that they are adequately informed and refreshed on their responsibilities.

Senator Hagedorn asked if there were restrictions on having the provider be another family member. **Ms. Medalen** responded that there cannot be a family member caring for a child and receiving the subsidy.

Senator Lakey asked for clarification on how the program works. These are for individuals that go into someone's home to take care of their children while they are at work. Are there funds available for parents to put their children into day-care versus in-home care? **Ms. Medalen** replied that this would be the same funding source, so federal dollars to the Idaho Child Care Program; however, most families in ICCP take their children out of the home to a child care center, to a group or to a family center in their community. This is for a small number of individuals who, based on their circumstances that have been approved through the Department, do not have the ability to take their child outside of their home. **Senator Lakey** asked for an example of what would qualify people. **Ms. Medalen** gave the example of a family with a child with a disability: the rule states it would do harm to the child or children in an out-of-home center to have the child taken out.

MOTION: **Senator Martin** moved, seconded by **Chairman Heider**, to adopt **Docket No. 16-0612-1301**. The motion carried by **voice vote**.

DOCKET NO. 16-0612-1302 **Rules relating to policy for households with shared custody of a minor child (Pending): Ms. Medalen** informed the Committee that the pending rule will align the Child Care Program with food stamps so that families who were working or going to school can expect a consistent message and expectation for program eligibility. She furthered that Idaho currently has used a first-come-first-served approach in joint custody situations. The first parent to apply was allowed to include the child in their household, regardless of the amount of time the child lived with that parent. In practice, this allowed a parent who had their child only one day per month to receive ICCP benefits for that child, even though the other parent was responsible for providing for the child the remainder of the month.

In an effort to more equitably determining eligibility and ensuring consistency across programs, the proposed rule states that when two households are requesting assistance for the same child, the child will be considered a member of the household where the child lives fifty-one percent or more of the time. This determination will be based on where the child spends the majority of nights during the month.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 6).

Senator Schmidt asked in the instance where custody has yet to be determined, would those parents be eligible to apply for these benefits. **Ms. Medalen** responded that if the parents are waiting for determination of primary custody, the first parent to apply would then receive benefits. Once the determination had been made through the legal system and proper legal documentation had been provided, the benefits would be modified accordingly.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Guthrie**, to adopt **Docket No. 16-0612-1302**. The motion carried by **voice vote**.

DOCKET NO. 16-0612-1401 **Rules relating to the calculation of co-pays for parents with children eligible of ICCP (Pending Fee Rule): Ms. Medalen** asked the Committee to extend this temporary rule that will align the student co-pay requirements with the current practices in operation. In November of this past year, the Department implemented a new co-pay structure to be in compliance with the federal regulations which state that child care co-pays for families must be based on income and not the cost of care. The co-pay for non-working students should be updated to reflect these changes. The proposed rule states that students who are not working at least ten hours a week will now have a flat-rate co-pay based on part-time or full-time school status. She furthered that the goal is that the ICCP help families return to work or pursue an education leading to sustainable and meaningful employment.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 7).

Vice Chairman Nuxoll inquired if the change was from a sliding scale to a flat rate. **Ms. Medalen** replied that for a non-working student who is not working ten hours per week, it is a flat-rate co-pay.

Senator Hagedorn asked if there were any other schools that a student could be enrolled in besides high school or GED students, such as a charter school or a home-school. **Ms. Medalen** referred to **Genie Sue Weppner**, Program Manager with the Division of Welfare, stated that it includes anyone who is in undergraduate education or a GED; attending college (including a two-year college) is an eligible activity. **Senator Hagedorn** replied that the definition of students in this proposed fee rule is only high school or GED students, and wondered if the student were in home-schooling and not in high school, were they precluded from being eligible. **Ms. Weppner** replied that she was unaware of such a circumstance in the past, and that this is not a new form of the policy, but rather a rewording of the policy so that it complies with the co-pay structure.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 16-0612-1401**. The motion carried by **voice vote**.

DOCKET NO. 16-0301-1302 AND DOCKET NO. 16-0301-1301

Rules relating to the eligibility for health care assistance for families and children (Pending Rule): Lori Wolff, Deputy Administrator in the Department of Health and Welfare for the Division of Welfare (Department), who stated that she was presenting **Docket No. 16-0301-1302**, which is a re-write of IDAPA chapter 16.03.01 of the Medicaid eligibility rules governing the family Medicaid program. She advised that she also requested approval of **Docket No. 16-0301-1301**, which is a repeal of the old chapter of rules which governed the Family Medicaid program. These rules became effective January 1, 2014 and coincide with the effective date of the federal legislative changes to Medicaid eligibility rules often referred to as Modified Adjusted Gross Income (MAGI). The previous rules governing family Medicaid sunsetted as of December 31, 2013. The rule changes are a modification to the previous budget methodologies for how eligibility is calculated for our family Medicaid populations; however, the new rules do not expand Medicaid. The current income limits and coverage groups will remain the same, meaning that the rules do not expand coverage to any groups that are not currently covered under previous Idaho Medicaid rules. All of these are mandatory rule changes, and there are no optional changes with the Affordable Care Act changes in this chapter.

Vice Chairman Nuxoll asked if both **Docket No. 16-0301-1301** and **16-0301-1302** were being presented simultaneously. **Ms. Wolff** replied that she was going to present the rewrite first. **Vice Chairman Nuxoll** asked if these rules were new, and **Ms. Wolff** replied that many of the things in the rules were brought over from the old chapter, and that she would highlight the significant things that change.

Ms. Wolff advised the Committee that the anticipation was that these new rules would be cost neutral. Although income calculations are simplified and certain income that was counted in the past may not be counted today, the rules also eliminate most of the current expense deductions and provide a standard five percent deduction to account for expenses paid by the family. These changes are expected to make some people who were not eligible under prior rules, now eligible under the new rules; but these changes will also make some individuals currently receiving Medicaid ineligible under new 2014 rules.

Ms. Wolff continued that the major topics that she will cover in these rule changes include:

1. Coverage Categories,
2. Income Calculations,
3. How resources are counted,
4. How expense considerations change,
5. Household composition, and
6. Presumptive eligibility rules.

Ms. Wolff explained that it is important to understand the categories of eligibility covered under the new rules. These coverage categories include:

1. Children under the age of 19 that could be eligible for Medicaid or CHIP.
2. Pregnant women.
3. Adults with children living in their home.

Ms. Wolff stated that these changes do not apply to the Elderly and Disabled Medicaid program, often called AABD Medicaid, which covers individuals who are over the age of 65 or disabled. There are several changes to how income is counted to determine eligibility. The primary change is that new rules simplify the income that is counted and takes into account the tax household when computing income. The new rules generally state that all taxable income is counted toward a family's eligibility where non-taxable income is not counted.

4. Some income types that fall under the non-countable income include:

- Child support income
- Educational income
- Veteran's income
- Worker's compensation
- Tribal income excluded by federal law
- SSI income

The new rules also eliminate a resource test for pregnant women and adults with children applying for Medicaid. There was no resource test for children in the previous rules.

Under prior rules, households could provide receipts for expenses and certain income disregards were allowed for certain categories. To simplify this process, the new rules allow for a five percent standard deduction which will be applied to afamily's gross income and all other income disregards and expense allowances will end.

Household composition is a critical factor in determining eligibility because it determines whose income counts toward household members' eligibility. The major change in the new rules determines household composition based on tax filing status rather than on "who lives in the home and who is related". For example, under the old rules, a step-parent's income did not count toward the spouse's children's eligibility where today, under the new rules, the step parent's income could count toward eligibility.

Ms. Wolff continued by stating that a final major change to eligibility under the new rules is the requirement to allow qualified hospitals in Idaho to make presumptive eligibility decisions for Medicaid. The new federal rules allow for hospitals to make presumptive eligibility decisions for anyone who falls under the MAGI eligibility categories. What this means is that hospitals can perform a screening of the individual while they are at the hospital receiving services and apply basic Medicaid eligibility rules for an early determination of eligibility. The Department is required to enroll these individuals in Medicaid and then complete a full determination of eligibility. If the individual is determined "ineligible" based on the full Medicaid determination, Medicaid coverage is still provided during the period of the presumptive eligibility decision to the time the full Medicaid determination is made by the Department. The Department has worked closely with the hospital association in Idaho to put together a business design that will allow compliancy with federal law, but minimize risks to the integrity of the eligibility process.

Ms. Wolff concluded her presentation by mentioning a few things in the rules that do not change:

1. An individual must complete an application and have all information verified prior to an eligibility decision.
2. An individual must be a citizen or meet legal residency requirements to be eligible for Medicaid in Idaho.
3. An individual must be a resident of the state of Idaho to receive Medicaid in Idaho.
4. An individual must meet the income limits in their specific coverage category.
5. If you are an adult, you must be pregnant, have children in your home, be disabled or over the age 65 to receive Medicaid in Idaho (no expansion).

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 8).

Senator Hagedorn asked what are the requirements of residency. **Ms. Wolff** replied that the rule states the person must be a resident in the state of Idaho, which is verified by checking the address and driver's license. **Senator Hagedorn** then asked about the section of the rule that states that coverage is provided until eligibility is decided: if it is determined that someone is ineligible, how is the money paid recovered? **Ms. Wolff** responded that he was referring to the presumptive eligibility with hospitals; if the hospital is making the decision and gathering the information, and the Department makes a decision at a later date, the time lapse between that has been taken into account. Our business process that has been put into place to help assure that it does not happen, with the investments that have been made in the Medicaid Readiness Project, we have new verifications, new phone system, and the ability to do phone applications. When someone is in the hospital and they are applying for services, they have a direct line into our Department, and we have a group of people who will take the call, take the application immediately. So the presumptive decision and the full Medicaid determination is actually minutes apart instead of weeks apart. Hospitals also have a quality standard on them in order to be a qualified hospital. We put a standard of ninety percent accuracy for them, referring to us. If that accuracy is not met, they can be disqualified and can no longer make presumptive eligibility decisions.

Senator Guthrie inquired when is the decision made to rewrite a chapter rather than show it as strike-outs and additions, and show as amended. Is there a certain threshold reached? **Ms. Wolff** replied that options had been discussed in presenting these rules, but because definition clarity was necessary, due to the significant number of changes, and also because we are entering a new phase where it is old rules under Medicaid and new rules, we thought it would be more prudent to rewrite the chapter.

Senator Schmidt asked what is the definition of spouse and married couples, and how do they work with the Tax Commissions' rules. **Ms. Wolff** replied that for the purposes of determining eligibility, if they are a filing household, we will apply their tax filing status. On their federal return, they claim to be married and filing jointly, we will use that status as the primary tax filer, and then any dependents listed on their federal form. That's what we will use to determine eligibility. If they do not file taxes, then the definition of married couples (married, living in a home in Idaho) will be utilized.

Senator Hagedorn asked what happens if a married couple was eligible to file on a federal form, but was not eligible to file as a married couple on a state form; how would that determination be made? **Ms. Wolff** answered that because this is a federal program, we will take their federal tax filing status. What matters more is who the primary tax filer is and who their dependents are, because in that situation, we count their income toward everyone in the household. So the marital status, when we are actually looking at tax filing, really doesn't matter. It's more the primary tax filer and their dependents. The marriage status only really comes into play if they are non-filers.

Senator Martin asked the Vice Chairman if both dockets were to be voted on together. **Vice Chairman Nuxoll** replied that **Docket No. 16-0301-1302** would be done first, which is the rewrite.

MOTION: **Senator Martin** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 16-0301-1302**. The motion carried by **voice vote**.

MOTION: **Senator Schmidt** moved, seconded by **Senator Martin**, to adopt **Docket No. 16-0301-1301**. The motion carried by **voice vote**.

Senator Schmidt commented that this was one of the most clear presentations of MAGI eligibility that he has heard.

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel back to the Chairman.

ADJOURNED: **Chairman Heider** thanked everyone, expressed his appreciation, and adjourned the meeting at 4:20 p.m.

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Senator Heider
Chair

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, January 15, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Welcome and Introductions	Chairman Heider
16-0202-1301	Emergency Medical Services (EMS) Physician Commission - Revisions to Standards Manual (Pending Rule)	Dr. Curtis Sandy, Chairman of Idaho's EMS Physician Commission
16-0315-1301	Standards Governing Semi-Independent Group Residential Facilities for the Developmentally Disabled or Mentally Ill (chapter Repeal) (Pending Rule)	Tamara Prisock Administrator, Dept. of Health and Welfare
16-0601-1301	Child and Family Services – Foster parent payment increase (Pending Rule)	Erika Wainaina, Idaho Foster Care Program Specialist
16-0717-1301	Criminal Background Checks – Alcohol and Substance Use Disorders Services (Pending Rule)	Rosie Andueza Program Manager, Dept. of Health and Welfare
16-0720-1301	Criminal Background Checks – Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs (Pending Rule)	Rosie Andueza
16-0733-1301	Criminal Background Checks – Adult Mental Health Services (Pending Rule)	Treena Clark, Dept. of Health and Welfare
16-0730-1301	Behavioral Health Community Crisis Centers (New Chapter) (Pending Rule)	Casey Moyer, Dept. of Health and Welfare
Presentation	High Five Children's Health Collaborative Overview	Kendra Witt-Doyle, PhD, MPH, Blue Cross of Idaho Foundation for Health

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Wednesday, January 15, 2014
TIME:	3:00 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Heider, Vice Chairman Nuxoll, Senators 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 3:01 p.m. and welcomed the audience. He announced that Senator Lodge was excused from attending the meeting, and that Senator Hagedorn would be leaving shortly to attend a veterans meeting and then he may return.

PASSED THE GAVEL: Chairman Heider passed the gavel to Vice Chairman Nuxoll to introduce the first speaker for the pending rules.

DOCKET NO. 16-0202-1301

Rules relating to the Emergency Medical Services (EMS) Physician Commission - Revisions to Standard Manual (Pending): Dr. Curtis Sandy, Chairman of Idaho's EMS Physician Commission, stated that the Idaho EMS Physician Commission was formed with the passage of H 8585in the 2006 Legislature. The commission is composed of eleven voting members that are appointed by the Governor. The membership of this commission draws from a variety of EMS stakeholder groups, as well as geographic and urban rural representation. The purpose of the Physician Commission is to establish standards for the scope of practice and medical supervision for licensed EMS personnel and organizations. He stated that the Physician Commission Standards Manual describes the skills, treatments and procedures that licensed EMS personnel may perform. During quarterly meetings, the Physician Commission refines the standards manual to reflect current best practices in EMS. He informed the Committee that one change in the EMS Physician Commission Standards Manual was to change 2013-1 to 2014-1. Medical director qualifications for an air medical emergency were added.

Dr. Sandy furthered that language regarding optional module equipment and reporting was added and changed. He mentioned that the remaining changes were housekeeping changes.

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

Vice Chairman Nuxoll commented that there were questions last year concerning the Emergency Medical Technicians (EMTs) that were involved with the ski patrols. **Dr. Sandy** replied that, in accordance with the EMS rule, there was discussion regarding the exemption that took place for the ski patrol. The majority of ski patrollers are not EMTs. They complete a course called the "Emergency Outdoor Care Course" and are not under the purview of EMT licensure oroversight.

Vice Chairman Nuxoll asked what is an EMS physician. **Dr. Sandy** explained that an EMS physician is a medical doctor who truly specializes in the practice of EMS. He informed the Committee that he was just informed that he was one of the first 2,000 in the nation to be board-certified in the sub-speciality of emergency medical services. It is the first time that EMS has been recognized at a physician level as a sub-specialty. He furthered that now a person can specialize in emergency medical services.

Vice Chairman Nuxoll then inquired if there had been any opposition to the standards manual, and **Dr. Sandy** responded that there has been no negative feedback.

Senator Schmidt asked that since the EMS medical director for an air medical agency must have training and experience in emergency medicine, how many air medical agencies are there in this state, do they currently have that training, and how difficult is it to get that training. **Dr. Sandy** responded that there are five air ambulance agencies that are licensed in the state of Idaho, and each are nationally accredited under the national standard. He informed the Committee that he is one of the air medical directors for the air medical agency, and has had specific training in that. The training lasts six to eight hours.

Senator Martin inquired where does a person get training on flight physiology and air medical research management. **Dr. Sandy** replied that training could come from a variety of sources, such as the flight agency itself. The National Air Medical Physician association offers that training. There is also online training resources.

MOTION: **Senator Martin** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 16-0202-1301**. The motion carried by **voice vote**.

Senator Lakey thanked Dr. Sandy for his summary.

DOCKET NO. 16-0315-1301 **Rules relating to the Standards Governing Semi-Independent Group Residential Facilities for the Developmentally Disabled or Mentally Ill (Chapter Repeal) (Pending): Tamara Prisock**, Administrator for the Division of Licensing for the Department of Health and Welfare, informed the Committee that the docket she is presenting proposes to repeal the entire rule chapter. The chapter outlines rules and minimum standards for semi-independent group residential facilities for the developmentally disabled or mentally ill and has become obsolete. Several years ago, the Department discontinued certifying and surveying these facilities because they no longer provided services for the developmentally disabled. Although the facilities provide housing and some services to the mentally ill and chronically homeless, they are private residential facilities, and not health facilities. They provide no Medicaid-reimbursable services, and the Department has no statutory authority or responsibility to license or certify this type of facility. These facilities receive their funding through private pay and donations. With the Department's resources being limited, the decision was made to discontinue certifying these facilities. Although surveys for these facilities ended several years ago, work was not completed to repeal this rule chapter. Currently, there are six facilities of this type still operating in Idaho - four in Coeur d'Alene, one in Moscow, and one in Twin Falls. Last January, each facility received written notification that this rule chapter related to their facility type would be discontinued. No responses or comments were received.

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

Senator Martin commented that he had a relative in one of the facilities, and asked what the change would be. **Ms. Prisock** replied that for those residents presently in this facility, there has been no interaction with the Department for a number of years. Some facilities that were providing health care became assisted living facilities and are licensed under a different rule chapter. The changes that the Department has made in its array of mental health treatment services caused some evolution. These six facilities have no Medicaid reimbursable services. The need for the Department to provide oversight to these facilities is no longer there.

MOTION: **Senator Guthrie** moved, seconded by **Senator Lakey**, that the Committee adopt **Docket No. 16-0315-1301**. The motion carried by **voice vote**.

DOCKET NO. 16-0601-1301 **Rules relating to Child and Family Services - Foster Parent Payment Increase (Pending): Erika Wainaina**, Idaho foster care Program Specialist, informed the Committee that this docket makes permanent an increase of foster care reimbursement rates that was directed by the Legislature last year in the Department's appropriations bill. Following the Legislature's direction, a temporary rule was written and the increased rates went into effect July 1, 2013. She stated that she was here today to request that this pending rule and the increased rates be adopted as permanent. The changes in base rates are:

Ages 0-5: $329 per month per child from $301;
Ages 6-12: $366 per month per child from $339; and
Ages 13 and older: $487 per month per child from $453.

She informed the Committee that foster parents have a difficult job caring for Idaho's foster children. Idaho has one of the lowest spending rates per foster child in the entire country. The increase in rates will enable foster families to better care for Idaho children who enter the child welfare system.

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

Senator Bock asked if the rates are provided for by statute. **Ms. Wainaina** confirmed that it has been written into the statute.

Senator Martin asked for some historical perspective over the last five years as to what the rate has been. **Ms. Wainaina** replied that this is the second increase since 2012.

Senator Guthrie inquired if more affluent families could opt out, and **Ms. Wainaina** replied that the rate is meant to cover room and board and is a small amount. She was not aware of anyone requesting to opt out.

MOTION: **Senator Bock** moved, seconded by **Senator Martin**, to adopt **Docket No. 16-0601-1301**. The motion was carried by **voice vote**.

DOCKET NO. 16-0717-1301 **Rules relating to Criminal Background Checks - Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs (Pending): Rosie Andueza**, Program Manager with the Division of Behavioral Health (Department), stated the proposed rule change in this docket addresses the current criminal background check process for Alcohol and Substance Use Services (SUD) and offers an administrative review on a case-by-case basis for those individuals who do not pass a criminal background check. Currently, if an individual fails the Department's criminal background check, they are ineligible to provide direct client services to substance use consumers. The rule is unwavering, and does not allow for any review of individual circumstances or the individual's change in lifestyle and behavior since committing the crime. In order to improve the delivery of substance use treatment in Idaho, it is essential that the current rule be modified. Recovery is the ultimate goal of any substance use disorder

treatment program. Fundamental to the philosophy of recovery is the belief that people can and do make the permanent changes in their lives required to live a clean and sober lifestyle. People in recovery commonly choose to give back and seek professions in the area of substance abuse treatment. These individuals serve as great peer role models for people new to the recovery process as they frequently have shared life experiences. The new recoveree may relate to and connect better with a person with a long-term recovery experience, rather than with any other person in their treatment.

Ms. Andueza continued that prior to recovery, some individuals under the influence committed crimes that they normally would not have committed because of their impaired judgment. Frequently, these crimes were committed to support their habit, resulting in criminal charges that will stay with them for a lifetime. These individuals in long-term recovery are unable to work as treatment providers or recovery coaches because the criminal charges they obtained prior to finding a life of sobriety prohibit them from passing the criminal background check. The current rules have a negative impact on a recovery oriented system of care that frequently relies on these individuals in recovery to serve as peer specialists or recovery coaches for those who are in the early stages of recovery. **Ms. Andueza** gave an example of connecting someone in drug court with someone who has successfully completed drug court and is living a productive, sober lifestyle. A mentor with real-life experience can offer guidance and hope. Many of these individuals have had legal issues that they have successfully put behind them, yet they are unable to give back to the recovery system because of their past criminal status. And, arguably more importantly, the entire recovery oriented system of care is robbed of having individuals in that system who can effectively work with others and help guide them toward a life of sobriety. The proposed rule allows for individuals negatively impacted by today's criminal history rules to apply for a waiver. Each waiver will undergo an administrative review conducted by the Department of Health and Welfare. Factors to be deliberated when considering a waiver include such things as: the severity or nature of the crime, period of time since the crime occurred, and circumstances surrounding the incident. Certain crimes, including crimes of a sexual nature, violent crimes, crimes against children and felonies punishable by death or life imprisonment, are not eligible for the waiver process. The proposed rule also clarifies the employer's responsibility in making a determination regarding the ability or risk of the individual to provide direct care services upon offering employment.

Ms. Andueza concluded by stating that during the negotiated rule making process, many treatment providers supported this rule change, as the current rule has a negative impact on their workforce and their ability to provide improved services.

Chairman Heider asked about the employer's responsibility, and how this waiver will produce a positive outcome. **Ms. Andueza** replied that just as any employer is responsible for their employee's behavior, it is the same in this circumstance, and this clause reflects that. **Chairman Heider** then asked if the Department is held harmless if anything happens. **Ms. Andueza** responded that the purpose of this rule is to address circumstances in which potential employees cannot work in this field because of a crime they may have committed 20 years ago. This will allow the Department to look at each individual situation. We have situations, for example, where people have lived a clean and sober life for 15 years after committing a felony 18 years ago. That felony follows them everywhere they go and they are unable to work in this field. This waiver allows us to look at each individual and their circumstance, and will permit us to override the criminal history background check to give them a chance to work in this field. In terms of the employer responsibility, it would be no different than any other employee they would hire.

Senator Schmidt inquired about the revocation of a waiver and asked if the Department's attorneys approved the language. **Ms. Andueza** advised that the Attorney General's Office looked at this proposal and approved it.

Senator Lakey asked if a licensure from the Department of Health and Welfare was needed- would a person need that in order to work for a particular employer. **Ms. Andueza** informed the Committee that for individuals employed and receiving funding, they must pass the criminal background check. So this is saying that if the person did not pass the background check, we are allowing them to work in this field with vulnerable individuals. **Senator Lakey** then asked if this is for someone who is working for a private employer that has been approved to work in this field, and **Ms. Andueza** confirmed that was correct. **Senator Lakey** inquired if the potential employer would have access to a copy of the criminal background check and be aware of what was in it, despite the waiver. **Ms. Andueza** referred to Fernando Castro from the Criminal History Unit, who could answer more thoroughly.

Fernando Castro, Program Supervisor for the Department's Criminal History Unit, approached the podium and stated that every applicant and their employer have access to and can obtain a copy of the criminal history report.

Chairman Heider asked for clarification on the liability issue should an individual of this nature be hired and then commit a crime while under the employment of the Department.

Mr. Castro advised the Committee that it was established in statute that the ultimate responsibility to make the fitness decision was going to be placed upon the employer. Once hired, the Department does not cast a net to monitor the employee's conduct. The Department is statutorily responsible for persons chosen to be their employees, and the employers then assume responsibility for any misdeeds that occur while that person is under employment.

Vice Chairman Nuxoll asked if the Department of Health and Welfare is responsible, and **Mr. Castro** reiterated that the Department is not responsible, but that the employer is responsible.

Ms. Andueza returned to the podium and stated that employers must make sure the criminal background check is completed on potential employees. The employee may say that they did not pass the criminal background check, but that they had a waiver. She further advised that public hearings were conducted on this matter and full support was received.

Senator Bock asked Mr. Fernando if the Department of Health and Welfare is who requests that the background check be made. And when the background check is requested, who does it, the Federal Bureau of Investigation (FBI), or who? **Mr. Fernando** replied that the Department does not initiate the request for the background check, but rather the applicant declares their criminal history and then the background check is done with their consent. The criminal part of the background check is done through the FBI. The Department submits 10 fingerprints to the FBI to conduct a nationwide criminal search on that applicant. The other items on the background check (such as the Child Protection Registry, among others) are done by Department staff.

Senator Bock then asked if the information that is used in order to deny or grant an application comes from third parties. **Mr. Fernando** confirmed that was the case. **Senator Bock** commented that if the Department does something negligibly on the background check and, for the sake of argument, missed a serious sex crime, they will be held responsible. Changes being made to the rule will not absolve the Department of that responsibility.

Senator Lakey then asked in the instance where a problem comes to light regarding the applicant during the review process and the Department grants a waiver, is the employer notified that there was a problem and that a waiver was granted, or will the employer only know that the applicant passed the background check.

Ms. Andueza responded that upon securing employment, the treatment provider would ask the applicant if they passed their criminal background check, and if the answer is no, the applicant will say at that point that they received a waiver. That is a requirement of the provider in order to maintain their licensure.

Senator Lakey commented that there was a difference between passing a background check, failing it and receiving a waiver, and passing it because of the waiver. His concern, he furthered, was that the employer was aware that there was a waiver granted. **Ms. Andueza** reassured Senator Lakey that the employer will know.

Senator Martin asked that if he were to hypothetically hire someone as an employer, will he know that the applicant had done something, say 20 years ago, and would he have access to that information. **Ms. Andueza** replied that he would have access to the criminal history.

Senator Guthrie asked if the employer's responsibility paragraph were absent from the proposed rule change, where would the responsibility lie. **Ms. Andueza** replied that since the Department does not currently have a waiver option in place, it is a pass-or-fail scenario. If a person passed, then they could be hired, whereas if they failed, they would not be hired.

Senator Lakey asked for clarification that the employer would be notified of the criminal history, and **Ms. Andueza** stated that when the Department does their facility approvals and renewals of facility approvals, one thing that is checked is all the records on the staff, and if they meet the clinical requirements, credentials and criminal background checks. Since the facilities know that they must produce that record during an audit, they are going to ask the person they hire for their criminal background check. The employer is responsible for ensuring that everyone who works for them has a criminal background check, and will be asking for documentation from the hiree.

Senator Lakey asked if an employer has to check a potential hiree's criminal background check before they can hire. **Mr. Castro** responded that since this is a paperless process, a web site is available that gives access to the employee's background check results, and the employer is required by the Criminal History Unit Rule to go to that web site and look at the results and make a decision on hiring.

MOTION: **Senator Bock** moved, seconded by **Senator Heider**, to adopt **Docket No. 16-0717-1301**. The motion carried by **voice vote**. **Senator Lakey** voted nay.

Vice Chairman Nuxoll commended the Department for designing a way to give a person a second chance in life.

DOCKET NO. 16-0720-1301 **Rules relating to Criminal Background Checks - Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs (Pending): Rosie Andueza** informed the Committee that the language in the rule changes are exactly the same as **Docket No. 16-0717-1301**.

MOTION: **Senator Martin** moved, seconded by **Senator Heider**, to adopt **Docket No. 16-0720-1301**. The motion was carried by **voice vote**. **Senator Lakey** voted nay.

Vice Chairman Nuxoll said that there was time for one more pending rule before the scheduled presentation, and that Casey Moyer of the Department of Health and Welfare would need to return another time to talk to the Committee about his pending rule.

DOCKET NO. 16-0733-1301

Rules relating to Criminal Background Checks - Adult Mental Health Services (Pending): Treena Clark, Program Specialist for the Department of Health and Welfare, stated that the Committee just heard Ms. Andueza present on proposed rule changes to the criminal history background check requirements for Substance Use Disorder treatment and recovery support service providers. The docket Ms. Clark is presenting today proposes to make those same changes to the criminal history background check requirements in Adult Mental Health Services. Chapter 16.07.33 defines the scope of voluntary adult mental health services administered under the Department's Division of Behavioral Health. The pending rule in **Docket No. 16-0733-1301** allows for individuals working with clients accessing adult mental health services through the Department to apply for a waiver using the same process described by Ms. Andueza. The purpose of the proposed rule change is to remove the barrier to employing individuals as peer specialists to provide services to adults accessing mental health services through the Department.

Senator Hagedorn commented that there are a number of veterans who are returning home after enduring things they did not choose to see, and they sometimes suffer from post traumatic stress syndrome, among other things. When they transition themselves, sometimes they get into trouble. He furthered that there has been much success in getting those veterans out of trouble. Those veterans, in return, help other veterans that are coming home. We have veterans who are graduating with degrees in social work that want to come back and help returning veterans. This waiver process allows them to do that, and **Senator Lakey** voiced his appreciation.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Martin**, to adopt **Docket No. 16-0733-1301**. The motion was carried by **voice vote**; **Senator Lakey** voted nay.

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel back to Chairman Heider.

PRESENTATION: **Kendra Witt-Doyle**, PhD, MPH, Blue Cross Foundation Manager, presented a PowerPoint presentation entitled "High Five Children's Health Collaborative" to the Committee regarding childhood obesity. The Blue Cross of Idaho recently launched the High Five initiative to address childhood obesity. Obesity is a serious health problem that is greatly impacting the U.S. One hundred ninety billion dollars are spent annually in health care related to obesity; 27 percent of 18-24 year old people are too overweight to enlist in the military; and this generation of children is projected to have shorter life expectancies than their parents. Obesity now rivals tobacco use as the leading cause of morbidity and mortality. In 1985 in Idaho, less than 10 percent of the adult population was obese, which jumped to 25 to 30 percent of Idaho adults who were obese in 2011. In Idaho, one out of three children are obese. She advised the committee that High Five was developed to teach children healthier habits that will follow them into adulthood.

Ms. Witt-Doyle continued that there are five proven strategies to fight childhood obesity:

- Improved access to healthy and affordable foods;
- Increased physical activity;
- Healthier schools and childhood facilities;
- Education to help parents make healthier choices; and
- Promotion of public policies that fight the causes of obesity.

She informed the Committee that policy-makers, elected officials and opinion leaders are all discussing childhood obesity and solutions. Communities are bringing awareness and support for solutions; health care is coordinating, supporting and facilitating joint action; individual families are receiving education and instilling personal responsibility; and partnerships are attracting investments from foundations in and outside of Idaho, corporate involvement and sponsorships, public/private partnerships and government resources.

Ms. Witt-Doyle informed the Committee that 13cities initially applied for the grant, and 4 cities were awarded, totaling $750,000: Nampa, Kuna, Middleton and Lapwai. Three cities were awarded an Ambassador Grant of $30,000 over the next 2years to help them expand: Pocatello, Moscow and Meridian. The "Daily Do" is a fun program, and sends parents a daily email, which contains healthy recipes, nutrition tips, physical activity tips and events. They can text "High5" on their phone or sign up for email to receive the tips.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 4).

Vice Chairman Nuxoll asked where the funding comes from for this program. **Ms. Witt-Dolye** replied that the funding is coming from the Blue Cross of Idaho Foundation at this time.

Vice Chairman Nuxoll was interested to know what High Five would be doing in Lapwai. **Ms. Witt-Doyle** informed the Committee that a decision in the action planning will take place February 4th and 5th. There are key themes that are occurring throughout the cities, such as how to get children who are spending too much time indoors to be physically active outdoors. In Lapwai, there is a plan to build a new playground.

Senator Martin asked for the definition of obesity. **Ms. Witt-Doyle** responded that for adults, it is having a Body Mass Index (BMI) over 30, and for children, it is being in the 95th percentile. Children and adults are measured differently: children are on the percentile curve compared to other children, and for adults, it is a ratio of height to weight. According to Idaho physicians, there are a number children that are now in the 99th percentile or off the chart altogether.

Vice Chairman Nuxoll asked if High Five worked on an education program regarding diet. **Ms. Witt-Doyle** responded that there is one program that has had great success, which is the Idaho Food Bank's Cooking Matters program. It teaches individuals how to cook and shop on a budget. It shows how to incorporate fruits, vegetables and lean protein into a limited budget. It also gives parents the skills and resources to help make decisions for their family.

Chairman Heider thanked Kendra Witt-Doyle for her informative presentation. He then reminded the Committee that there will not be a meeting tomorrow because of Senator Lodge's meeting, and that the next meeting will be on Monday.

ADJOURNED: There being no further business at this time, **Chairman Heider** adjourned the meeting at 4:22 p.m.

Senator Heider Chair	Linda Hamlet Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, January 20, 2014

SUBJECT	DESCRIPTION	PRESENTER
27-0101-1207	Rules of the Board of Pharmacy (Pending Rule)	Mark Johnston, R.Ph., Executive Director, Board of Pharmacy
27-0101-1301	Rules of the Board of Pharmacy (Pending Rule)	Mark Johnston
27-0101-1302	Rules of the Board of Pharmacy (Pending Rule)	Mark Johnston
16-0730-1301	Behavioral Health Community Crisis Centers (New Chapter) (Pending Rule)	Casey Moyer, Dept. of Health and Welfare
RS22485	Child Protective Act	Senator Guthrie
RS22405	Emergency Medical Services	Wayne Denny, Bureau Chief, Dept. of Health and Welfare
RS22423	Personnel System	Ross Edmunds, Administrator, Dept. of Health and Welfare
RS22558	Behavioral Health Services	Ross Edmunds
RS22373	Dental Practice	Susan Miller, Executive Director, State Board of Dentistry
RS22430	Housekeeping	Susan Miller
S 1201	Motor Vehicle Registration	Chairman Heider

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Monday, January 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** convened the meeting at 2:59 p.m. welcoming all in attendance and introduced some of the agenda for the meeting which included continuing rule review.
PASSED THE GAVEL:	Chairman Heider passed the gavel to Vice Chairman Nuxoll.
Docket No. 27-0101-1207	**Rules of the Board of Pharmacy (Pending): Mark Johnston**, Executive Director, Idaho Board of Pharmacy, noted that he is an adjunct professor at Idaho State University teaching pharmacy law and is giving extra credit to any of the students in attendance at the Committee meeting today. There are several changes made to this docket that were made to be in harmony with Idaho Code and/or federal law. Since the changes are already mandated in statute, the changes are considered non-substantive or merely housekeeping. The changes can be broken down to two topics which are Continuing Pharmacy Education (CPE) and pharmacy security. As far as CPE, **Mr. Johnston** noted that there is a movement to require that all CPE courses be nationally certified through the Accreditation Council for Pharmacy Education, which is recognized by the federal Department of Education as the sole entity in this category. There are also pending rules addressing the ability for a pharmacy to designate a secured delivery area, where filled prescriptions may be left for pick up after the pharmacy is closed (closed door) for subsequent delivery by a third party to a place like a nursing home or assisted living facility. Also there are changes to clarify the structural security requirements that must apply to all pharmacies and not just those held within larger retail stores. 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** inquired how many closed-door pharmacies there were in the State. **Mr. Johnston** answered that there were approximately 60 in the State and not all would choose to participate in this program. **Senator Lakey** asked as far as the CPE program changes were concerned, if those changes cover both the program provider who wants to put on a CPE class as well as an individual who has attended the class. **Mr. Johnston** responded that the requirement is that the speaker, who is sometimes hired by a group such as a hospital or association, or the entity hiring the speaker can apply to be accredited. What they've been accepting in the past are after-the-fact attendees who have submitted to have credit for a class, yet have no paperwork to prove attendance,

and the board has no presentation or credentials of the speaker. When compared to the national standards this scenario is way out of bounds, so the idea is to create more structure. **Senator Lakey** wanted to confirm that the board is in fact ruling out or against after-the-fact applicants even if they have all of the necessary paperwork for class credit. **Mr. Johnston** confirmed that is correct, especially in comparison to the national standard where it takes about six months to get a CPE class approved at the federal level, (so not fly by night speeches) and have a lot of prior organization involved with plenty of notice given. The State is much more liberal only requiring twenty-one days notice, but still would not allow an after-the-fact application for credit.

Senator Hagedorn had a question on the structural security requirements since there's confusion over the paragraph that notes "all pharmacies must meet the following security requirements...". He was wondering why we did not line out the first part of the paragraph that states, "pharmacies that are located within an establishment." **Mr. Johnston** stated that it is a requirement for pharmacies that are in stores that are not open at differential hours; the pharmacy can be open as long as when the store itself closes the pharmacy will also be closed. These specific structural requirements would apply to the larger store if the pharmacy is still open when the larger store is closed. **Senator Hagedorn** commented that what has been added, "all pharmacies must meet the following security requirements" seems to confuse the matter. Do we have one set of rules for all pharmacies and then an additional set for pharmacies within a larger establishment? **Mr. Johnston** noted that he can understand the confusion, but the problem can be addressed by saying that there are pharmacies that are chiefly independent where the pharmacy box is within another establishment that is not huge like a Wal-Mart. Those are the stores that are the main concern since they seem to have had a history of the most breaches and break-ins. Pharmacies that are located in larger stores with differential hours already seem to have these security parameters in place.

Senator Martin referred to the same section regarding structural security requirements noting the need for solid core or metal doors for new or remodeled pharmacies after the effective date of this rule. If there's an existing pharmacy that is neither new or remodeled what exactly is the requirement for the doors or is there one. **Mr. Johnston** responded that the door requirement was added after the original rule a couple of years ago due to several robberies. So they put the new door parameter in, but the intent is not to require a remodel, but to grandfather existing sites in until they are remodeled and then the door requirement would be in effect. The door requirement should not be an issue with the language change since it has been a part of the rule for some time.

Senator Guthrie asked if a change in CPE hours was mandated and not an option. If it is an option, why are we taking more discretion away from the state level and ceding it to the federal? **Mr. Johnston** replied that there isa movement by the federal Department of Education to try to eliminate boards of pharmacy from approving their own CPE courses. There is concern on the federal level that the board is circumventing a national standard by approving CPEs in the manner that they have been doing it to this point. There's so much CPE available now, especially with the internet, that one could easily complete all of their 15 CPE hours with the internet, including the live requirement, in a day. There's no reason for the board to approve half the CPE that a person might take.

Vice Chairman Nuxoll wanted to know the difference between the pharmacy and the other similar groups, where you cannot make the rules as restrictive as the federal law. **Mr. Johnston** answered that this is not a law. He then noted that the Accreditation Council for Pharmacy Education (ACPE) sets the standard for the

federal CPE requirements and is recognized as the sole entity to do that by the federal Department of Education, so it is not a law, but a practice standard. **Vice Chairman Nuxoll** confirmed that is just a recommendation and **Mr. Johnston** stated that was correct.

MOTION: **Senator Hagedorn** moved to adopt **Docket No. 27-0101-1207**. **Senator Lodge** seconded the motion. **Senator Hagedorn** made the recommendation, with the agreement from the Committee, that Mr. Johnston and the board would take a look at the confusion he had addressed earlier and **Mr. Johnston** agreed they would. The motion carried by **voice vote**.

Docket No. 27-0101-1301 **Rules of the Board of Pharmacy (Pending): Chairman Heider** stated Mr. Johnston has been made aware that this rule should've been handled by a Senate Concurrent Resolution. Therefore he requests the Committee to reject this rule so Mr. Johnston can draft a Senate Concurrent Resolution with the help of the Legislative Services Office (LSO).

Senator Bock requested information to explain Chairman Heider's request and the reason behind it for clarification.

Chairman Heider responded that Mr. Johnston had brought the information before the Committee that was incorrectly presented and it should be in the form of a Concurrent Resolution, and the LSO has agreed to change this from a docket number to a Concurrent Resolution. So the Committee will ultimately hear it again but it will be in the form of a Concurrent Resolution.

MOTION: **Chairman Heider** moved that the Committee reject **Docket No. 27-0101-1301** and have it drafted as a Concurrent Resolution. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

Docket No. 27-0101-1302 **Rules of the Board of Pharmacy (Pending): Mr. Johnston** stated that this rule change has been requested by the public. Passports are not necessarily required anymore between Canada and the United States. Many of the Canadian provinces belong to the Western Hemisphere Travel Initiative (WHTI) along with the United States. What is needed to go either from the US to Canada or vice versa is an enhanced driver's license or a Nexus Air Card, depending on their mode of travel as issued by the WHTI. In order to obtain a controlled substance from a pharmacy in Idaho, the pharmacy needs to obtain positive identification from the person picking up the prescription. Many of the travelers coming to Idaho who happen to be injured and need to pick up a prescription while they are here do not have a passport or other recognized form of identification as the rule currently stands. This would update the rule to allow the pharmacies to accept these enhanced driver's licenses or Nexus Air Cards as approved forms of identification.

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

Senator Hagedorn asked a clarifying question regarding the rule where it states "a valid passport" and then it also states "and a US passport card or pass card." There is a concern the "and" should be perhaps an "or" with the changes just addressed. **Mr. Johnston** reviewed the acceptable forms of ID listed in the rule and also questioned the "and" versus "or". **Senator Hagedorn** continued with examples earlier in the rule and called on the lawyers on the Committee to address the concern.**Senator Lakey** declared that the use of the word "and" in this case is appropriate since it lists all acceptable forms of identification included and then lists them out. This issue came up in another Committee and the LSO has confirmed that the use of the word "and" with a semicolon, going from one to another, is

approved, since it incorporates all the others above it. So it's the semicolon that solves the issue.

MOTION: **Senator Schmidt** moved to approve **Docket No. 27-0101-1302**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

Docket No. 16-0730-1301

Behavioral Health Community Crisis Centers (New Chapter - pending): Casey Moyer, Program Manager with the Division of Behavioral Health, Department of Health and Welfare, began his presentation by stating that an individual in Idaho who experiences a crisis as a result of a mental illness or substance use disorder is often first in contact with law enforcement. There are essentially two options currently available to law enforcement - jail or the local emergency room – both of which can take a significant amount of the officer's time and bear a heavy financial cost to our counties. With the creation and availability of behavioral health crisis centers it is the goal to add a third option – a voluntary facility available to all citizens. An officer would have the ability to use his or her judgment to determine if giving that individual in crisis an option is appropriate.

Mr. Moyer defined the role and purpose of the crisis centers that would be set up in Idaho by saying they will be 100 percent voluntary, meaning no individual can be forced to enter or remain at the center. This choice and preference is a key component of successful engagement. They are open 24 hours a day, 7 days a week, 365 out of the year, and staffed with nurses, clinicians and certified peers, composing a fully licensed or certified service staff. A single episode of care at the center can last up to 23 hours and 59 minutes then the client must be discharged. There is no limit on the number of consecutive admissions into the center, however each time an individual enters the center there is an individual treatment plan they participate in preparing and executing. If the individual is making progress and accessing the resources in the treatment plan, the center remains eligible to help. While crisis centers will serve as an alternative resource for law enforcement, citizens may also access the centers on their own volition. Adoption of this docket will serve to set the stage for an improved behavioral health system and will not cost anything; a separate funding request is being made through the Joint Finance-Appropriations Committee (JFAC).

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

The Committee members exchanged comments with **Mr. Moyer** as well as **Ross Edumunds**, Administrator for the Division of Behavioral Health, Department of Health and Welfare. The ultimate concern voiced by the Committee - although they are in favor of the program, see its value to communities and appreciated the work done with this rule thus far, is that the funding has not been approved through JFAC at this point. Both **Mr. Moyer** and **Mr. Edmunds** confirmed that the program could go forward without funding approval through private donations and grants. The Committee thanked the presenters, noted that they needed to do things in the correct order, and asked them if they could visit this rule again once they know the direction of the JFAC as far as funding approval.

MOTION **Senator Bock** moved for the Committee to defer consideration of **Docket No. 16-0730-1301** to a date certain after JFAC approval. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel to Chairman Heider. **Chairman Heider** stated to the Committee that he will coordinate with the Co-Chairs of JFAC to see where they are at as far as the previous docket is concerned and also bring it before leadership to get their suggestions on what to do and where to go with it. The Committee will take another look at the rules if JFAC is ready to move forward with it at that time.

RS 22485 **Child Protective Act: Senator Guthrie,** stated that the intent of this RS is to amend Idaho Code §§ 16-1602, 16-1617, and 16-1618. He went through some of the proposed changes outlining the definition and purpose of Child Advocacy Centers (CAC). Funding is always a concern when it appears we are adding something new to code. **Senator Guthrie** noted that the funding for this will not be through the State. He then proceeded to define what a CAC actually is, giving the alarming statistic that 1 in 4 girls and 1 in 6 boys are sexually abused before the age of 18. The CACs will provide a setting more friendly and home-like for the abused children. Within the CAC will be rooms set up with a one-way mirror where an official can watch while an interviewer conducts the exchange with the child in a child-friendly environment. This way the required interviews, necessary examinations, and post-interview counseling can be done at these friendly places instead of a more official and somewhat sterile setting such as a police station or hospital in an effort to help the child feel more at ease. It helps to get credible testimony from the child for when the case goes to court to provide the best legal outcome for the child. More importantly, it helps children deal with very traumatic experiences since they will do follow-up counseling to help the children through the ordeal.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 4).

Senator Bock voiced support for the RS but was curious about where it was coming from and the involvement of the Department of Health and Welfare and other authorities across the State. **Senator Guthrie** responded by saying he was confident that when the time came for the hearing, if the Committee voted to print the RS, the interested parties, including Health and Welfare, would be represented.

Vice Chairman Nuxoll asked if these are certain places and where are these CACs being done. **Senator Guthrie** answered that they are not everywhere in the State at this time, they're in areas where the local community has gotten the idea to get them going. In Pocatello, for example, it is an actual house that was built for the specific purpose of a CAC, with office space for staff, and also rooms dedicated and decorated for the different age groups of children (up to teenagers) coming through to help them feel more relaxed and comfortable in the interview process. The actual CAC can be anything or any design, but the idea is to make it be simple and non-threatening to the child. **Vice Chairman Nuxoll** wanted to confirm that the CAC has to be separate from hospital or law enforcement facilities, as a stand-alone facility. **Senator Guthrie** stated that it depends on the area and what they decide to do since there are a variety of options available. **Chairman Heider** added that in Twin Falls there is a CAC that has a separate entrance but is also connected to the hospital so that when an examinations required, the doctors can access the CAC through an adjoining entrance. These centers can be set up any way the community wishes or decides.

Senator Martin commented that he had the opportunity to go to the St. Luke's facility here in Boise, and it's very well staffed and it is doing very well. He wanted to clarify, he is getting the impression that this is not mandatory but a recommended ideal situation. **Senator Guthrie** responded that there is no obligation anywhere in the State to create a CAC for their community, they can choose to have it or not, it's

not mandatory. It's simply to recognize by Code and in definition that the CACs are an integral component, play an important role and have been operating within the State for some time.

Senator Hagedorn wanted to stress that there is no question as to the importance of these centers, but wanted to understand the compelling need to recognize these particular non-profit centers when we don't recognize other such functions or organizations in statute. **Senator Guthrie** answered that the compelling need to recognize it in statute comes from the fact these people within the CAC have the training and expertise to perform the needed interviews and functions necessary for the best results, whereas law enforcement does not always have the required and effective training for such situations. The CACs just want to be recognized for their efforts and for the specialized work they do, and feel like they are part of the "team" for the role they play with the other members (law enforcement, legal, etc...).

MOTION: **Senator Bock** moved that the Committee send **RS 22485** to print. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.

RS 22405 **Emergency Medical Services (EMS): Wayne Denny**, Chief of the Bureau of Emergency Medical Services and Preparedness of the Division of Public Health in the Department of Health and Welfare. The RS before the Committee seeks to amend Idaho Code Title 56, Chapter 10. Title 56 charges the EMS Bureau with providing reasonable regulation of the delivery of emergency medical care in Idaho. EMS is one of several health care professions that are regulated in a similar manner. The Bureau's work is unique in that they have to maintain a balance between supporting and regulating the EMS system. This entails licensing EMS personnel and the organizations in which they work, so that they can meet the regulatory mandate before them. Title 56, Chapter 10 provides that practicing EMS or operating an EMS agency without an appropriate license is a misdemeanor.

The RS before the Committee, **Mr. Denny** stated, is the Bureau's attempt to remove the current system definition within the Code, and replace it with the definitions encompassing the "practice of EMS" (what a person does) as well as the "provision of EMS" (what an organization does). He wanted also to call attention to the ski patrollers specifically who, in cooperation with the National Ski Patrol (NSP), are one of a list of persons who are allowed to practice medicine and EMS in Idaho without a license.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 5).

Vice Chairman Nuxoll asked with the change to the definition of EMS, will that preclude a private individual helping at the scene of an accident if they are not EMS. **Mr. Denny** responded that the change to the definition of EMS would not prevent a non-EMS person from stopping to give assistance to another, the definition makes it specific for someone on a scene giving "advanced first aid", as well as defining that a person equipped to be EMS are those on an alerting or call-out type of system, similar to an ambulance or fire service. He also noted that the Bureau is well aware of the Idaho Good Samaritan Act and they made it a point to allude to that in the current language of the definition.

Senator Lakey wanted to confirm that the Bureau is removing the current definition of EMS to replace it with the "practice of" and "provision of." **Mr. Denny** said that was correct. **Senator Lakey** then advised that they might want to be careful since there are other places in the statute that use the definition of EMS that they are trying to change, so they might want to look at those areas as well. **Mr. Denny** commented that was a great point. This is all a process of evolution as they work

on this, and they are certainly looking at the future work that needs to be addressed with this issue.

MOTION: **Vice Chairman Nuxoll** moved that the Committee send **RS 22405** to print.**Senator Martin** seconded the motion. The motion carried by **voice vote**.

RS 22423 **Personnel System: Ross Edmunds**, Administrator for the Division of Behavioral Health, Department of Health and Welfare, began by saying that the state of Idaho has a very difficult time recruiting psychiatrists, or even mid-level practitioners, to work in the state psychiatric hospitals. Since he has been in his current position and even several years prior to that, they have never been fully staffed at the state hospitals. One of the challenges is that there is nothing to offer the psychiatrists, other than the salary, which is unlike other states who provide other benefits upon job acceptance including student loan repayment. Other states have found that this benefit has enhanced their opportunities to recruit psychiatrists to their institutions. He stated that they have exhausted all of their efforts nationally to find a way to institute the student loan repayment benefit for the psychiatrists. There are organizations that do student loan repayment for other types of categories, such as rural health providers, but they have found none that do it for state psychiatric hospitals.

Mr. Edmunds stated that with this RS, there is a pending budget request in this current session to establish a student loan repayment program. While getting the budget information together, they recognized there was no process in place. This RS establishes the needed process and is not contingent on the funding, but the funding would be contingent on this piece of statute. There are more details that he will get into once the Committee chooses to send it to print and there is a full hearing on the matter.

Vice Chairman Nuxoll stated that she is aware of the problem, and asked if the salaries for these individuals is not very good. **Mr. Edmunds** replied that their salaries really aren't that bad, the challenge is in looking at the competition the State has with other states who are providing perks and benefits above and beyond just a salary to recruit individuals to their state psychiatric hospitals. The hope is to offer student loan repayment, recruitment bonuses upon applicant acceptance, as well as increased budgeting to improve salaries. **Vice Chairman Nuxoll** asked if the state hospitals are focusing more on recruiting young doctors. **Mr. Edmunds** responded that due to their sometimes desperate need they would love young or old, and no matter the age, all are needing help in student loan repayment since it is such a heavy burden.

Senator Martin wanted to know if this type of thing (student loan repayment) is being done for other areas or agencies within the state government, or other vocations where it may be hard for the State to recruit for, such as teachers. **Mr. Edmunds** replied that he can't speak for other professions such as teachers, but he knows that it is a common practice within the healthcare fields using the national programs, but is not available for physicians at State hospitals.

Senator Lodge noted that she understands this is a problem, especially in the rural areas. **Senator Schmidt** commented that he will certainly have questions on this as it moves through the system. **Senator Guthrie** also noted that when Mr. Edmunds comes back before the Committee he would like clarification on the number of hours required in order to qualify for the student loan repayment after the first year of their employment. **Mr. Edmunds** confirmed that he will address this when he returns, but it is after a full year of service and then again with any subsequent years of employed service to qualify for the loan repayment program.

MOTION: **Senator Lodge** moved that the Committee send **RS 22423** to print. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

RS 22558 **Behavioral Health Services: Mr. Edmunds** directed the Committee members to the handout he gave them which gives a brief synopsis of the RS, which will look familiar since the Committee had passed a version of it last session. The RS aims to establish in Idaho Code Title 39, Chapter 31, some modifications to increase local participation and decision making in the behavioral health system, and to take a step toward integration of the various elements within the system. The House Health and Welfare Committee ran out of time last session before it was able to be passed. Since last session he has been able to meet with those who had voiced concern over the legislation, gotten their input and has brought the revised version before the Committee today.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 6).

Senator Bock asked to be reminded of the history of the RS from last session and also what modifications, if any, have been made. **Mr. Edmunds** remarked that the legislation last session passed the Senate but was stopped when it was sent to the House where it not only encountered opposition but delay in getting on the calendar for approval. The decision in the House was to delay it for a year to work on any opposition and iron out any other details. He also noted that there have not been a lot of changes, but those made have been important, namely several rounds of edits, as well as the development of a new Committee recommended by the supreme court that would have a collaborative approach providing input to the system.

Senator Lakey stated that he appreciated the local approach, but wanted to confirm that the amendments that were made on the floor to the legislation had been incorporated into what is before the Committee now. **Mr. Edmunds** confirmed that the version they started with this session was the one that was approved of on the Senate floor last year.

MOTION: **Senator Lakey** moved that the Committee send **RS 22558** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 22373 **Dental Practice: Susan Miller**, Executive Director, Idaho State Board of Dentistry (Board) stated that the purpose of the RS is to add a requirement that a licensee must notify the Board of any felony or misdemeanor conviction within 30 days of the conviction. Currently, there is no requirement for a licensee to report such information other than on an initial application, or a biennial renewal application.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 7).

Senator Martin wanted to know what falls under a "misdemeanor". **Ms. Miller** responded that the Board has the authority to potentially take disciplinary action for misdemeanor crimes involving "moral turpitude."

Senator Bock voiced a concern with the RS, since the existing language references "moral turpitude" as being a factor in determining whether or not there will be some kind of disciplinary proceedings or action taken, yet further down that term is left out. There are so many things that can be listed or considered a misdemeanor that seem too insignificant to be reported to the Board of Dentistry. He wanted to know if the Board has considered the inconsistent language. He would not favor the printing as it stands now. **Ms. Miller** stated that the inconsistent language was a concern and had been discussed, but the change would allow the Board, not the

licensee, to make the determination as to whether or not the reported misdemeanor falls under "moral turpitude" definition.

Senator Lodge voiced a similar concern as Senator Bock and requested a definition of "moral turpitude" since this issue has come up in another Committee and she wanted to be more certain about it and know who would determine it. **Ms. Miller** requested to be allowed to defer to counsel that was present and it was granted. **Michael Kane**, Attorney, representing the Idaho State Board of Dentistry answered that the term, "misdemeanors of moral turpitude" were included by the Legislature about 30 years ago, so it's not being added to the Code, but already exists. The definition they are going by, has been defined by the supreme court which states that it is an intentional misconduct and crime of specific intent. The problem the Board is having is that they are not informed at all when an individual has been convicted of a crime whether it's a felony or misdemeanor. If they do find out, it has been by accident. The decision is at the discretion of the Board, depending on what the facts are, to take action against an individual or not. The Board is merely seeking for practitioners to tell them up front, so they do not find out after the fact or by accident

Senator Hagedorn wanted to know what ramifications, if any, there might be if the licensee does not follow the mandated changes. **Mr. Kane** answered that there already exists language in the Code stating that if someone willfully and deliberately violates the rules, it can be grounds for discipline. He can see no reason why it would be any different with the new changes, again, depending on the circumstances, perhaps some minor discipline could be in order..

Senator Schmidt wanted to clarify that, in his understanding, every time a practitioner renews their license, they would be asked the question regarding a crime or misdemeanor. An incident could happen shortly after renewal and then they wouldn't have a chance to disclose it for another two years and so much time would have elapsed in between, and he just wanted to confirm that this is the problem they are trying to address. **Mr. Kane** stated that was correct, and gave examples of some of the cases where they did not find out about the incidents for a period as long as 18 months.

Senator Lakey mentioned that though he is in support of the RS, he does ultimately want to hear what the practitioners have to say about this. **Senator Bock** also confirmed that after hearing more information he is more in line to support the RS.

MOTION: **Senator Lakey** moved that the Committee send **RS 22373** to print. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

RS 22430 **Housekeeping: Ms. Miller** stated that with this RS, the Board proposes to amend several sections of Idaho Code. The Board undertook the task of reviewing the entire dental practice act to assure the statutes reflect current licensing and practice standards for dental professionals, and to address other areas in the Code that needed clarification. Amendments to §§ 54-912, 54-915, 54-916A, 54-916B, 54-920 and 54-924 are housekeeping in nature. There are three other sections that have more substantive changes to them, §§ 54-902, 54-911 and 54-918. Within § 54-902, regarding dental hygienists, the change does not alter their scope of practice, but merely updates the definition of what the do. For § 54-911 she explained that currently the Board allows for one non-member (dentist) to assist in forming a quorum of the Board, if needed, but the change is to now allow for two to provide more balance. Within § 54-918 which addresses examinations and certificates of qualifications, provides that an examination can be administered by a member of the Board or agent of the Board. This is currently in rule, but not in statute.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 8).

Senator Hagedorn asked if there was a methodology for say a hygienist who is coming home from the military and had been working overseas. Where do they get their licensing from. **Ms. Miller** responded that if a licensee has been practicing while in the military, they have a license in a state. So, with that, they would qualify for licensure under that section of the Code. **Senator Hagedorn** requested that Ms. Miller look into this further, since he feels that if they have been practicing overseas, they may not have a license within a given state here. His concern is that once they get home, we can be able to help them get to work with little problems.

MOTION: **Senator Martin** moved that the Committee send **RS 22430** to print. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Heider passed the gavel to Vice Chairman Nuxoll

S 1201 **Chairman Heider** reminded the Committee of the one change that was made to this piece of legislation in removing the option of the $2 donation at the time of motor vehicle registration to go toward the organ donation fund since the Department is unable to do that at this time. That information has been struck and he is ready to present **S 1201** before the Committee and on the floor of the Senate.

MOTION: **Senator Bock** motioned to send **S 1201** to the floor of the Senate with a do-pass recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**. **Chairman Heider** will carry it to the floor.

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel back to Chairman Heider.

ADJOURNED: **Chairman Heider** thanked the Committee and presenters for their time, attendance and efforts. There being no further business to come before the Committee, **Chairman Heider** adjourned the meeting at 4:57 p.m.

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Senator Heider
Chair

_____

Linda Hamlet
Secretary

_____

Linda Harrison
Assistant Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, January 21, 2014

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION:	Overview of the Practice of Midwifery	Barb Rawlings, State Board of Midwifery; Kris Ellis, Idaho Midwifery Council
RS22526	A Joint Memorial: Idaho's Role in the Production and Life Cycle of Pacific salmon	Chairman Heider
16-0309-1302	Medicaid Basic Plan Benefits - Aligned Rules with Federal Regulations Regarding Medicaid Provider Screening and Enrollment (Pending Rule)	Matt Wimmer Bureau Chief, Dept. of Health and Welfare
16-0309-1303	Medicaid Basic Plan Benefits - Aligned Rules with Federal Regulations for Tobacco Cessation Products for All Medicaid Eligible Participants (Pending Rule)	Matt Wimmer
16-0504-1301	Idaho Council on Domestic Violence and Victim Assistance Grant Funding (Pending Rule)	Anne Chatfield, Grants Contract Officer, DHW - Domestic Violence Council
23-0101-1301	Delegation Ability of Nurses (Pending Rule)	Sandra Evans, Executive Director, Idaho Board of Nursing
23-0101-1302	Nurse Multistate Licensing Compact (Pending Rule)	Sandra Evans
16-0501-1301	HIPAA Privacy (Pending Rule)	Heidi Graham, Civil Rights Manager, Privacy Officer

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, January 21, 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: Chairman Heider, beginning of meeting

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 3:00. She then introduced the first agenda item, Overview of the Practice of Midwifery, and invited Kris Ellis to make her presentation.

PRESENTATION: **Overview of the Practice of Midwifery: Kris Ellis,** Idaho Midwifery Council, stated that the midwife law was passed in 2009 and is scheduled to sunset this year. She then presented points regarding the current status of midwifery in Idaho as follows.

Licensed Midwives in Idaho are Certified Professional Midwives (CPM's) who are nationally credentialed midwives that provide primary maternity care. They are trained to provide health-promoting and preventative care that is evidence-based, incorporates best practices and avoids the overuse of drugs and interventions. CPM's are the only maternity care providers specifically trained to attend out of hospital births and they meet the national standards of NARM, the North American Registry of Midwives.

The Certified Professional Midwife credential was established in 1994 and is accredited by the National Commission for Certifying Agencies. This is the same agency that accredits Certified Nurse Midwives. CPM's are trained in a variety of settings under the supervision of qualified instructors. The training may occur in a classroom, private practice or clinical setting but must include a minimum number of types of clinical experiences, including out of hospital births. Didactic knowledge and clinical skills are evaluated by qualified instructors. The education process generally takes three to five years to complete. All CPM's must meet the same requirements, and all must pass the national exam, which includes a hands-on skills assessment and an eight-hour written test

Certified Professional Midwives provide thorough care throughout the prenatal, delivery and postpartum stages of pregnancy for childbearing women who are healthy and experiencing a normal pregnancy. Care given includes monitoring the physical, psychological and social well being of the mother, as well as providing the mother with individualized education and counseling that emphasizes health promotion and the prevention of pregnancy problems, leading to healthy outcomes. The midwifery model of care views pregnancy and birth as a normal, healthy process and treats it as such, rather than as a disease, illness, or medical event. Midwives are experts in normal birth. However, they are also trained to recognize early warning signs of complications and refer to other health care specialists appropriately. Midwives provide hands on assistance during labor and delivery and postpartum support. Care also includes identifying when a mother is not a candidate for midwifery care, or is prevented from receiving midwifery care, and referring them to an obstetrician.

Midwife attended births have excellent outcomes and cost much less than hospital deliveries, which account for $86 billion a year in U.S. health care costs. Mothers who choose a midwife have fewer babies born prematurely, fewer babies with low-birth weight, and fewer babies exhibiting the effects of overused medical interventions such as inductions and c-sections that lead to costly stays in Neo-natal intensive care units.

Thirty states currently license or otherwise allow for midwives to practice. Alabama, Michigan and Massachusetts are considering licensure this year. Maryland is looking to license as a pilot project Delaware is considering amendments as only one person has licensed under their current law. Idaho is second in the country for births in a birth center per capita, and is tenth in the country for number of out of hospital births per capita Boise was recently ranked as a top city to have a baby, because of the NICU units at St. Luke's and St. Alphonsus, as well as the high number of midwives and birth coaches that give mothers options in delivery settings

Regarding licensure, before licensure there was not a standard for education or practice guidelines. Communication between medical professionals and midwives was poor in most of the State. Some midwives were not allowed in hospitals with the mothers they brought in. Some midwives were using medications allowed in our current law but that were not allowed at that time including life saving medications that allowed midwives to stop hemorrhaging. Midwives in Idaho were arrested for practicing medicine without a license in those rare instances when a mother was transported to a hospital. Now, after licensure, there is standardized education and protocol for midwives. Communication between midwives and other medical professionals is vastly improved in most areas of the State. Midwives are allowed to carry and administer life saving medications when necessary.

There is a general consensus of the medical community that licensure of midwives has been a good thing. It has provided safety to midwives who are now allowed to practice without the fear of prosecution. It has improved public safety, it has improved coordinated care for those choosing a midwife, and there is the Board of Midwifery to address concerns and complaints from the public.

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

Ms. Ellis then turned the podium over to Barb Rawlings.

Barbara Rawlings, the chair of the Board of Midwifery, is a licensed midwife who has been practicing in Idaho for 38 years. In 2009 the Legislature passed H 185 which established the Board of Midwifery and has a provision that states, "The Board of Midwifery shall report on the status of the Board and the practice of licensed midwifery to the legislature in 2014." Now, five years later, she came to provide that report.

Ms. Rawlings reports that the Board is made up of five members appointed by the Governor. The members are:

- Barbara Rawlings, Chair, Licensed Midwife, Bonners Ferry
- Cathy Ward, Licensed Midwife, Kooskia
- Clarence William Blea M.D., Maternal/Fetal Medicine Specialist, Boise
- Kyndal May Verveckken, Public Member, Eagle
- Paula Wiens, Licensed Midwife, Boise

The Board is charged with public protection and they work toward that charge by ensuring that applicants meet all required qualifications prior to issuing a license, and by responding to all complaints filed regarding licensees.

The first midwife license was issued in May 2010 and in that year there were 29 licenses issued. In 2011 there were 32 licensees; in both 2012 and 2013, there were 35 licensees; and thus far in fiscal year (FY) 2014, there are 39 licensees, a 30 percent increase. The Board members believe the numbers will grow because Idaho's law is a good law. Students are staying in or coming to Idaho because they recognize that we have a strong law.

Ms. Rawlings shared information from data collected when midwives reapply for a license. The following statistics are from 2012 (January through December) and are from 25 licensed midwife practices:

- 551 births attended
- 182 of those were first babies.
- Average maternal age: 29.6
- Average birth weight: 8 pounds
- 46 women were transferred to hospitals during labor. The transfers were either in accordance with law or to maintain a standard of care.
- 28 had a cesarean section (c-section), a 5 percent c-section rate.
- 5 women transferred after the birth.
- 31 successful vaginal births after a previous c-section (VBAC), and 5 repeat c-sections from women who had attempted to have a VBAC.
- 7 newborn transfers
- 0 newborn or maternal deaths

To carry out the charge of public protection, they carry out investigations on all complaints received by the Board. Since the creation of the Board, they have received the following number of complaints, 28 total:

- FY 2010: 1
- FY 2011: 6
- FY 2012: 16
- FY 2013: 3
- FY 2014: 2 (just received)

Of those 28 complaints:

- 25 were against 9 licensed midwives.
- 15 of those 25 were against 2 midwives.
- 3 were for midwives not licensed in the State.

Resolution of the complaints is as follows:

- 19 of the 28 complaints resulted in disciplinary action including further education, updating documents, suspension (1) and revocation (2).
- 7 were closed without any disciplinary action as the investigation did not show any violations of the Board's rules or laws, or they did not fall under the Board's jurisdiction.
- 2 are newly under investigation.

Ms. Rawlings identified the origin of the complaints:

- 14 from medical personnel;
- 9 from clients;
- 2 from law enforcement; and
- 3 from information coming from the public regarding the unlicensed midwives.

Ms. Rawlings stated that some of these cases were very costly to investigate. Three went to hearing. As a result the Board's 2010 cash balance of $6,441 dropped to a negative cash balance of $79,908 at the end of FY 2013. She stated that it is not unusual for new licensing boards to have complaints and then have the number drop off, and that is what they are seeing. Most of these costs came from the cases involving the three midwives who went to hearings. None of those midwives are practicing. By December 31, 2013, the total had been reduced to $72,363 as a result of fewer complaints, fewer investigations, and more licensees. As they are a self-governing agency, they receive no general fund money and they operate on dedicated funds primarily from licensing and renewal fees. They also make every attempt to recoup costs of investigations.

In order to carry out the charge of public protection the Board has submitted a proposed licensing fee increase for the Legislature's consideration.

In summary, **Ms. Rawlings** emphasized that the Board has worked effectively with all interested parties, including the Boards of Pharmacy and Medicine as well as the Idaho Midwifery Council and the Idaho Medical Association, and continue to do so. We were faced with difficult cases in our formative years; we have gained skills and knowledge along the way, remaining a cohesive, dedicated group. All involved feel that this licensing law has made a difference in public safety, improving midwifery practice by requiring standards and accountability. She expressed that it is an honor to serve the citizens of Idaho in this way.

DISCUSSION: **Senator Hieder** stated that this is an information hearing and the legislation is being started in the House.

Senator Martin referred to the $72,000 and asked how many members were in Ms. Rawlings' group so they could diminish that amount.

Ms. Rawlings responded that they currently have 39 licensed midwives, and that is continuing to grow. We have asked for a fee increase hoping to bring that down.

Senator Hagedorn congratulated Ms. Rawlings on their five-year anniversary. He understands what they have been through in the last five year, but asked what they wrestle with today. What is an impediment to growing your organization or providing a better service that we might see later and with which we may have to take action?

Ms. Rawlings stated that midwifery is growing. There are more women interested in births outside the hospital. In terms of midwifery their practice is pretty solid, and she does not see many things on the horizon. Licensing birth centers or having birth centers that are accredited so they could receive funding and be paid a facility fee, currently not happening, might be pending.

Senator Schmidt commented that while he wasn't here when the law was passed, he remembers that the discussion revolved around the unlicensed midwives, which aren't part of your organization. He reminded Ms Rawlings that she had said that in the complaint process there was reference to them, and that the Board just doesn't deal with that. He asked if there was some way to know if the function of unlicensed midwives has diminished or if there is a way to count that.

Ms. Rawlings replied that the Board tries to know who is out there. The complaints they had early on about unlicensed midwives included one who was working toward becoming licensed, and subsequently became licensed, and the other two practice in bordering states and live in Idaho. Those two have received information that they cannot advertise and practice as licensed midwifes in Idaho, and they have agreed to that. She then stated that it seems the number has decreased to zero, or people are keeping it hidden because they are not seeing or hearing about midwives who are not licensed. She went on to remind the Committee that when the Board was first here they were looking for a voluntary licensing bill which would allow unlicensed practice. They did not get the voluntary licensing, but did get a mandatory license. People are well-aware of that in Idaho.

Chairman Heider and Senator Lodge both thanked Ms. Rawlings and Ms. Ellis for their presentations.

DOCKET NO. 16-0309-1302

Medicaid Basic Plan Benefits - Aligned Rules with Federal Regulations for Tobacco Cessation Products for All Medicaid Eligible Participants (Pending Rule): Matt Wimmer, Bureau Chief for medical care, Division of Medicaid, Department of Health and Welfare, asked the Committee to adopt the rule in **Docket No. 16-0309-1302**. According to **Mr. Wimmer** , these rule changes will increase the ability to manage Medicaid providers who do not meet enrollment requirements and to comply with recent changes to federal regulations.

Mr. Wimmer identified several changes in this docket including requiring verification of information, and requiring some Medicaid providers to meet the same site visit requirements as Medicare providers. We have chosen to implement this requirement by using the existing Medicare infrastructure, an approach which minimizes the administrative burden for the provider. Other states have chosen to administer this requirement through their own Medicaid program and have incurred significant costs and administrative burden.

Another change requires that providers prescribing drugs or services covered by Medicaid be enrolled in the program. This prevents providers not meeting Medicaid credentialing requirements, such as those with a history of fraud, from continuing to order services for Medicaid participants.

Other changes in the docket clarify procedures for managing, denying and terminating providers who do not meet Medicaid enrollment requirements, and it clarifies these rules to conform with or refer to relevant federal requirements.

The Department asks that the Committee adopt the rule in this docket.

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

Vice Chairman Nuxoll read from page 263, "The Department will not reimburse providers when participants do not attend scheduled appointments. Providers may not bill participants for missed appointments." She asked if the participant does not show up does the provider have to stand the cost of them not showing up.

Mr. Wimmer answered that her interpretation was correct.

Vice Chairman Nuxoll than asked if that was a federal requirement.

Mr. Wimmer replied that it is a federal requirement.

Senator Hagedorn referred to page 264 and the references to 42 CFR and asked who, from Mr. Wimmer's department, is monitoring this CFR to see what changes listed in the Federal Registry might be happening that will affect both the citizens and the providers. Senator Hagedorn has great concerns that the CFR is being changed daily, and when we reference the CFR, and not the specifics in the CFR, misunderstandings can occur. He stated that when we approve a rule the CFR is just a reference, but when the CFR changes it is still approved. He asked if Mr. Wimmer has a process for monitoring the changes in the CFR so they don't negatively impact what rules the Legislature puts in place.

Mr. Wimmer stated that the policy staff of the Division of Medicaid closely monitor those changes to the CFR in order to keep them aligned with those changes to federal regulations.

Senator Hagedorn stated his concern regarding the CFR references being used in the rules without stating the specifics of those references. He commented that those referenced items may change to something this Committee would choose not to approve. He asked how the Legislature would know and understand the impact of that change.

Mr. Wimmer replied that they monitor those changes and try to stay ahead of the change. He believes the Administrative Procedures section also has processes for making changes to rules to keep them aligned with changes to federal regulations.

Vice Chairman Nuxoll referring to page 266, section 205, number 3, Provider Agreement, "Provider agreements may be terminated with our without cause ..." and then says "Termination for cause may be appealed as a contested case in accordance with IDAPA Rules Governing Contested Case ..." She continued her reference: "The Department may at its discretion take any of the following actions for cause based on the provider's conduct or the conduct of its employers or agents." She asked if Mr. Wimmer was saying they are changing the sentence including "... with or without cause ..." or if that is still standing due to the following additions?

Mr. Wimmer stated that we are saying that we may still terminate with or without cause. This might happen without cause in the case of transitioning a program to managed care.

Vice Chairman Nuxoll asked if there could be another reason for a without-cause termination.

Mr. Wimmer stated there could be.

Vice Chairman Nuxoll asked for testimony. There being none she presented the docket before the committee.

MOTION: **Chairman Heider** moved, seconded by **Senator Martin,** to adopt **Docket No. 16-0309-1302** to be sent forward with a do pass.

Senator Hagedorn stated that he will be voting no, saying that he has great concerns about referencing our rules to fluctuating federal rules where this Legislature has no control over those fluctuating rules. He would prefer to see, if a provider fails to comply with requirements of the rule, those applicable requirements specified in our regulations. He continued that if there are changes in the CFR then we can come back in a year and make those changes. He further stated that giving our oversight authority to those that watch the federal registry for changes that affect our businesses or citizens is not something he can support.

Senator Lakey said he has struggled with the same issue. Although we may not have a lot of control as these are federal requirements, if we simply reference the CFR without being limited to a specific version or date, we are not really reviewing any rules in the future as they change in the CFR and are ceding our authority.

Vice Chairman Nuxoll also had comments. She stated that she also has a problem with the issue presented by Senators Hagedorn and Lakey, but that she is still concerned about the items she mentioned as they are not fair to the providers. She said she will be voting no also.

The **motion** carried five to four by roll call vote with votes as follows: Aye-**-Senators Heider, Martin, Bock, Schmidt, and Lodge**; Nay–**Senators Nuxoll, Hagedorn, Lakey, and Guthrie**.

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

DOCKET NO. 16-0309-1303

Medicaid Basic Plan Benefits - Aligned Rules with Federal Regulations for Tobacco Cessation Products for All Medicaid Eligible Participants (Pending): Matt Wimmer, Bureau Chief for Medical Care at the Division of Medicaid, stated he is here to ask the committee to adopt the pending rule in **Docket No. 16-0309-1303** as final. These changes are being completed to comply with changes to federal laws and regulations that include tobacco cessation products and drugs as part of the mandatory set of benefits for state medicaid programs.

Mr. Wimmer explained that the history related to Idaho Medicaid and its coverage of tobacco cessation products dates back to 2006 with the Preventive Health Assistance voucher program, and in 2013 the Legislature approved direct pharmacy coverage for pregnant women and children under 21. He stated that this rule change will complete transitioning that coverage from the voucher system to direct pharmacy coverage for all participants. No fiscal impact is expected because it is a shift in the form of coverage rather than a change. **Mr. Wimmer** also stated that Medicaid's pharmacy program prior authorization and preferred drug requirements will ensure that use of these products appropriately supports the participants who want to quit using tobacco.

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

Mr. Wimmer asked the Committee to adopt the rule in this docket.

Senator Schmidt pointed out that there is also a reference to weight management in this rule change, so it's not just tobacco.

Senator Guthrie asked where e-cigarettes fall into tobacco cessation.

Mr. Wimmer said that would be a matter of interpretation.

Senator Guthrie asked whose interpretation.

Mr. Wimmer stated that the federal legislation refers to tobacco cessation products and that is the language we use.

Senator Guthrie referred to the language Senator Schmidt alluded to regarding weight management, and asked Mr. Wimmer to address the issue of relieving the participant of an actual goal for weight management while allowing the participant to simply enroll in the program.

Mr. Wimmer explained that this item is to update the references to reflect that this is solely around weight management.

Senator Lakey commented that at least they are enrolling in a program. Anyone can set a goal, but either one doesn't require completion.

MOTION: **Senator Schmidt** moved, seconded by **Senator Lodge,** to adopt **Docket No. 16-0309-1303**. The motion carried by **voice vote.**

DOCKET NO. 16-0504-1301 **Rules relating to Idaho Council on Domestic Violence and Victim Assistance Grant Funding (Pending): Anne Chatfield,** Grants/Contracts Officer, Idaho Council on Domestic Violence and Victim Assistance, said she is presenting this docket on the revision of the domestic violence program and personnel standards, and the sexual assault program and personnel standards being combined into one document entitled "Service Standards for ICDVVA-Funded Programs."

Ms. Chatfield reported that the Council manages federal funds from the Department of Justice, Victims of Crime Act, Department of Health and Human Services, Family Violence Prevention and Services Grant, and a Domestic Violence Project Account. The funds are granted through a competitive process yearly to programs serving victims of crime throughout the State.

She went on to say the revision of the standards will support program and system innovation through the development and delivery of effective services that integrate provider expertise, that is trauma informed, and that is based on current evidence per funding requirements. The emphasis of the standards revision is the safety and well-being of victims impacted by violence and the ensurance that programs serving victims are high quality, viable and sustainable.

Ms. Chatfield indicated that types of programs providing services to crime victims vary widely across Idaho, as do the diverse approaches used by the programs and the populations that are funded and served.

In regard to the development of the new standards, **Ms. Chatfield** said the council focused on ensure that they adhered to all statutory obligations, and they integrated the values and ethics of victim-centered programming. Victims deserve high-quality services, and future funding requires the Council to show they are making progress in addressing crime and providing services to victims.

Ms. Chatfield presented a history of the committee established to revise the standards. They began working on the revision in March 2012, with the first draft distributed to crime victim service providers and appropriate entities for review and input in July 2013. Multiple opportunities for input were provided through quarterly meetings, website updates, and personal communication. Careful consideration was given to input provided to the committee; many of the suggestions were incorporated into the revised standards resulting in consensus agreement and support.

According to **Ms. Chatfield** the existing domestic violence standards document, developed in 1998, has a total of nine pages, and the sexual assault standards document has a total of eight pages. The newly revised standards document has a total of 41 pages and is a more comprehensive and detailed manual expanding the elements of the existing standards. It will allow victim service programs throughout the State to reference a more specific document to meet service requirements and the needs of victims while staying in compliance with state and federal rules. She requested the approval of **Docket No. 16-0504-1301**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 4).

Senator Lakey stated for disclosure that he had served as a volunteer on the board for the Idaho Coalition Against Domestic Violence. This is a volunteer position and there would be no financial impact for him.

MOTION: **Senator Schmidt** moved, seconded by Chairman Heider, to adopt **Docket 16-5040-1301**. The motion carried unanimously by **voice vote.**

DOCKET NO. 23-0101-1301

Rules regarding Delegation Ability of Nurses (Pending): Sandra Evans, Executive Director, Idaho Board of Nursing, defined nurse delegation as the process of transferring the authority to perform a selected nursing task to a competent individual in a selected setting. She explained that when delegating a nursing task, administrative rules of the Board of Nursing require the nurse to perform a number of procedural steps to assure the delegation is safe and appropriate. This process is best supported in structured settings and in settings where the nurse retains responsibility and accountability for the client. In situations where the delegation process is not supported, the nurse must be able to engage in other relationships in order to be of benefit to the client.

Ms. Evans stated that the changes proposed will accomplish the following:

- They add to functions that may be performed by licensed registered and licensed practical nurses to specifically include engaging in appropriate interfaces with health care providers and other workers in settings where there is not a structured nursing organization and in settings where health care plays a secondary role.
- They delete a list of specific procedures that should not be delegated by a licensed nurse to unlicensed persons.

She further explained that adoption of these rules will:

- Allow nurses to engage in relationships where the structure or setting is not conducive to the delegation process but where the recipient of health care will benefit from the knowledge and expertise of the nurse through an alternative interface.
- Allow nurses to appropriately delegate functions without limiting their authority to determine which tasks can be safely delegated in any individual circumstance and setting.

Regarding the public response, **Ms. Evans** stated that the intent to promulgate rules and negotiated rule-making was published on July 3, 2013, and written and oral comments were received at a public meeting on July 18 and during the prescribed comment period. The comments were generally in support of the change noting how the rules will:

- Allow nurses to make informed decisions on the appropriate delegation of tasks in a broad range of settings.
- Allow nurses to make appropriate decisions based on their assessment of each client, care provider and setting.
- Empower nurses to train individuals other than nurses to provide care when transferring that responsibility is in the best interest of the client and public safety.
- Remove unnecessary barriers that limit what can be delegated.
- Allow nurses to determine what is safe and appropriate in each individual circumstance.

All concerns and suggestions were considered by the Board and responses were posted on the Board's website. Responses have been distributed to the Committee for your information.

Ms. Evans stated that in response to concerns, the Board rules will continue to clearly articulate responsibility of the delegating nurse. Nurses will be supported in their ability to be of benefit to the public in settings outside of traditional health care settings. She also stated that there is no fiscal impact from these rules.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 5).

DISCUSSION: **Senator Martin** asked what is the need of this proposed change; is it to help the nurse assist the person for whom he or she is providing, or is it to help the facility owners to not hire additional nurses to take care of the work they would normally do?

Ms. Evans explained that the purpose of the rule change was to provide clarity to the functions in which nurses engage, and the autonomy they retain in that. The actual process of delegating is maintained in the rule–that doesn't change. Adding the other interfaces as a clear function of nurses allows them to engage in settings outside of health care– to teach, to consult, to guide, to direct. They feel that the unlicensed person who has received sufficient training can safely perform the functions. The idea that in an employment setting the change in the rule would allow an employer to discontinue the hiring of nurses, or reduce the number of nurses that are hired, would be inconsistent with the rule because of the delegation process and the specific knowledge necessary to perform many of the functions in those settings.

Senator Schmidt expressed concern about the number of comments from others referencing injecting insulin, and he has talked to teachers who sometimes feel they are placed in a nursing role. It sounds like the way these rules have changed, if there was a school nurse who wasn't on site and who was aware that a students was a Type I diabetic, then the nurse could decide that it was okay for the teacher to provide insulin. He asked if this was an example of a situation with which the comments are concerned.

Ms. Evans responded that his was an excellent example because that was a lot of the testimony they received. The Board of Nursing is aware that the administration of insulin and some other medications can be safely performed by individuals who are appropriately educated to recognize the procedure itself and the danger involved. The rule continues to make it the nurse's decision in assessing the patient, the knowledge and/or willingness to provide the care by another individual and the safety in doing that, rather than another individual such as a principal or superintendent. Many school districts in Idaho do not have a school nurse. Some districts have one nurse for multiple buildings so the nurse is not available to students needing medications. The change will remove the arbitrary listing of things that cannot be delegated. She thinks a lot of care providers as well as employers relied on this list for the decision whether or not something could be safely assumed by someone else without the assessment necessary to determine, in a specific situation, whether or not that would be appropriate. It does address the issue stated in your original question. The new rules would allow the nurse to engage in other interfaces that would make it safe in settings where the nurse is not present at all or not present all the time.

Chairman Heider brought up the use of epinephrine in schools by school nurses, teachers, principals, etc. who may not be licensed or not be nurses but provide an epinephrine dose to a child who gets a bee sting or has an allergic reaction in the cafeteria. He asked if this rule prohibits them from giving that shot.

Ms. Evans stated that this rule would allow the nurse to engage in the interface that would be appropriate and to provide for the education and preparation of those individuals who might need to perform those functions. It would not place the nurse in a delegating situation. The continual assessment, assumption of authority, and responsibility continues to be on the part of the nurse. The nurse would be responsible for the appropriate training, for delivering the appropriate guidance, but not to have to intervene in all those situations. She further stated that in a rural state with limited resources and care providers, the role of the nurse is critical but needs to be flexible in these situations where the nurse is not present all of the time.

Chairman Heider asked if this rule means that the delivery of an epinephrine shot by a teacher, a principal, or a school nurse is acceptable in those situations where the appropriate training has preceded the application.

Ms. Evans answered that the administration of these critical drugs when they are necessary needs to happen, whether a nurse is present or not. Whoever is administering needs to be appropriately educated with the right direction from a logical person and that likely would be a nurse.

Senator Schmidt stated that he has heard from teachers that they did not want to be placed in the situation where they would be required to give an injection. They felt like the nursing standards protected them from that requirement. He asked if, by removing this limitation, teachers can be required in their contracts or in their relationships with their supervisors to do this activity because they are no longer prohibited.

Ms. Evans replied that her belief is that the Board of Nursing's list of things that cannot be delegated never protected anybody. It limited the ability of the nurse to engage in some teaching activities because something showed up on a list when the nurse thought it would be safe. Whether a teacher can be forced to administer epinephrine is outside of the jurisdiction of the Board of Nursing. If that's the case, then she thinks there needs to be a dialogue with the Department of Education on the policies that are in place in the schools to prevent those kinds of things from happening.

Senator Schmidt asked if the teachers or the Department of Education were involved in this rule making.

Ms. Evans stated that prior to the negotiated rule making the Board did engage with the drug-free workplace person in the Department of Education. She and her colleagues gave their support that this made better sense for the schools, but they also continued their dialogue with the Department of Education assuring that there were guidelines in place for the schools that would be appropriate for the role of the nurse as well as the functions that would be assumed by school personnel in protecting students.

Vice Chairman Nuxoll asked if Tony Smith was going to testify on this docket.

Tony Smith requested to defer his time to Larry Benton and let him speak on behalf of the American Diabetes Association.

TESTIMONY:

Larry Benton expressed concern with the schools since the schools do not have many people authorized to do injections of insulin to kids with Type I diabetes. Currently there are many diabetic students in school. This law would be very helpful to diabetic students. As pointed out by Ms. Evans, there are not very many school nurses out there. Those practicing are centralized and there are a lot of schools without nurses. He stated that while the figure may be inaccurate, he has heard that about 18 percent of schools actually have a nurse available. He addressed the concern of requiring the school personnel to participate saying that his understanding is that it is voluntary. You can't make someone give an injection; the rule doesn't say you shall, it says you may. This goes beyond a good health proposal to a life or death proposal for the students who have Type I diabetes. If I had a diabetic child I would want that child to have access to an injection when he needed it. I encourage you on behalf of the ADA to pass this bill. As far as

the school is concerned and the kids that are diabetics, this is a real plus bill. The injection of insulin is not something that is going to have a serious contraindication, and it is something that is a life saving maneuver that could bring them back from a less than desirable situation. I encourage the Committee to look at it from that standpoint and pass this rule.

MOTION: **Senator Martin** moved, seconded by **Senator Guthrie,** to adopt **Docket No. 23-0101-1301.** The motion carried unanimously by **voice vote.**

Vice Chairman Nuxoll commented that she thinks it is a common sense rule, one that takes away the pharisaical outline of law where you can only follow exactly the letter of the law. I like it and I vote for it.

DOCKET NO. 23-0101-1302 **Rules of the Idaho Board of Nursing, Sandra Evans,** Executive Director, Idaho Board of Nursing, stated that this is both a temporary and a pending rule. A change in model rules of the Nurse Licensure Compact (Compact), of which Idaho is a member, necessitates a similar change in Board of Nursing rule IDAPA 23.01.01.077. Data collected by Compact members indicate that 30 days is insufficient to process and issue a nursing license. Administrators determined that a 90 day period provides an acceptable time frame to process and issue a license. The change in this docket increases from 30 to 90 days that a nurse moving to Idaho may practice on his/her existing license in another Compact state while the Idaho license is processed.

Ms. Evans reported that there were no comments received during the comment period that began on October 2, 2013, and that there is no fiscal impact with this rule.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 6).

MOTION: **Senator Guthrie** moved, seconded by **Senator Bock** that we accept **Docket No. 23-0101-1302.** The motion carried by **voice vote.**

DOCKET NO. 16-0501-1301 **Rule relating to HIPAA Privacy Rule (Pending): Heidi Graham,** Civil Rights Manager/Privacy, Division of Operational Services, Human Resources, Department of Health and Welfare, presented this docket. The U. S. Department of Health and Human Services modified the HIPPA Privacy Rule. This docket brings the Idaho Department of Health and Welfare's Use and Disclosure rules into compliance with those modifications and allows–not mandates–that the Department disclose a decedent's health information to family members and others who were involved in their care. The rule change gives the Department more latitude to release decedent records, but the effect will be minimal.

Ms. Graham reported that there is no anticipated fiscal impact to the state general fund, and we know of no outstanding issues with this rule. She asked that the Committee adopt this docket as a final rule.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 7).

MOTION: **Senator Bock** moved, seconded by **Senator Heider,** to adopt **Docket No. 16-0501-1301.** The motion carried unanimously by **voice vote.**

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel back to Chairman Heider.

ADJOURNED: **Chairman Heider** thanked everyone and adjourned the meeting at 4:18 p.m.

Senator Heider
Chair

Linda Hamlet
Secretary

Carol Cornwall
Assistant Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, January 22, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Welcome	Chairman Heider
24-0501-1302	Rules of the Board of Drinking Water and Wastewater Professionals	Tana Cory, Bureau Chief, Board of Occupational Licenses
24-1301-1302	Rules Governing the Physical Therapy License Board	Tana Cory
24-2601-1301	Rules of the Board of Midwifery	Tana Cory
24-0601-1301	Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants	Roger Hales, Administrative Attorney
24-1101-1301	Rules of the State Board of Podiatry	Roger Hales
24-1301-1301	Rules Governing the Physical Therapy License Board	Roger Hales
24-1401-1301	Rules of the State Board of Social Work Examiners	Roger Hales

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Wednesday, January 22, 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 3:03 p.m. and welcomed the audience. He mentioned that a few members of the Committee were not present, but that enough were present to form a quorum. He asked the Secretary to take a silent role.

PASSED THE GAVEL: Chairman Heider passed the gavel to Vice Chairman Nuxoll to begin rules review.

DOCKET NO. 24-0501-1302

Rules of the Board of Drinking Water and Wastewater Professionals (Pending Fee): Tana Cory, Chief of the Bureau of Occupational Licenses (Bureau), informed the Committee that the Bureau provides service to 29 self-governing, self-supporting boards and commissions. She introduced two people in the audience: Mr. Barry Burnell, the Chairman of the Drinking Water and Wastewater Professional Boards, and Joan Cloonan who is the public member of the Board of Drinking Water and Wastewater Professionals.

Ms. Cory stated that last year the Legislature approved H 185, which allowed the Board the ability to charge less than what the exam provider charges. This change allowed the same amount to be charged for the online and written exam for the benefit of licensees and for purposes of efficiency. Under Rule 200.02, an update is being applied to the rule to state that the examination fee shall not be greater than those charged by the exam provider. Under Rule 200.03, 04 and 05, the Board is reducing the endorsement, original license, and annual renewal fee from $35 to $30. It is anticipated that this fee reduction will reduce the amount of dedicated fund fees collected by the Drinking Water and Wastewater Professionals Board (Board) by approximately $19,280 per year. In the past, the Board's fees exceeded what it cost to operate the Board; therefore, the Board is proposing this fee reduction for its licensees.

Finally, the Board is adding additional courses that would meet the education qualification for licensure for a very small water and very small wastewater system. These proposed rule changes were discussed in open, noticed meetings of the Board, posted to the website, and distributed to interested parties. She asked the Committee to approve the pending fee rule.

Vice Chairman Nuxoll asked for clarification regarding the course requirements for a smaller wastewater system. **Ms. Cory** referred to Barry Burnell, who also works for the Idaho Department of Environmental Quality. **Mr. Burnell** informed the Committee that the purpose behind the addition of the optional course is to provide a variety of courses that the operator can take, in order to give operators a better chance to become licensed.

Vice Chairman Nuxoll reminded the Committee that this is a fee rule, and the purpose is to reduce fees.

MOTION: **Chairman Heider** moved, seconded by **Senator Martin**, to adopt **Docket No. 24-0501-1302**. The motion carried by **voice vote**.

DOCKET NO. 24-1301-1302 **Rules Governing the Physical Therapy License Board (Pending Fee): Tana Cory** introduced the Physical Therapy Board Chair, Mr. Brian White. She informed the Committee that this pending fee rule lowers the initial licensure fee and annual renewal fee for a physical therapist from $40 to $25 ; lowers the initial licensure and renewal fee for a physical therapy assistant from $35 to $20; and lowers the examination fee from $40 to $20. In addition, the application fee is being lowered from $50 to $25. She stated that over the last three fiscal years, the Physical Therapy License Board (Board) has collected an average of $20,000 more per year than it has spent. It is expected that this fee reduction will reduce the amount of dedicated funds collected by the Board by approximately $27,510 per year. The Board's current fees have exceeded what it costs to operate the Board, so the Board is proposing the fee reduction for its licensees.

Senator Martin commended the Board for the reduction in fees for those who participate in this program.

MOTION: **Senator Martin** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 24-1301-1302**. The motion carried by **voice vote**.

Senator Hagedorn asked if there is, in the instance of a disciplinary action, a policy that sets aside funds to cover those expenses. He stated that those types of things could be expensive and could put a board behind for years, and he asked Ms. Cory to comment.

Ms. Cory informed the Committee that all of the boards that they serve have to be self-supporting and operate only on dedicated funds, which are primary licensure fees. In a disciplinary action, an effort is made to recoup monetary losses if an individual is found to be in violation. She furthered that boards set aside 12 to 18 months of a cash balance in their budget as a buffer, which serve to protect the public and enables them to come before Legislature to discuss what is happening and to adjust fees accordingly.

DOCKET NO. 24-2601-1301 **Rules of the Board of Midwifery (Pending Fee): Tana Cory** introduced Barbara Rawlings, the Chair of the Board of Midwifery (Board). **Ms. Cory** informed the Committee that this pending fee rule raises the application fee from $50 to $200; raises the license fee from $550 to $800; and raises the annual renewal fee from $550 to $850. She furthered that Ms. Rawlings, who presented in the Committee yesterday, mentioned that this Board has dealt with some expensive disciplinary matters. At the end of fiscal year (FY) 2010, the Board had a positive cash balance of $6,441. At the end of FY 2013, the Board had a negative cash balance of $79,908. The majority of these costs stemmed from cases involving three midwives who went to hearing. As of the end of December, which is halfway through FY 2014, the Board's negative balance was $72,363. The Board is self-governing and receives no general fund money.

Ms. Cory furthered that the Board operates on dedicated funds primarily generated by licensing and renewal fees. She advised the Committee that attempts are made to recoup costs from disciplinary actions when a licensee is found to be in violation of the Board's laws and rules. This fee increase will result in an annual increase in the Board's dedicated fund of approximately $10,000, based on the current number of licensees and an estimated one additional licensee per year. This proposed fee rule was posted on the Board's website and was discussed with the Idaho Midwifery Council. These fees will assist the Board in ensuring they are able to work toward eliminating their negative balance, while also ensuring that they are still able to carry out their charge of protecting the public.

Senator Martin asked what the cost was in these investigations. **Ms. Cory** replied that when there is a complaint received by the Bureau, an investigation results. There are investigative costs that are involved. During due process, the licensee has the opportunity to go to a hearing. The Board is paying to prosecute those individuals, as well as for hearing officer costs and costs associated with the process. **Senator Martin** then asked if there was a way for the involved parties to incur more of the cost of the investigation of the allegations.

Ms. Cory responded that when the Board receives a complaint, it is reviewed to determine if it is within the Board's jurisdiction. If it is not, it is taken to the Board and then closed. There may be small violations, and the Board will work with that individual and they may enter into a consent agreement. However, these particular cases mentioned in the pending fee rule were fairly complex and resulted in a full hearing where the Board prosecuted.

Vice Chairman Nuxoll asked if those involved in wrongdoing were required to pay back the expenses of litigation. **Ms. Cory** replied that there is an effort to recoup those costs and that is part of the order entered by the Board, but that the effort is not always successful.

Senator Schmidt remarked that the number of midwives was small in Idaho, and that raising this fee may make the fee burden heavier. Is there a critical mass of participation needed? **Ms. Cory** responded that the Board considered this and worked with the Idaho Midwifery Council, and that this fee increase will yield $10,000 this year that will aid in propelling this in the proper direction. A higher fee was initially proposed, but a compromise was made to come up with this particular fee increase. **Senator Schmidt** asked for a status report next year, which **Ms. Cory** agreed to. She furthered that on their website for the Bureau, there are listings of boards, budgets and reports that are updated monthly that could be viewed in the meanwhile.

MOTION: **Chairman Heider** moved, seconded by **Senator Martin**, to adopt **Docket No. 24-2601-1301**. The motion carried by **voice vote**.

Vice Chairman Nuxoll asked if there were any comments. **Molly Steckel**, Policy Director of the Idaho Medical Association (IMA), stated although the Committee might be concerned about the cost, the IMA considers the Board a success. The Board is protecting the public, and the IMA appreciates what they are doing.

Tony Smith spoke on behalf of the Midwifery Council, and stated that he is aware of the concerns about the fee increase. The midwives, as an association, understand that they are to be a self-sustaining board, and that is the reason for the fee increase.

Vice Chairman Nuxoll commented that with only 39 midwives, there was not much of a choice, and that their debt must be cleared.

Senator Lodge stated that the midwives are a success story. The actions that they had to take were not what they wanted to do, but she commended them for the work they have done.

Vice Chairman Nuxoll then called on Roger Hales and asked if he would do the fee rule first, which was out of order on the agenda.

DOCKET NO. 24-1101-1301

Rules of the State Board of Podiatry (Pending Fee): Roger Hales, on behalf of the State Board of Podiatry (Board), stated that the Board regulates the practice of podiatry in the State. The Board is served by the Bureau of Occupational Licenses. The rule docket is primarily designed to update the Board's rules based upon changes in the profession. The rule updates the Code of Ethics, updates definitions, streamlines application approach, eliminates the deadline for application, eliminates the high school documentation requirement (these students graduated from college and podiatric medical school, and a high school transcript is not necessary), eliminates certain exam fees in rules, and updates the title of podiatric exam. **Mr. Hales** informed the Committee that the Board uses the national exam. Since the Board no longer has any participation in administering the exam, they are eliminating the associated fee of $25 in the rule. The re-exam fee is also being removed. If a person takes the exam and fails, it can be retaken at the national exam entity after the fee is paid. The exam consists of three parts, each part costing $900. The re-exam fee would mean that the Board would be subsidizing the re-exam, which is not appropriate, and that is why it is being eliminated.

He informed the Committee that there was some concern expressed by Legislative Services over the elimination of the $25 administrative fee in rule where it is also set forth in law. The Board is bringing a House bill that will also revise this examination section and eliminate the administrative and exam fees. If there is any inconsistency, it will be resolved before the session is out. There is a new name for the national exam; it is now called The American Podiatric Medical Licensing Exam.

Mr. Hales advised the Committee that there are changes to continuing education (CE). Currently, 12 hours of CE is required annually. That is being raised to 15 hours annually. This is geared toward individuals coming to Idaho from other states. **Mr. Hales** deferred from discussing that for a moment. He moved on with a revision of a provision requiring the Board to meet on a specific day of the year, which is no longer a necessary element. Then returning to the topic of increasing the CE, **Mr. Hales** indicated that it will become effective beginning January 1, 2015. He compared other states requirements to Idaho's CE requirements for podiac physicians: Nevada requires 50 hours every two years, while Idaho will require 30; Oregon requires 50 hours every year; Utah requires 20 hours every year; Washington requires 50 hours every two years; Wyoming requires 40 every two years; and Montana has no CE requirements. We are moving closer to the standard of continuing education.

Mr. Hales informed the Committee that the Board is now allowing a carryover, which means if a person obtains, for example, 30 hours in one year, 15 hours of that can be carried forward. If there is some sort of hardship, such as a health issue, that person can ask the Board to waive the CE requirement. **Mr. Hales** stated that this rule was discussed in open meetings of the Board and notice was provided to all licensees, and of the nine comments received, eight were in favor of the CE upgrade.

Senator Martin asked about the passing grade. He said that before, the passing grade was 70 percent, and now it is proposed: "A passing grade in all subjects examined shall be the grade as established by the examination provider." Will this be whatever they feel is a passing grade?

Mr. Hales responded that at times the test results are curved. They also analyze some of the questions to make sure they are fair. So on certain occasions, the passing rate may dip below 70 percent in an effort to be fair. This is a consistent approach when it comes to national examining entities, and they want to make sure that the passing grade is fair and reasonable, and legally defensible as well.

Senator Guthrie asked for clarification of the reexamination fee. **Mr. Hales** responded that by eliminating the re-exam fee, concerns would also be eliminated about having to subsidize the national exam if a person fails it and has to retake it.

Vice Chairman Nuxoll asked what is deemed a CE course. **Mr. Hales** responded that there were many opportunities to get CE through various medical groups. The course has to be germane to the practice of podiatry, and has to be approved by the Council on Podiatric Medical Education, or the Board can approve a course. This rule tries to accommodate the possibility that if a person goes to a CE seminar that lasts for a few days, they may acquire more CE credits than they need for that year, and the balance of those credits may be carried forward.

MOTION: **Senator Martin** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 24-1101-1301**. The motion carried by **voice vote**.

DOCKET NO. 24-0601-1301 **Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants (Pending): Roger Hales** informed the Committee that this rule's intent is to conform the Board's rules to a recent law change. H 33 passed the Legislature in 2013, revising the duration of a limited permit to six months or as extended by the Board. A limited permit allows an individual to practice under supervision after graduation, but before passing the exam. This rulemaking has been open and transparent, and there was no opposition.

MOTION: **Senator Bock** moved, seconded by **Chairman Heider**, to adopt **Docket No. 24-0601-1301**. The motion carried by **voice vote**.

DOCKET NO. 24-1301-1301 **Rules Governing the Physical Therapy License Board (Pending): Roger Hales** indicated to the Committee that this rule pertains to supervision of physical therapy assistants. It reduces regulations without jeopardizing public health. In the present rule, there is a requirement of patient reevaluation by a physical therapist after every five visits with a physical therapy assistant. The new proposed rule will allow for up to 10 visits with a physical therapist assistant before reevaluation, but not less than 60 days. This new approach is consistent with Medicaid regulations. This will be of significant benefit to rural practices. There was transparency in this rulemaking, the Board worked with the state association and held a meeting with interested parties. There was no opposition.

MOTION: **Senator Martin** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 24-1301-1301**. The motion carried by **voice vote**.

DOCKET No. 24-1401-1301 **Rules of the State Board of Social Work Examiners (Pending): Roger Hales** informed the Committee that this rule proposes changes to the social work supervisor requirement rule, which reduces regulation/barrier to entry. In order to supervise a social worker, a social worker must register as a supervisor. In reviewing this rule, the Board decided to make two changes that would benefit applicants or licensees. One change clarifies that it only applies to practice in Idaho, and has no jurisdiction in other states. The second change revises the two-year experience requirement to accept experience obtained in any state, rather than just in Idaho. This has affected some professionals' ability to get licensed and registered immediately when moving to Idaho, where their job may require them to supervise social workers as part of their employment. The Board does not anticipate any effect upon competency. This proposed rule has been open and transparent, was posted on the Board's website, notice was sent to the state association, and there have been no objections.

MOTION: **Senator Guthrie** moved, seconded by **Senator Bock**, to adopt **Docket No. 24-1401-1301**. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel back to Chairman Heider.

ADJOURNED: **Chairman Heider** thanked everyone, and reminded the Committee that tomorrow morning there would be a joint public hearing from 8:00 until 9:30 in the Lincoln Auditorium for anyone that would like to speak before the House and Senate Health and Welfare Committees. The meeting was adjourned at 3:54 p.m.

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Senator Heider
Chair

_____

Linda Hamlet
Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Thursday, January 23, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Welcome	Chairman Heider
16-0506-1301	Rules relating to Criminal History and Background Checks	Fernando Castro, Program Supervisor, DHW - Bureau of Audits and Investigations
16-0506-1302	Rules relating to Criminal History and Background Checks	Fernando Castro
16-0507-1301	Rules relating to the Investigation and Enforcement of Fraud, Abuse, and Misconduct	Ben Johnson, Welfare Fraud Investigative Supervisor
16-0601-1302	Rules relating to Child and Family Services	Rob Luce, Administrator, Division of Family and Community Services at State of Idaho
19-0101-1301	Rules for the Idaho State Board of Dentistry	Susan Miller, Executive Director, Board of Dentistry
22-0103-1301	Rules for the Licensure of Physician Assistants	Nancy Kerr, Executive Director, Idaho State Board of Medicine
22-0113-1301	Rules for the Licensure of Dietitians	Nancy Kerr

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Thursday, January 23, 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 3:01 p.m., and welcomed the audience. He stated that there was a quorum present and that the meeting could get started.
PASSED THE GAVEL:	**Chairman Heider** stated that since we were discussing rules, he would turn the gavel over to Vice Chairman Nuxoll.
DOCKET NO. 16-0506-1301	**Rules relating to Criminal History and Background Checks (Pending Fee): Fernando Castro**, Supervisor for the Criminal History Unit, Bureau of Audits and Investigations, Department of Health and Welfare, thanked the Committee for the opportunity to present this pending rule. He stated it regards criminal history and background checks for certain persons. He stated that the rule change was adopted to coincide with statutory requirements that became effective July 1, 2013 and adds new statutory references, as well as identifies a new class of individuals who are required to submit the Department's background check. **Mr. Castro** stated that when the Legislature adopted H 125 it authorized the Department to conduct criminal history and background checks on persons who are seeking to be appointed by the state courts as guardians or conservators of incapacitated or developmentally disabled adults. He stated that persons who resided with vulnerable adults were also subject to background checks and that there was no cost to the State since the individual was the party financially responsible for the investigation. Mr. Castro stated that the Department anticipated 700 background checks of this type during the 2014 fiscal year (FY) and this represents approximately $45,500 in receipts for the Department that will cover the costs of these background checks. **Senator Schmidt** inquired into the amount of the cost for the individual background check to which **Mr. Castro** responded that it was $65 per person. **Vice Chairman Nuxoll** asked Mr. Castro to explain the process of the background check.

Mr. Castro stated that they will be directed to the Department's website to register as applicants online. Upon completion of the application, they will be asked to make an appointment for fingerprinting. If the applicant is unable to come to the Department, they will be allowed to mail in fingerprint materials. The fingerprints will be reviewed against established criteria and sent to the State Police for comparison against the Idaho State Criminal Files, and then the prints are sent to the federal files at the Federal Bureau of Investigation (FBI). After the FBI analysis is complete, they will notify the Department and the State Police if the applicant has a criminal record, which is reviewed by the Department for disqualifying criteria. He stated that the Department does not make a pass or fail determination, but rather a report for the courts to decide on the fitness of the individual for guardianship.

Vice Chairman Nuxoll inquired about the delays for background checks.

Mr. Castro stated that there are challenges in getting people into appointments as there are a limited number available, due to lack of personnel. He said that for this particular type of background check, there is no time requirement for the applicants to submit materials. He said once the fingerprints are received, the Department is able to clear an individual in six to seven business days after the report for the FBI returns. **Vice Chairman Nuxoll** asked how long it took to receive the report from the police department. **Mr. Castro** replied that the Department does not have a partnership with law enforcement and that they handle the fingerprints through internal channels.

Senator Bock asked if the House bill specifically stated that the Department of Health and Welfare was the agency assigned the duty of conducting the background checks. **Mr. Castro** replied that the statute did specify that the Department of Health and Welfare was assigned the responsibility of the background checks.

Senator Guthrie asked if the guardian and conservatorships were done pro bono, to which **Mr. Castro** responded that he did not have that information. **Senator Bock** said that some were volunteers and some were compensated, but he doubted there would be a significant negative impact on those individuals willing to act as guardians or conservators.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Martin**, to approve **Docket No. 16-0506-1301** as written. The motion carried by **voice vote**.

DOCKET NO. 16-0506-1302 **Rules relating to Criminal History and Background Checks (Pending): Mr. Castro** stated that the Criminal History Unit completes 23 background checks a year, which screen employees of providers and individuals that participate in Department programs such as foster care, adoption and certified family homes. He stated that each year, approximately 300 applicants are either denied or voluntarily withdrawn due to disqualifying elements in their background checks. He stated that this pending rule change was simply a maintenance and clarification effort, which was the culmination of a year of internal review He summarized the proposed changes as additions to requirements that providers must complete when acquiring facilities with employees that must submit to background checks. He stated that there are clarifications to the process of submitting application materials and fingerprints as well as when an applicant is cleared on a probationary status to begin employment. **Mr. Castro** said that a "no-show" fee was left inadvertently in the document and he ensured the Committee that the fee would not be assessed and the language would be omitted next year. He stated there was a clarification on when a Department clearance can by revoked or suspended and on the appeal process for applicants who have been unconditionally denied. **Mr. Castro** concluded by explaining there was an addition of deadlines for applicants to present materials when their cases are pending with the court. He asked that the changes be approved on the basis they would improve the usefulness of the program's protection of vulnerable populations who the Department safeguards.

Senator Bock inquired if there was a statute that would allow them to omit the error, to which **Dennis Stevenson**, Rules Coordinator, responded that he could make non-substantive changes.

Vice-Chairman Nuxoll asked if the change was going to be immediate or presented next year. **Mr. Castro** responded that it would be next year due to other changes that were required to be made.

Senator Lakey stated that he previously voted against rules that included a list of crimes that disqualified applicants and asked if the Department would consider adding felony drug distribution. **Mr. Castro** stated that the Department would entertain the idea.

MOTION: **Senator Bock** moved, seconded by **Chairman Heider**, to approve **Docket No. 16-0506-1302**. The motion carried by **voice vote**.

DOCKET NO. 16-0507-1301 **Rules relating to the Investigation and Enforcement of Fraud, Abuse and Misconduct (Pending): Benjamin Johnson**, Supervisor of the Welfare Fraud Investigations Unit (Unit), Department of Health and Welfare, stated that his team investigates fraud within the welfare programs, but not Medicaid providers. He said that in FY 2010, the Department began a proactive process of developing fraud leads through data analytics. **Mr. Johnson** said that in the first year, they received 58 leads; however, as more data has been obtained, they have received over 20,000. He stated that the average number of cases that an investigator closes with an overpayment, program sanction or prosecution has increased from 50 cases in 2010, to 250 cases in 2014. He reported that last year, for the first time in the Unit's history, they recovered more than their total cost. He said that over the last two years, the Unit has expanded their efforts to investigating providers of all public assistance programs, such as food stamp retailers and day care providers. He stated that, as a result, they have found inconsistencies with the state law and administrative rule as it relates to providers of public assistance programs. He said the primary purpose of the docket is to update administrative rules and definitions and align them with state statute and that the recommendation has no anticipated fiscal impact. Mr. Johnson stated that the current IDAPA 16-0507, the Investigation and Enforcement of Fraud, Abuse and Misconduct, only references enforcement of medical providers under the Medicaid program. He stated that the corresponding Idaho codes 56-209H, Administrative Remedies, clearly references enforcement on any provider under any public assistance program. He stated that the administrative rule language limits the scope of enforcement to only Medicaid providers. Consequently, the Department is recommending that IDAPA 16-0507 be updated to reflect language found in Idaho code 56-209H for the following reasons: to demonstrate consistency in the rules; to avoid confusion with public assistance provider fraud cases and to increase accountability for all public assistance programs.

Vice Chairman Nuxoll inquired about the circumstances that led the Department to find the inconsistencies. **Mr. Johnson** responded that when they began to look at providers of all public assistance two years ago, they referenced both the statutes and the administrative rules and subsequently recognized the inconsistency.

Senator Schmidt asked if Medicaid fraud would be included in the changes to the rule. **Mr. Johnson** responded that the unit investigates all public assistance providers other than Medicaid, and that there is a separate entity for Medicaid investigations. He said that the change to the rules encompasses all public assistance programs, which includes Medicaid. **Senator Schmidt** asked if they changed whether payments can be suspended and if that applied to Medicaid. **Mr. Johnson** replied that Senator Schmidt was correct.

Senator Hagedorn asked if the Medicaid Fraud Unit was created in statute and stated that he was concerned with "mission creep," or the tendency for one unit to encroach on the mission of another without the authority of statute, and asked if it would be better to include the Welfare Fraud Investigation Unit in statute. **Mr. Johnson** responded that he would be open to the idea, and stated that they are already included in the statute and that the rules update would address Senator Hagedorn's concern. **Senator Hagedorn** asked how the courts and prosecutor were keeping up with the exponential increase in cases. **Mr. Johnson** responded that the prosecutions had not increased because there is a dollar threshold that must be exceeded before they are sent to the prosecutor's office, and a high percentage of cases are handled by the unit.

MOTION: **Chairman Heider** moved, seconded by **Senator Bock**, to approve **Docket No. 16-0507-1301**. The motion carried by **voice vote**.

Vice Chairman Nuxoll said that although it was late, she would like the person who came to testify on a previous docket, **Docket No. 16-0506-1301**, to come forward and speak.

Christine Pisani, Executive Director of the Idaho Council on Developmental Disabilities (an organization that advocates for Idaho citizens with developmental disabilities to live successful lives in their communities) stated that she would like to share some of the results of the legislation, as she believed that it was working in the way that it was intended. She stated that she appreciated the Committee's work in this important area.

DOCKET NO. 16-0601-1302 **Rules relating to Child and Family Services (Pending Fee): Rob Luce**, Administrator for the Division of Family and Community Services, stated that this rule clarifies certain processes in the child welfare program with the expectation of improving safety, wellbeing and outcomes for children and families in Idaho. He stated that with these changes, the Department is establishing a process for individuals to obtain confidential information on the child protection central registry. He said that the information would be released to the individual in question, and only with that individual's prior written consent to obtain the confidential information. **Mr. Luce** stated that the change was consistent with current practice and eliminated the need for a work-around necessitated by the current wording in the rule. He continued by stating that the Department is not mandating that individuals or entities check the registry as a precondition for employment or non-department licensure. He also stated that with this change, the Department is not expanding access to highly confidential information. He stated that updates were being made to the Indian Child Welfare Act, particularly the process of using registered mail return receipt requests.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Guthrie**, to approve **Docket No. 16-0601-1302**. The motion carried by **voice vote**.

DOCKET NO: 19-0101-1301 **Rules for the Idaho State Board of Dentistry (Pending Fee): Susan Miller**, Executive Director of the Board of Dentistry (Board), stated that the Board undertook the task of reviewing their entire chapter of rules to ensure that they reflect current licensing and practice standards for dental professionals. **Ms. Miller** stated that the Board is proposing a reduction in the fee for a dentist application by credentials from $600 to $300. She outlined the change in Rule 40, in which the Board is proposing two additions to the Unprofessional Conduct Rules for dentists and dental hygienists. The additions are failure to provide patient records to patients and failure to cooperate with authorities. **Ms. Miller** said that there were a steady number of advertising complaints. She outlined the change to Rule 50, which concerns the Board's proposal to reduce the number of continuing education credits required for renewal of an extended access dental hygiene license endorsement. Current rules require twelve hours and the Board is proposing to reduce the number

to four. The Board felt this was a more reasonable number when combined with the 24 credits required for a dental hygiene license.

Ms. Miller explained the change to Rule 55, which concerns minimal sedation in children. The current rules are silent on children and establishing a standard is necessary for public protection. The Board has a standing committee of experts who provided recommendations for this standard. She then outlined the changes to Rule 60, in which the Board proposed a change to the renewal requirements for moderate enteral and moderate parental sedation permits by specifying the requirement to maintain certification in basic life support for health care providers or advanced cardiac life support based on the level of permit. These certifications are required by rule in order to obtain a permit, but the requirement for maintaining current certification is presently in policy.

Chairman Heider inquired about the words "in a dental office" and asked if those procedures were done in hospitals or operating centers. **Ms. Miller** responded that it was specified for minimal sedation, and the settings that Chairman Heider mentioned would typically be a higher level of sedation.

Senator Martin thanked the Board for reducing the fees and asked the balance of the funds. **Ms. Miller** responded that their FY 2013 ending balance was just over $1 million and their annual budget is around $400,000.

Senator Hagedorn asked if the words "to include" should be added to the nitrous equipment section of the rule change. **Ms. Miller** replied that it could be corrected, if necessary.

MOTION: **Senator Martin** moved, seconded by **Senator Lakey**, to approve **Docket No. 19-0101-1301**. The motion carried by **voice vote**.

DOCKET NO. 22-0103-1301 **Rules for the Licensure of Physician Assistants (Pending): Nancy Kerr**, the Executive Director for the Idaho State Board of Medicine, stated that this rule was adopted as a temporary rule by the Board to comply with changes passed by the Legislature in 2013 for the Board of Pharmacy regarding dispensing of medication. She said that the rule eliminates the section of the rules regarding the dispensing of medication by physician assistants and requires compliance with the Board of Pharmacy laws and rules.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Lodge**, to approve **Docket No. 22-0103-1301**. The motion carried by **voice vote**.

DOCKET NO. 22-0113-1301 **Rules for the Licensure of Dieticians (Pending): Nancy Kerr** stated that this rule was adopted as a temporary rule by the Board. Licensees were notified and it was published without comments received. She explained that the rule reflects the new name of the Dietitian Education Accrediting Agency and corrects a code citation relating to disciplinary authority.

MOTION: **Senator Schmidt** moved, seconded by **Senator Guthrie**, to approve **Docket No. 22-0113-1301**. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel back to Chairman Heider.

ADJOURNED: There being no further business at this time, Chairman Heider adjourned the meeting at 3:59 p.m.

Senator Heider
Chair

Linda Hamlet
Secretary

David Ayotte
Assistant Secretary

JOINT

SENATE HEALTH & WELFARE COMMITTEE
AND
HOUSE HEALTH & WELFARE COMMITTEE

8:00 AM - 9:30 AM
WW02 - AUDITORIUM
Friday, January 24, 2014

SUBJECT	DESCRIPTION	PRESENTER
	PUBLIC TESTIMONY FOR HEALTH AND WELFARE	
	3 MINUTE TIME LIMIT PER TESTIMONY	

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
JOINT MEETING

SENATE HEALTH & WELFARE COMMITTEE
HOUSE HEALTH & WELFARE COMMITTEE

DATE:	Friday, January 24, 2014
TIME:	8:00 AM - 9:30 AM
PLACE:	WW02 - Lincoln Auditorium
MEMBERS PRESENT:	Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt
	Chairman Wood, Vice Chairman Perry, Representatives Hancey, Henderson (Chambers), Hixon, Malek, Morse, Romrell, Vander Woude, Rusche and Chew
ABSENT/ EXCUSED:	Representative Romrell
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 8:02 a.m. and welcomed guests.
TESTIMONY:	**Ian James Bott, Bobbie Phillips, Janalyn Kesler, Amy James-Rish, Misty-Dawn James**, Idaho residents; **Dan Hymus** and **Paul Hymus**, Upper Valley Resource and Counseling Center; **Teronda Robinson**, Community Partnerships; **Laura Scuri** and **Nikki Tangen**, Access Behavioral Health Services; **Jim Baugh**, Disability Rights Idaho; **Jessica Chilcotte**, Sandpoint Family Services; **Stacy Stephens**, Alliance Family Services, Inc.; **Darci Morano**, Core Counseling Center; and **Doug Loertscher**, Starr Family Behavioral Health, testified about issues regarding Optum Idaho and Medicaid.

They informed the Joint Committee of their frustrations with Optum. It is difficult to obtain the mandatory authorizations for medication, and they suggested that Optum suspend the prior authorization requirement until the issue of lengthy delays are resolved, and gave testimony of their frustrations. Patients coming out of state hospitals are particularly impacted. The lengthy hold times on the telephone for authorizations sometimes range from three to seven or more hours in duration and are quite burdensome. Mental health services, from the time the provider was contacted to the time services were rendered, had taken about three weeks prior to Optum. Since Optum, that time frame has increased to six weeks, and is continuing to grow. Services are being bottlenecked.

They informed the Joint Committee that they, as providers and provider associations, have not been well informed of changes, such as the Case Manager duties. There has been a deficiency in the guidelines for services rendered. Non-reimbursement of case managers for care coordination has resulted in rural areas suffering. A request was made that the reimbursement schedule and the level of care process be reviewed, and that input from providers be weighed in. Although Optum had offered assurances in the beginning that they would pay like the previous system, payment delays were creating unpaid employer taxes.

Optum is mandating that medical practitioners have digitized records and run a full-time practice. This is forcing medical practitioners to either purchase the expensive program or close their businesses.

Services are now crisis management driven. There are concerns that Optum has broken promises and is in violation of their contract due to the phone hold times being longer than two minutes and the response to complaints being beyond two days.

Bill Benkula and **Nancy Luevano**, Idaho residents; **Tracy Warren**, Council on Developmental Disabilities; **Mark Mayfield** and **Sara Lloyd**, Stepping Stones Services; and **Charlene Quade**, Attorney and Private Guardian, testified regarding Community Supported Employment (CSE). They informed the Joint Committee that individual budget reductions have resulted in Medicaid participants being forced to reduce their CSE services. This reduction has eliminated the opportunity for these individuals to keep their jobs and independence. The state funded rehabilitation employment services wait list has grown exponentially, and they requested budget modifications be implemented for employment and health and safety needs. Transitional services in high school that allow competitive workers would otherwise fall through the cracks without these services.

Kathy Mercer, Idaho resident, testified in support of Medicaid Redesign as a significant change and advancement for Idaho.

Requests for restoration of preventative dental services were made.

Suzanne Jamison, Executive Director, Dental Hygienist Association, urged the Joint Committee to consider the formation of an oral access advisory task force to assess the dental hygiene practice, which would allow for expansion of dental hygienist services in Idaho.

Marilena Delgado, Genevieve Sylvia, and **David Lounsberry**, Idaho Community Action Network; and **Rachel Raue** and **Glen Raue**, Idaho residents, conveyed concern about insurance coverage and Medicaid loss, and of older working individuals and poor workers who do not qualify for insurance. They asked for a redesign to expand Medicaid to cover those groups without coverage.

Van Beechler, Idaho Association of Developmental Disabilities Agencies, spoke about Children's Redesign. He informed the Committee that the crisis intervention services have overburdened some case managers. He furthered that rural areas have accessibility issues. Crisis intervention services need an intermediate level, with a BA degree requirement.

Chairman Wood and **Chairman Heider** thanked everyone who attended and testified. They affirmed that the issues brought before the Committee today were important issues, and that upcoming legislation and meetings will assist the Committees attend to several concerns.

ADJOURN: There being no further business to come before the Committee, Chairman Heider adjourned the meeting at 9:30 a.m.

_____ _____

Senator Heider
Chair

Linda Hamlet
Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Monday, January 27, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Welcome	Chairman Heider
Presentation	Department of Health & Welfare Overview	Dick Armstrong, Director
S 1222	Relating to Emergency Medical Services; to Remove a Definition and to Add Definitions for the "Practice of Emergency Medical Services" and "Provision of Emergency Medical Services."	Wayne Denny, Bureau Chief, Dept. of Health and Welfare
Minutes Approval	Approval of the Minutes of the Meeting of January 13, 2014	Senators Hagedorn and Nuxoll
Minutes Approval	Approval of the Minutes of the Meeting of January 14, 2014	Senators Guthrie and Hagedorn

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, January 27, 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 2:59 p.m., and requested the Secretary take a silent roll call. **Chairman Heider** stated that the Committee will begin the Department of Health and Welfare overview.

PRESENTATION: **Richard Armstrong**, Director of the Department of Health and Welfare, listed out the four main topics in his discussion including: the budget overview for the Department of Health and Welfare (DHW); Medicaid eligibility and systems integration with the Federal Marketplace; three DHW initiatives for state fiscal year (FY) 2015; and "livable wage" impact on public assistance programs. There has been a slight increase in general funds and a decrease in receipts. The main driver here is a reduction in pharmacy receipts in the Medicaid program—many of the brand name drugs are transitioning to generic drugs, which are preferred in Medicaid. However, the Department does not receive rebates on generics. The slight increase in general funds is necessary to replace the loss of receipts. The DHW is at about 96 percent for all of the brand drugs that can be replaced with its generic counterpart and he stated that they will never be at 100 percent since there are some generic brands that are actually more expensive than the brand drugs.

Mr. Armstrong noted to the Committee that in years past, their Medicaid portion was quite large and had an "appetite" that they were uncomfortable with as the Department tried to preserve this safety net without breaking the bank. This year is different however, and is the first year in recent memory where the Medicaid percentage actually declined—and that is huge. Last year, Medicaid was 81.4 percent of the Department's budget, and it is now at 80.6 percent. They have seemed to turn a corner—no longer does the Medicaid budget look totally out of control and unsustainable—"gobbling up" general fund dollars that are desperately needed elsewhere. All the efforts they have made over the years are starting to show results—the Molina Medicaid claims payment system is adjudicating claims extremely accurately, saving millions. The managed care efforts in transportation and dental care have been very successful, and are starting to pay off. There have also been other advancements made to the program over the years.

Mr. Armstrong reminded the Committee of the problems that have been encountered with their managed care contract with OPTUM, and he and representatives from OPTUM will be back before the Committee to address those concerns later in the week. He wanted to assure the Committee that the Department does have their "teeth in the contract" to bring about compliance and they will see that the problems can be resolved fairly quickly.

Returning to the budget, **Mr. Armstrong** said that the vast majority of the money appropriated to their agency is paid directly out to Idaho citizens and health care and social service providers. The recommendation includes 2,848 full-time positions, which is down 270 positions from the 3,119 we had in 2008, before the recession began.

Mr. Armstrong declared that possibly one of the most frustrating challenges the Department faces today concerns the Affordable Care Act. Since Idaho's State Based Marketplace is not yet functional, Idaho consumers currently apply for a tax credit and shop for private insurance through the Federal Marketplace. This means that the Department must electronically share data with the Federal Marketplace through what is referred to as Account Transfers. Idaho delegated authority to the Federal Marketplace to make eligibility decisions for Medicaid when someone applies for a tax credit but ends up being Medicaid eligible. To make this possible, the Department provided Idaho Medicaid eligibility rules to the Federal Marketplace, so that when people began applying for insurance coverage through the Exchange last October, the federal government could accurately determine if they were eligible for Idaho Medicaid. **Mr. Armstrong** said that the Department agreed at the time to accept the federal determinations for Idaho Medicaid and automatically enroll them for January 1st coverage, based on the federal government's assurance that they would accurately calculate Idaho Medicaid eligibility. The Department had been told that they would receive test files in October that they could use to test and that could be used to verify the federal eligibility determinations for Idaho Medicaid. This however, did not happen as promised, and the test files were not received until January, and then there was a significant amount of information missing. Even though the Department did not receive the promised Medicaid test files in October, they did begin getting calls from citizens who were told by the Federal Marketplace they were eligible for Idaho Medicaid. These callers were questioning the federal decision based on their higher incomes. As the Department looked into it further, the citizens appeared to be right, many are not eligible in spite of the Federal Marketplace telling them they are.

This is creating a real quandary for the Department and the citizens of Idaho, **Mr. Armstrong** stated. As the department reviews the information being received they are finding missing information that is critical to make an eligibility determination. If they reject a federally approved application, it can put the family in a Catch-22 situation that will find them going around in endless circles, caught between two bureaucracies, and they have seen that the federal government does not have an escalation process in place. They have been put in the position to continuously go back to the federal government to state why the applications are not accurate, explain the circumstance, and request help in getting the citizens to the right place. The citizens are wanting to buy insurance through the Exchange and do not want to be in Medicaid. He mentioned that the only way out of the quagmire would be to implement our own state-based exchange and get out of the Federal Marketplace as soon as possible. That way the State would own the process on both sides and could talk about building the right solution now to roll out next November allowing an escalation process between the two groups working together.

Mr. Armstrong then went on to discuss the three DHW Initiatives for FY 2015. The first, the behavioral health community crisis centers, was mentioned by Governor Otter in his State of the State. The concept is modeled after successful crisis centers in other states for people with behavioral health disorders. The goal is to reduce incarcerations and hospital ER use, both of which are used inappropriately because there are few alternatives for law enforcement answering behavioral health crisis calls. With this initial request, the Department would pilot three crisis centers in the State with plans to expand to seven based on success and costs.

The next initiative **Mr. Armstrong** discussed was the IV-E pilot, which is a five-year program that is federally funded and could shape the national child welfare model. Currently, federal IV-E funds are available for states when a child enters foster care. The more children in care, the more federal funds a state receives. But what if states were allowed to use this funding to prevent children from coming into foster care? Frequently when a Department representative goes out on a child welfare referral, a child may still be safe with their family, but there may be serious issues that need to be addressed before the family situation spirals out of control. Currently, there are very limited resources to provide intensive in-home services to prevent foster care placements. With this pilot, the federal government is going to allow the DHW to use the funding for specific in-home, preventive services through a waiver. Their goal is to prevent foster care placements that could be avoided, which they believe will result in improved, long-term outcomes for Idaho's children. If this proves successful, there could be a change at the national level for child welfare funding for all states.

The last initiative that **Mr. Armstrong** addressed was the State Healthcare Innovation Plan (SHIP), which is really starting to pick up momentum in the health care field. This is not a DHW program—the federal funding for the planning grant flowed through the agency and they have interest because Medicaid will benefit. But it really is a partnership with health care providers, insurers, and participants to transform the health care model from one that pays for the number of services provided, to one that pays to oversee patients' health care needs within a medical neighborhood, focused on improving patient outcomes. In the SHIP model, all health care providers use electronic health records so there is no duplication of services, while also focusing the providers on improving a patient's health. SHIP also collects treatment and outcome data to identify best practices and encourage the most effective care for health care providers.

The final section of the presentation dealt with the issue of how the "livable wage" in the State has an impact on public assistance programs. **Mr. Armstrong** stated that he has had a number of discussions with several legislators these last few years about the high number of people on public assistance. Some have voiced a genuine concern that Idaho is becoming a welfare state. He then went on to show the enrollment of four public assistance programs over the last dozen years. The first assistance program on the chart is for cash assistance. Over 98 percent of cash assistance goes to people who are elderly, blind, disabled, or children who are being raised by a grandparent or other relative. The vast majority of people on cash assistance receive an average payment of $53 a month. It is very difficult for an able-bodied, working age adult to qualify for cash assistance in Idaho. Out of the 18,300 people receiving a cash benefit, only 270 are able-bodied, working age adults. These are adults with children in the household. Able-bodied, working-age adults without children are not eligible for cash assistance in Idaho.

The next assistance program pointed out showed Medicaid enrollments, which have increased from 10 percent of the population to 15 percent over the last dozen years. The biggest growth in Medicaid has been low-income children. Food stamps, the next assistance program, are probably the most-discussed benefit when it comes to public assistance. Idaho had traditionally seen a low percentage of enrollees until the recession hit. Before the recession, people who would have qualified for food stamps did not apply because they seemed to get by with help from their communities, churches, or families. Some of those resources have undoubtedly dried up with the recession because Idaho is now just below the national enrollment for food stamps. The final assistance program, child care assistance, is the only one that has experienced a decline. The Department attributes this mostly to the

fact that the number of jobs have decreased. If you are not working, you don't need child care. The numbers show that DHW is serving over 20 percent of the State's population in these 4 programs, up from 13 percent a decade ago. This is perhaps what the growing concern is about. At first glance, the numbers may seem to indicate a growing dependence on government welfare.

Mr. Armstrong then went on to point out that the CATO Institute published a report last August that placed a value on welfare benefits available by state. This is a follow-up to a similar study it did in 1995. Its evaluation was for a family of one adult and two children, which it defines as the typical welfare family. The point was to show that in some states, you can earn as much on welfare as working a full-time job. In comparing Idaho with other states, it comes in 50th, with the total benefit package adding up to $5.36 an hour for a full-time worker. The median state was Alaska, at $12.69 an hour, which is still more than double that of Idaho. But there was one measure in the same report that shows Idaho as being number one in the nation. This is for the percentage of adults receiving Temporary Assistance for Needy Families (TANF) benefits who participate in work activities. This measure, along with the low amount of benefits available, shows very plainly that Idaho is not a welfare state.

Going back to the subject of food stamps, **Mr. Armstrong** stated that food stamp enrollments peaked in January 2012, exactly two years ago. During the two years since, Idaho experienced a 9.8 percent reduction in caseload, but even though the numbers are going down, it is not at the rate many would like. They know that people are returning to work, but they still qualify for food stamp benefits. The reason—their new jobs do not pay as much as they were earning prior to the recession. **Mr. Armstrong** point out that the Idaho Department of Labor shared some interesting data when analyzing the high numbers of working people who continue qualifying for public assistance. Their Department learned there has been a fundamental shift in jobs. During the recession, 60,000 jobs were lost, with half in goods production. This would include higher paying construction and manufacturing jobs. The State has regained 40,000 jobs; however, they are heavily weighted to the service industry, which pays an average of about $10,000 a year less. This is quickly becoming the new reality—people are working, but not earning as much.

The sad truth is, as **Mr. Armstrong** declared, that Idaho's median income is the lowest in the nation, at $23,200 a year. For a full-time worker, that's $11.15 an hour. We have become a low-wage state, whether we like it or not. But this is the dilemma—if people are working as hard as ever, but they don't earn enough to make ends meet, what do they do? It is easy to say go get a better paying job. But if the better paying jobs have four applicants for every opening, that means three do not get the higher paying job. Or in rural communities, if there are a limited number of higher paying jobs, what can aspiring workers do? **Mr. Armstrong** said that the answer comes from assistance—whether it's from other family members, their church, a charitable organization, a community action agency, or the Department of Health and Welfare. They need help in filling in the gaps while they learn new job skills to qualify for a better paying job.

Mr. Armstrong noted that this is where the concept of a livable wage comes in. He then called the Committee's attention to an online living wage calculator developed by the Massachusetts Institute of Technology (MIT). The figures estimate basic living costs for CATO's typical welfare family—a household with one adult and two children. Without any assistance, the single parent would need to earn $22 an hour at their job to make ends meet, but if the parent only earns the median Idaho income of $11.15 an hour, how does the family get by? The parent needs to earn an additional $5.78 an hour to bridge the gap between their wage and a livable wage.

Mr. Armstrong is concerned with the fact that the State has 121,000 households in Idaho with collective incomes below the $23,200 median wage. These are Idaho families who are probably going to need some support to get by. This is not due to lack of a strong work ethic. The State may have the lowest individual median income, but in 62 percent of the households both parents work. Idaho also has one of the highest rates in the nation of workers holding down more than one job. And it is a known fact that Idaho's public assistance benefits are among the most meager in the nation. The issue is that workers lack the opportunities to earn a livable wage.

Mr. Armstrong mentioned that some solutions have been put forward recently, including when these figures were placed before the Idaho Economic Outlook and Revenue Assessment Committee, it generated quite of bit of discussion about improving education. Governor Otter's Project 60 has many of the ingredients for fostering business growth. And the Governor's "K Through Career" workforce development initiative provides a fresh and unique approach for maintaining a vibrant workforce. The answer lies, **Mr. Armstrong** stated, in policies to improve wages, work opportunities, and education. When the State can do that, the high utilization of public assistance services will take care of itself.

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

DISCUSSION: **Senator Lodge** asked about the amount of hours people were on the line waiting for OPTUM, what was the reasons behind the long wait times, and why couldn't they take a message and get back to the caller. **Mr. Armstrong** responded that there has been a lot of conversation regarding this issue, and there is no good excuse. Their agency knew several months ago that there would be some potential for crisis, so there have been many sessions of feedback with better response, and more people being added to the phone bank. **Senator Lodge** likened this to some of the problems that happened with the Molina Medicaid program, in that they didn't quite understand what the requirements were going to be, and doesn't see how they couldn't have prepared themselves in advance for all of the possible scenarios. **Chairman Heider** confirmed that representatives from OPTUM will be before the Committee on Thursday to address the issues and concerns. **Mr. Armstrong** also noted that, unfortunately, one company or agency doesn't necessarily pay attention to another to learn from their successes or failures. Since every situation is unique, sometimes you can anticipate all of the problems that may arise and other times not, it's all in how one responds to the situation that determines the outcome. As a Department, he felt they have enough "horse power" in their contracts to make sure they get compliance.

Senator Hagedorn wanted to know in regard to the electronic health records, where was that idea initiated from and how is it impacting the physicians we have in our state right now. **Mr. Armstrong** answered that the Health and Welfare Committee authorized the Health Quality Planning Commission back in 2006, and one of the spin-offs of that Commission was the Idaho Health Data Exchange, and has been up and operational for at least five years. It has been the vehicle by which electronic records can be moved between physician offices. This allows a physician to either pull data to his computer or push data to another physician, and has become the requirement to do business with incentives being offered for offices to convert to doing electronic records. It has become the standard, but now the concern is in moving it forward with best practices. The physician has all of the previous information (lab results, imaging) to move forward with the best diagnosis, and there should be no duplication of testing, lab work, imaging, procedures, etc... The idea is that, within a secure environment, the physician will have access to more accurate information which will bring about a less costly diagnosis. **Senator Hagedorn** then asked if this is affecting doctors such that we are losing practices

throughout the State. **Mr. Armstrong** responded that we are not losing practices because of the electronic health record system. He has had several discussions with physicians on how to use this tool effectively for their practice and patients. It requires a change in the way health care is being delivered. There may be some physicians who are coming to the end of their career and are using this as a reason to get out sooner, to avoid the conversion, but those scenarios are very minor as far as the numbers of practices being effected. The average age of primary care physicians in Idaho is 54, so there is a baby boomer component to physicians retiring, but the electronic health recording system is not a driving element to the closing of practices. **Senator Hagedorn** requested to know, as far as the 121,000 Idaho households that were the median, what did that represent as far as the total percentage of Idaho households. **Mr. Armstrong** stated that their Department believes that represents about 25 percent of Idaho households.

Senator Guthrie asked about the federal exchange quagmire addressed by Mr. Armstrong where the State kicked out an applicant for Medicaid since they didn't qualify even though the federal said they did, is that because of something unique between the State exchange employing the federal technology or is this a typical problem with states with federal exchanges. **Mr. Armstrong** answered that they believe it's typical of the technology of the Federal Marketplace, that the logic being used is flawed everywhere. In talking with other states, they seem to be having similar problems with the same scenarios as Idaho, and because of the Children's Health Insurance Program (CHIP), we may have a higher percentage of issues. **Senator Guthrie** wanted some explanation as to why the "family" used in the study is not more the traditional family (2 adults and 2 children). **Mr. Armstrong** noted that it was done intentionally to match the CATO Institute's study model to use to define the global impact for Idaho versus other states. This was the first opportunity to compare what happens in our state with information from other states.

Senator Lakey asked Mr. Armstrong if he could give him a letter he'd received from a provider in the State to prepare for the meeting later in the week with the OPTUM representatives. **Mr. Armstrong** confirmed he would be happy to take the letter in an effort to address all the scenarios.

Senator Schmidt wanted to know about the folks caught in the middle between the State and federal and noted that really isn't the "wood work" that had been mentioned earlier. He wanted to know if we have seen the numbers and identified people that are Medicaid eligible and show an increase in Medicaid enrollment due to the mandate. **Mr. Armstrong** responded that no, he does not feel the numbers represent the "wood work". It is simply a technical complexity with most of the people applying because they wanted to buy private insurance so they weren't intentionally going into the system to get Medicaid. The "wood work" effect hasn't been seen yet, and will take some time to understand since the "noise is rather deafening with statistics right now because of the problems". The enrollment has only been going on for about a month now, and with that there are at least 2,000 that fall into the questionable area of that they're trying to sort through. The enrollment is lower than expected but that should start to pick up. **Senator Schmidt** then asked about the goal for the Behavioral Health Crisis Centers, which is to reduce Emergency Room (ER) visits and incarcerations; do we currently count those now so we will know if we are making our goal? **Mr. Armstrong** answered that yes, they do know from records received from county law enforcement on how many events take place and how many are "holds" and the number that eventually are turned over to the state hospitals. So, he felt confident that the Department would have a good way to show results fairly quickly based on historical information.

Chairman Heider thanked Mr. Armstrong for his time and for the information on what is happening between the State and the federal government.

S 1222 **Relating to Emergency Medical Services (EMS) to Remove a Definition and Add Definitions for the "Practice of Emergency Medical Services" and "Provision of Emergency Medical Services": Wayne Denny**, Chief of the Bureau of Emergency Medical Services and Preparedness of the Division of Public Health in the Department of Health and Welfare. Mr. Denny introduced himself and the Bureau's unique dual role of both supporting and regulating Idaho's Emergency Medical Services (EMS) system. The focus of his comments before the Committee was on how **S 1222** will give them needed clarity in the regulatory role.

Mr. Denny noted that the challenge their agency faces today is that the current definition of EMS in Idaho Code describes the system in which care is delivered, but it does not describe when care provided to a sick or injured person is considered EMS. The lack of clarity in the current definition can potentially allow untrained individuals to provide inappropriate and potentially harmful interventions to sick or injured persons. The "practice of EMS" is being defined to make it clear that EMS is not happenstance, good Samaritan, first aid like would be provided by a bystander at an auto accident or CPR provided by the witness of a cardiac arrest. EMS is specifically defined as responding to a perceived need for care and doing so on an organized basis through an alerting and response mechanism such as the 9-1-1 system. Being prepared to use skills that are beyond the scope of practice associated with advanced first aid as, and being supplied with equipment, which exceeds the scope of practice associated with advanced first aid as described. There is exempting language pertaining to ski patrollers, in cooperation with the National Ski Patrol (NSP) to make it clear that NSP affiliated ski patrollers are exempt from regulation as they are one of a list of individuals, although not holding a license to do so, who may legally practice medicine in Idaho.

Mr. Denny went on to explain the definition of "provision of EMS" as the deployment of an individual, group of individuals, or organization to respond to human medical emergencies, illness or injuries outside of hospitals or clinics. Many of the EMS agencies in Idaho are staffed either in part or in whole by volunteer EMS professionals. The language in lines 38 and 41 through 43 recognizes those EMS agencies that employ volunteer EMS professionals in the same light as an agency that uses paid or compensated EMS personnel. Most of our licensed EMS agencies rely on response vehicles of some sort, be they ambulances, SUVs or fire apparatuses; however, there are several agencies that do not use response vehicles. There are several exemptions in this category, the first exemption concerns other licensed health care providers such as athletic trainers, nurses, mid level practitioners and physicians.

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

Vice Chairman Nuxoll wanted to know if this will make it harder or easier to get treatment and first aid attention in other places such as a camps or public swimming pools. Is there anything in the definition that will prevent them from providing first aid immediately? **Mr. Denny** responded that the definition applies to care that is above advanced first aid, so these types of scenarios aren't regulated by the definition. **Vice Chairman Nuxoll** then wanted to know how the definition would apply if someone gave first aid, and the victim wanted to pay them for their services. **Mr. Denny** answered that the scenario is out of the scope of the EMS definition since EMS is not a happenstance event, but one organized through a dispatch, and perhaps an ambulance and not under the "Good Samaritan" situation.

Senator Guthrie commented that this definition looks out of character in looking at the other definitions, and is worried about getting into the minutiae of minor details,

as if the agency struggled to come up with the definition and nail it down so tightly that something is bound to be overlooked. **Mr. Denny** stated that this all can be traced back several years ago while working with the NSP to get ski patrollers in the State exempted. They formed a Licensure Summit inviting all groups that might be affected by this (ski patrollers, smoke jumpers, etc...). They used this input to help build their definition of what EMS is and what it is not. This is only the medical care that their agency feels they have regulatory oversight over, and helps to define where their agency becomes involved and where they do not.

Senator Hagedorn was curious what the impact would be if **S 1222** does not pass. **Mr. Denny** gave a scenario about a vehicle being used to transport individuals, not calling it an ambulance and saying they aren't providing EMS because they have figured out a way to get paid outside of Medicaid. Organizations that want to bill have to be licensed through EMS, but if they've figured out a different way to get paid, his agency has no power to touch them since there's no definition in place. He noted several actual examples that the agency couldn't do anything about because there is no clear definition in place.

Senator Schmidt asked if there are other states that allow their ski patrollers to be exempt from the EMS regulations. **Mr. Denny** responded that the NPS is currently working with other states. The definition of EMS is different state by state.

MOTION

Senator Bock moved to send **S 1222** to the floor with a do-pass recommendation. **Senator Martin** seconded the motion.

Senator Hagedorn declared he would vote against the motion since he could see no compelling need. He sees it more as a protection for existing EMS providers than for those who might just want to offer a service to transport those in wheelchairs. **Senator Schmidt** gave a real example of a small town where private citizens are running a service to transfer people in between hospitals. The hospitals support this, since the volunteer ambulance service can't always handle this type of thing. He wanted to know how would this company get licensed and defined in the current system. This definition will make it easier to tell them where they fit, the licenses needed and the criteria to follow. **Senator Hagedorn** then asked would this then apply to family members who want to transport someone back and forth from a hospital to a nursing home, would they have to be regulated and licensed. **Chairman Heider** noted that, as a former ski patrolman for several years, he feels that **S 1222** is defining those that don't have to be licensed as opposed to those that do. The same exclusions for ski patrollers applies to those transporting loved ones back and forth, they don't need to be licensed to do that since they're not providing the specific level of care as an EMS provider. **Senator Hagedorn** appreciated the explanation, but is concerned that there are no other exclusions other than the ski patrollers, there is no mention of those who just want to run a wheelchair transportation service for example. **Chairman Heider** mentioned that the difference would come if they required some sort of medical care while being transported such as a respirator or heart monitor, then it would fall under EMS, otherwise the driver would not need to be licensed. **Vice Chairman Nuxoll** voiced concern over too many scenarios and not enough exemptions, and it doesn't seem clear enough as to who would be required to be licensed and fall under the EMS regulations.

ROLL CALL VOTE:

Chairman Heider called for a roll call vote on sending **S 1222** to the floor with a do-pass recommendation. **Chairman Heider, Senators Lodge, Martin, Lakey, Bock** and **Schmidt** voted aye, with **Vice Chairman Nuxoll**, **Senators Hagedorn** and **Guthrie** voting nay. The motion carried. Senator Schmidt will carry **S 1222** to the floor. **Senators Lakey, Guthrie** and **Vice Chairman Nuxoll** wanted it noted that they would be interested in hearing more about this when it comes to the floor, which may impact their position on the Legislation.

MINUTES: **Chairman Heider** asked for the approval of the January 13, 2014 Senate Health and Welfare Committee meeting Minutes.

MOTION: **Senator Hagedorn** moved to approve the January 13, 2014 Minutes as written. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**.

MINUTES: **Chairman Heider** asked for the approval of the January 14, 2014 Senate Health and Welfare Committee meeting Minutes.

MOTION: **Senator Guthrie** moved to approve the January 14, 2014 Minutes as written. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business to come before the Committee, **Chairman Heider** adjourned the meeting at 4:17 p.m.

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Senator Heider
Chair

_____

Linda Hamlet
Secretary

_____

Linda Harrison
Assistant Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Tuesday, January 28, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Welcome	Chairman Heider
S 1223	Relating to the Personnel System - Amendments to Authorize a Loan Repayment Program for Physicians, Psychologists and Mid-level Practitioners at Certain State Hospitals; to Provide Limitations on the Program; to Provide Eligibility Criteria for the Program; to Provide for Length of the Program; and to Provide for Amounts to be Reimbursed	Ross Edmunds, Administrator, Department of Health and Welfare
S 1224	Relating to Behavioral Health Services - Amendments	Ross Edmunds
RS22402	Relating to the Board of Medicine - Amending to Revise Provisions Relating to the Terms if Board Members and to Make Technical Corrections	Nancy Kerr, . Executive Director, Idaho State Board of Medicine

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Tuesday, January 28, 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 3:03 p.m. and asked the Committee Secretary to take a silent roll.
S 1223	**Relating to the Personnel System - Amendments to Authorize a Loan Repayment Program for Physicians, Psychologists and Mid-level Practitioners at Certain State Hospitals; to Provide Limitations on the Program; to Provide Eligibility Criteria for the Program; to Provide for Length of the Program; and to Provide for Amounts to be Reimbursed: Ross Edmunds**, Division Supervisor, Department of Health and Welfare (Department). Mr. Edmunds began by stating that the purpose of **S 1223** is to establish a loan repayment program for two of the state hospitals as incentive for employment and continuing employment at the hospitals. The problem is that these hospitals are not fully staffed. This is not from an inability to adequately pay the practitioners, but by not being able to recruit them due to lack of incentives in comparison to other states. The Department is looking at a three-pronged approach of recruitment bonuses, addressing increasing wages and salaries (for new as well as current employees), and the student loan repayment program. **Mr. Edmunds** clarified that the loan repayment program would not be just for the psychiatrists and psychologists, but also medical doctors and mid-level prescribers (including nurse practitioners, and physicians assistants) at the state hospitals. The Board has exhausted efforts on the federal level to find a program that would take care of this need, but there is nothing out there for this group of practitioners at the state hospitals. This legislation would allow for loans relating to their medical training/education to be paid, at the discretion of the Board and the hospital as a means of retention and recruitment efforts. In order to qualify for the loan repayment program, it would require a years worth of employment or a total of 2080 hours. There's internal policy to guide the specifics for the amounts to be paid and when, and he showed that after four full years of employment, the benefit would be a total of $75,000 in loan repayment. The amounts for the other practitioners would be different, depending on their level of responsibility to the hospital. This would be deemed as income to the participant and it would not only be taxable income, but up to the individual to then pay it towards the student loan. **Senator Bock** wanted to know, in judging whether or not this will be sufficient incentive, for a psychiatrist who is being recruited just out of their residency, what would be the starting salary for someone like that. **Mr. Edmunds** responded that the physicians being hired at the state hospitals start at about $85 an hour which translates to $175,000 - $180,000 a year. **Senator Bock** followed up by asking

what the actual range of pay for the physicians at the hospital is. **Mr. Edmunds** answered that the $180,000 is the maximum range except for the chiefs of medicine at the two hospitals that make above that amount.

Vice Chairman Nuxoll wanted to know about the need for the mid-level practitioners since she wasn't aware the hospitals were deficient at that level. **Mr. Edmunds** said that they have an easier time recruiting the individuals at the mid-level, but a harder time retaining them due to other opportunities that are more beneficial at other places.

Senator Guthrie asked how it would work out between an individual just coming into the hospital versus a practitioner that's been with them for a while. Are they both eligible or how does that work? **Mr. Edmunds** stated that the fiscal impact is $85,000 a year per hospital. With that in mind, there would be a need for them to look at the needs of existing staff and the recruitment opportunities on how to best use the funds available. He confirmed that the priority wouldn't go to the recruitment, necessarily, since it's just as important to retain the staff they already have on hand. What they've had to do, by being short-staffed, is to hire out by contracts which is a lot more expensive than salaries. **Senator Guthrie** then inquired if it was a full calendar year or 2080 hours to actually qualify for the program, and what was the criteria after the first year. **Mr. Edmunds** responded that the first distribution is after the 2080 hours, after that they would make the determination for the following years since there's nothing set in stone at this time, and they can also look at how to compensate part-time practitioners as well.

Senator Lodge mentioned that it might be helpful to look at past legislation, specifically H 301, that might help in recruitment efforts since it deals with rural areas and the state hospitals are in rural areas and she is very aware of the need that these hospitals face. She confirmed that this step has been long overdue.

Senator Hagedorn stated he is in support of the program and certainly can see the need for it. His concern with this particular legislation is that it doesn't address where the actual funds will come from. **Mr. Edmunds** answered that this is in fact part of the Governor's recommendation, the funds are coming from endowment, and pointed to the fiscal statement for the legislation that notes the funding will be 100 percent endowment dollars. **Senator Hagedorn** then mentioned that he can see that on the fiscal note accompanying the statute, but it's not in the statute itself and perhaps it would be good to have it listed there as well. **Mr. Edmunds** stated that he has never done that in a piece of legislation other than on the fiscal note, but said if that is what the Committee wanted he could go back and take care of it. He did say the information was provided by the Governor's office, being recommended through his budget, he would need to go back to them for approval. He can also check with the budget analysts with the Legislative Services Office (LSO) to confirm that with the budget request this program is to be done with endowment funds. **Senator Hagedorn** commented that checking with the LSO and having them add it in as a line-item might be the best way to address his concern.

Senator Lakey asked about the details for the payout of funds. Was it paid at the end of a calendar year, paid on their anniversary date, or pro-rated for part-time work? **Mr. Edmunds** answered that it would be at the completion of their required hours for the first year of employment. **Senator Lakey** wanted to know if each of the years are looked at all at once, or looked at as they come around. **Mr. Edmunds** responded that the statute leaves the options open to do either one of those things when it came to recruitment or retention, allowing for more flexibility to fit the individual and situations to meet their needs.

Vice Chairman Nuxoll wanted to know if this is a new process to have the Division Administrator make these types of decisions, along with the hospital administration, or are there other decisions Mr. Edmunds and his group might be called in to make. **Mr. Edmunds** noted that it is not uncommon for his position to step in, since he is considered the "appointing authority" and can make those decisions for his division. The two state hospitals fall under his appointing authority, but they have to follow the procedure that goes up through his Department for final decisions, and sometimes involves the Governor.

Senator Martin asked if to Mr. Edmunds' knowledge, is this being done in other areas of state government, or anything similar to this program. **Mr. Edmunds** stated that student loan repayment programs are very common, especially for the healthcare industry. He can't really speak for other professions, but as far as healthcare it is common, they just have not been able to find help on the federal level for the state hospitals. **Senator Martin** wanted to know about controlling the funds. Once they are disbursed to the individual do they have to use it for loan repayment or can they us it as additional income. **Mr. Edmunds** answered that it would be difficult for their Department to track that the money goes specifically for loan repayment. Since they are recruiting and retaining with this incentive, it is up to the individual to take advantage of it for what the program is meant for.

Chairman Heider wanted to confirm that the Department does not follow up with the individual as to what money is given to them, and the decision is made every year to pay them that particular bonus. **Mr. Edmunds** responded that the Department is not obligated to pay the bonus to the individual, it would depend on the available funds and the agreement that had been originally agreed upon. **Chairman Heider** asked if an individual would be expecting the annual bonus and then did not receive it, would it put the Department in an awkward position, violate the contract, or will this all be addressed up front. **Mr. Edmunds** stated that whatever the original agreement was with the practitioner is what the Department would stick to for up to the four years, or revisit it each year, depending on what had been previously arranged.

Vice Chairman Nuxoll inquired if each year the Department can ask the individual if they have used the money to actually reduce their loan payments. **Mr. Edmunds** said that was certainly an option, and there is nothing to prevent them from asking that. It would seem like unnecessary control or management to require a receipt or proof of how the funds are used.

Senator Guthrie noted that he thought the statute mentioned something about not paying to the individual more than is owed on the student loan and is concerned that if the Department does not monitor the funds, this situation could happen and feels that there should be more control.

Senator Hagedorn said he is assuming that this retention and recruitment tool will be looked upon by the practitioners as part of their salary, and at the end of the first year, they would get approximately an additional $10,000 for their loan payments they had made, or should've made, throughout the year. **Mr. Edmunds** stated that was correct, and it may not add up exactly, but they would probably make a lump payment at the end of the year with their "bonus". He also noted Senator Guthrie's concern, and said that they would be monitoring that scenario. **Senator Hagedorn** then wanted to know, if someone was not paying their loan, and the Department chose to stop the "bonus" and the person decided to leave because of that, how would the Department address that situation. **Mr. Edmunds** confirmed that the Department is looking for the flexibility to look at the program each year to establish a process of providing the bonus without such strict monitoring, but also knowing

that the funds are being put to good use. **Senator Hagedorn** wanted to know if this legislation gives them the needed flexibility. **Mr. Edmunds** asserted that it does give the Department the flexibility.

TESTIMONY **Kathie Garrett**, on behalf of the National Alliance on Mental Illness (NAMI) of Idaho, stated that she was before the Committee to voice her support for **S 1223** since it will help in improving the State's mental health system. For many years NAMI has advocated for improved staffing at both of the state hospitals. They have watched as the Department has struggled for many years to recruit and retain adequate staffing which has left many empty beds that could've been filled by those truly in need. The NAMI group applauds the Department's efforts to come up with this program of loan repayment as a tool to retain and recruit proper staffing.

Vice Chairman Nuxoll wanted it noted that there is a conflict of interest since she sits on the Board. **Chairman Heider** noted her wish.

MOTION: **Senator Martin** moved that the Committee send **S 1223** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Vice Chairman Nuxoll will carry **S 1223** to the floor.

S 1224 **Relating to Behavioral Health Services - Amendments: Mr. Edmunds** thanked the Committee for passing a variation of this bill last session, and reminded them that it didn't have time to make it through the House. Whereas the House side was able to hear the opposition, the Senate Committee did not have that chance. Since that last session, however, he has been able to spend more time with it; do the homework; meet with the opposition, the supreme court, NAMI and other groups to make improvements from last year. This legislation will move behavioral health in the State a step further to being more effective in serving the public and represents a decade of review for possible improvements.

Mr. Edmunds went on to list out some of the changes that have come about due to the decade long examining process. One of them is combining the areas of mental health and substance abuse into a single behavioral health approach. Another area they discovered is to go more with a local community approach in solving problems rather than a top-down Department approach all the time. Some of the changes to the flowchart are already in place, others are to be implemented with flexibility to the particular department to either take on a new role or not. He pointed out the area that names the 7 regional behavioral health centers, and how this current legislation will more clearly define what those centers are and do. He then noted the changes to be made in the different sections and how they would affect what is currently being done by the Department. **Mr. Edmunds** noted that, even with the problems of the Affordable Care Act, it is part of the law to have mental health coverage, as well as medical coverage, through individual insurance plans as a means of parity in the system. **Senator Schmidt** wanted it noted, that parity may be part of the law, but it is not part of the Affordable Care Act. **Mr. Edmunds** confirmed that it is not part of the Affordable Care Act as stated by Senator Schmidt. He then ended by stating that people with mental illness have been found to die twenty-five years earlier than their peers. By moving from a more clinical approach and treatment for the mental illness and by moving the control down to the regional boards, this will better allow the focus to be on recovery and family support.

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

Senator Bock was curious to know where this all might fit in with the Criminal Justice Reinvestment proposals going on in the session now. **Mr. Edmunds** answered that he has seen that the role of behavioral health is very critical when it comes to trying to keep people out of prison. He gave the example of someone on

probation, receiving adequate behavioral health intervention so another episode does not occur to cause a parole violation or subsequent offense. **Senator Bock** then asked what more needs to be done on the Health and Welfare side to address the needs of the Justice Reinvestment objectives. **Mr. Edmunds** responded that as far as the Justice Reinvestment, they haven't made specific requests for changes to the mental health side of the system, but have made recommendations for increased funding for the substance abuse disorder side. One thing that is definitely needed is more access to care. **Senator Bock** wanted to know what efforts Health and Welfare are making to pinpoint those individuals being released from a correctional institution that are getting enrolled into Medicaid for assistance, or is that the responsibility of the Department of Corrections. **Chairman Heider** wanted to make it clear that the Committee is not addressing Medicaid expansion or the Department of Corrections at this time. **Mr. Edmunds** stated that the Department does play a role in that effort, specifically the Department of Behavioral Health, in working very well with the Department of Corrections to align with those individuals integrating back into the communities.

Vice Chairman Nuxoll wanted to confirm that the regional health boards are becoming governmental entities if they so wish. **Mr. Edmunds** said that through this legislation, the regional behavioral health boards would be able to become pseudo-governmental entities. **Vice Chairman Nuxoll** then asked how will that work when they want funding. **Mr. Edmunds** answered by talking about the regional base (operations) funding that's been set aside by the Department. The additional funding for them taking over the recovery and family support services would come from the Department or contracts and grants as it does now. **Vice Chairman Nuxoll** asked as far as the regional boards, why couldn't they become non-profit agencies, or why not use the current community health centers instead of creating something new. **Mr. Edmunds** responded that these regional mental health boards have been around for many years and have not chosen to become non-profit due to lack of funding. The point is not to waste any resources, but to use them more effectively. There's a growing interest for the regional mental health boards to partner with the health districts to expand the scope of service available.

Chairman Heider wanted to know about the seven behavioral health boards, will they all be set up at once, or a few here and there. **Mr. Edmunds** stated that the decision would be driven by the regions themselves as to when and how they want to do it, but until they choose to go that route, all of the responsibilities will remain with the State's Board. **Chairman Heider** then asked if the State Board was now ready to financially support the seven boards if they were ready to be up and going. **Mr. Edmunds** said they do have the resources available to fulfill their obligation to the seven boards if they choose to take on the role themselves since it's not new money, but money that would be used by the region, for the region and at the region's discretion.

TESTIMONY: **Ms. Garrett** also wanted to voice support for this piece of legislation saying that the intent is to deliver better community behavioral health services in the State by bringing together the mental health and substance abuse sides to act together on a regional level. She noted that NAMI Idaho opposed the legislation last session, but the current bill has been modified to address those issues, and they are pleased with the efforts that have been made to address their concerns and those efforts have improved the legislation significantly.

Greg Dickerson, Chairman of the Region 4 Mental Health Board, wanted to speak in support of this legislation. They have been looking for an opportunity to implement these supports in their local communities. With the reintroduction of this legislation, his region created a subcommittee to look at how they as a committee would take the ball and run with it instead of leaving it up to the state level. The

subcommittee looked at the details including expenses and determined with a framework in place, they'd be able to take this on.

Howard Belodoff wanted to speak in support of this bill, specifically for children in the State, since he is a court appointed Guardian Ad Litem. This group opposed the legislation last year, and even though he doesn't agree with everything in it this year, some things were worked out to their benefit. This bill does not provide the resources for the children's side of things, which are sorely needed. It does provide the local boards and staffing to help the children, but the resources are needed for the services that would be most helpful. He wanted it noted that, even though this legislation falls short, it is best to support something that starts getting things moving in the right direction.

DISCUSSION: **Senator Bock** wanted to know the vehicles that might be foreseen for the delivery of resources to those who need them now. How do the fragmented pieces come together so the resources can be obtained? **Mr. Belodoff** answered that Idaho is not alone it this quest, and it will take partnerships in place between groups such as the juvenile justice system, and agencies affiliated with Health and Welfare. When you have Medicaid, children's mental health and child welfare all acting independently when they could be working together for the same goals and resources, it doesn't help the children.

Senator Martin had a question for Mr. Ross as far as the fiscal note that states "$315,000 to be used for base funding for operations" and he wanted to know if, for some reason, this legislation does not pass, what happens to the $315,000. **Mr. Ross** responded that could be a bit tricky to answer since the money is currently tied to personnel costs. When the Department no longer needs to employ someone at the regional level, those funds will be freed up for regional use with those people being taken care of at the regional level as far as payment compensation.

Vice Chairman Nuxoll voiced concern and opposition to this legislation stating there are other local agencies that are in place and can see no need to have new centers in place to increase government control.

Senator Schmidt added a comment that he agreed with Mr. Belodoff, these are much needed services, and in the long run, investing in these services could save money in other areas. However, cost accounting for where and how money is being spent is hard to track in this process, and the fact that it can be paid for with money the department already has makes him somewhat uncomfortable. Policy wise he can support this, but funding it should prove rather interesting.

MOTION: **Senator Lakey** moved that the Committee send **S 1224** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote** with **Vice Chairman Nuxoll** wanting it recorded that she was voting nay. Senator Lakey will carry **S 1224** to the floor.

RS 22402 **Relating to the Board of Medicine - Amending to Revise Provisions Relating to the Terms of Board Members and to Make Technical Corrections: Nancy Kerr**, Executive Director, Idaho State Board of Medicine (Board). This RS changes Idaho Code for the Medical Practice Act to allow Board members to continue in their term until the appointment of a new member and the new member is qualified to take over the role. The Idaho Board of Medicine is responsible for the licensure and regulation of physicians and other health care professionals in Idaho. Part of the regulatory duties include the responsibility to make decisions as to the ability of a licensed professional to retain a license to practice. Members must be familiar with laws and rules, administrative process and due process to fairly and impartially make these decisions.

Ms. Kerr noted that the terms of appointment have expired in the middle of the administrative hearing process, putting a burden on the Board to ensure a qualified quorum of the Board members to hear the case. For an administrative hearing the members must read all the documents related to the hearing. This can be more than several hundred pages. The Board members must be familiar with the rules and laws of the Board in order to make a fair and impartial decision affecting a licensee of the Board. While appointments are made promptly, it is very difficult to welcome a new Board member to the Board by asking them to read several hundred pages of legal documents, be familiar with the laws and rules of the Board and make informed, impartial decision in a few days. The changes suggested to Idaho Code will allow the experienced members of the Board to continue the hearing process and allow new members the opportunity to be appropriately oriented to their new role.

MOTION: **Senator Bock** moved to send **RS 22402** to print. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business before the Committee, **Chairman Heider** adjourned the meeting at 4:32 p.m.

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Senator Heider
Chair

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Linda Hamlet
Secretary

_____

Linda Harrison
Assistant Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Wednesday, January 29, 2014

SUBJECT	DESCRIPTION	PRESENTER
RS22650	Relating to Hazardous Waste Management: to Revise Definition of "Restricted Hazardous Waste"	Roy Eiguren, Eiguren Fisher Public Policy Firm
RS22374	Relating to Nurses: Amending to Revise Provisions Related to Criminal History Checks and to Make Technical Correction	Sandra Evans, Executive Director, Idaho Board of Nursing
RS22389	Relating to Nurses: Revising Terminology, to Authorize the Imposition of a Monetary Penalty as an Alternative to Formal Discipline Against Nurses Who Violate Nursing Statutes or Rules, to Correct a Codifier Error, and to Make Technical Corrections	Sandra Evans
RS22460	Relating to Nurses: Amending to Revise a Provision Relating to Discipline and to Provide that Certain Conduct with a Patient May Be Grounds for Discipline; Declaring an Emergency	Sandra Evans
RS22390	Relating to Vital Statistics: Revising a Definition, Clarify Role of an Advanced Practice Registered Nurse, Revise Terminology	James Aydelotte, State Registrar at Idaho Department of Health and Welfare

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Wednesday, January 29, 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 3:00 p.m. and welcomed the audience, inviting those who wish to speak to sign in.

RS 22650 **Rules relating to Hazardous Waste Management to Revise Definition of "Restricted Hazardous Waste": Roy Eiguren**, Eiguren Fisher Public Policy Firm, explained that this legislation amends the Hazardous Waste Act, the statute providing legal authority for the Department of Environmental Quality (DEQ), to regulate waste facilities in Idaho. The DEQ regulates the only commercial hazardous facility in Idaho, US Ecology's treatment and disposal facility in Owyhee County near Grandview.

Mr. Eiguren reminded the Committee members that US Ecology's CEO addressed them last year regarding the company's operations. If this bill is printed, the intent is to provide an update on those operations, details about the type of waste that is the subject of this legislation, and testimony from DEQ officials who assisted in drafting this legislation.

Mr. Eiguren explained that the Hazardous Waste Act was amended in 2001 by the Legislature to direct the Department to promulgate rules governing the disposal of "low activity radioactive materials." Those rules were authorized into law in 2002 and have been amended over time providing the DEQ with a specific and detailed process to regulate low activity materials. Low activity radioactive material are generally construction debris and dirt.

According to **Mr. Eiguren,** the federal government regulates the production of nuclear energy per the Atomic Energy Act of 1954, including the regulation of nuclear waste. Some wastes contain very high levels of radioactivity, such as those stored at the Idaho National Laboratory. These types of waste are regulated by the Nuclear Regulatory Commission for wastes in the commercial nuclear cycle, or the Department of Energy for other types of wastes such as those from defense related programs.

The Atomic Energy Act provides that some wastes of low level radioactivity, called "below regulatory concern", no longer need to be regulated by federal agencies. Through the 2001 statues and subsequent rules, it is appropriate for the DEQ to regulate these materials. When the wastes fall out of federal regulation, the State has made the determination to regulate them.

Mr. Eiguren added that currently the Hazardous Waste Act provides that wastes that are "exempted from licensing" by the Nuclear Regulatory Commission may be disposed of at the Grandview facility. It does not provide the authority for wastes no longer regulated by the Department of Energy to be disposed of at that facility. This legislation clarifies the act by providing express authority for wastes "released from regulatory control" by the Department of Energy to be disposed of at the facility. It also provides that such wastes will be disposed of pursuant to the permit and related waste acceptance criteria set by the DEQ.

A handout illustrating the intent of the bill was shared with the Committee and is attached. It basically shows that the US Atomic Energy Act of 1954 created the US Atomic Energy Commission. That Commission splits into the US Nuclear Regulatory Commission and the US Department of Energy. The Nuclear Regulatory Commission exempts low level wastes from regulation; the Department of Energy releases them from radiological control. This legislation allows the Department of Energy materials to be disposed of under the state regulations.

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

Chairman Heider asked if there is any difference in the end result of those being exempt from licensing or those being released from radiological control.

Mr. Eiguren answered that the material is exactly the same, i.e. construction debris, dirt, rubble, it is just labled differently–Nuclear Regulatory Commission or Department of Energy.

Senator Bock stated that he would like to hear from someone other than the industry about whether this is good, bad, or indifferent.

Mr. Eiguren replied that the DEQ will be here, will testify and will explain their program to the committee.

Senator Martin asked, regarding fiscal impact, if a positive $100,000 is correct.

Mr. Eiguren stated that the amount is correct. There is a tax imposed on every gate ton of material disposed of at the facility. That tax is generated for the state general account, and he is anticipating that the additional material coming from the Department of Energy will generate additional tax revenue in the amount of $100,000 per year.

MOTION: **Vice Chairman Nuxoll** moved, seconded by **Senator Martin,** to print **RS 22650**. The motion carried unanimously by **voice vote.**

RS 22374 **Rule related to the Board of Nursing's fingerprint-based criminal background checks: Sandra Evans,** Executive Director, Idaho Board of Nursing (Board), stated that **RS 22374** amends Idaho Code § 54-1401(3) by clarifying the existing authority to conduct fingerprint-based criminal background checks on applicants for nurse licensure. The changes will correct deficiencies identified during recent FBI and Idaho State Police audits of the Board's authority and practices. This proposed legislation has no fiscal impact.

Vice Chairman Nuxoll asked for an explanation of what the bill does.

Ms. Evans replied that the Board has had authority to conduct fingerprint-based criminal background checks since 2005, and they are consistently picked for audit due to the large number of nurses applying for lincensure. On the most recent audit by the FBI and the State Police, language was found in the statute stating that the fees for fingerprint background checking are paid directly to the State Police, and that is not correct. The fee is actually collected by the agency and is forwarded on to the police.

The other changes, according to **Ms. Evans,** just reflect cleanup language, deleting outdated references to license applications prior to 2005 which are no longer necessary.

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 Bock** moved, seconded by **Vice Chairman Nuxoll,** to print **RS 22374**. The motion passed by **voice vote**.

RS 22389 **Rule relating to the assessment of a monetary penalty as an alternative to formal discipline: Sandra Evans,** Executive Director, Idaho Board of Nursing (Board), indicated that Idaho Code § 54-1404(3) authorizes the Board of Nursing to establish alternatives to formal discipline when a licensee violates Board statutes, and when license revocation or suspension would constitute an unreasonably harsh sanction. This docket amends the code to add a monetary penalty not to exceed $1,000 as another alternative, in addition to the currently authorized participation in a remediation program. This penalty allows the Board an alternative when a non-reportable monetary penalty is a more appropriate response.

Ms. Evans also stated that the proposed legislation may result in a positive fiscal impact to the Board's dedicated fund. The projected impact would likely be less that $15,000 a year.

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

Senator Schmidt commented that this RS has to do with the duties of the Board. He asked what would happen if someone didn't pay, and if the license code will reflect that the nurse is not in good standing.

Ms. Evans said she would respond to the question, but the Board's attorney was present for clarification if needed. Based on other business done by the Board, she understands that if the agreement developed for that process is violated, i.e. non-payment of the fine, the law would support moving ahead with other disciplinary actions.

Vice Chairman Nuxoll asked why they came up with $1,000.

Ms. Evans stated that the amount was set up to $1,000 so the Board could look at other increments. She continued that the Board didn't want to set the amount so high that it would be onerous to the nurse, but that they wanted to provide a deterrent for future behavior. Up to $1,000 has been effective in other areas.

Senator Martin referred to a similar issue addressed last year and asked if this was a different statute.

Ms. Evans replied that something similar was presented last year not as an alternative, but as a modification of the ability of the Board to assess a penalty of $100 per event.

Senator Martin asked if it is correct that the Board's fund is outside the general fund.

Ms. Evans said the Board is funded through a dedicated fund from licensure fees and other payments.

Senator Martin asked for the balance of the fund.

Ms. Evans responded that the balance is around $2 million. Expenditures throughout the year draw from that.

Senator Hagedorn asked if, because the Board is dependent upon the number of nurses licensed and/or fines, the Board's decision was unanimous. He asked how the Board concluded that these changes are necessary.

Ms. Evans said the nine-member board, appointed by the Governor, meets quarterly and operates as a policy-driven governance Board. Strategic planning is an annual event, and members of the Board are fully engaged in the process. They discuss throughout the year administrative rule revisions or statutory revisions that would keep them relevant and in line with the evolution of regulation and practice. Every spring the Board's attorney, general counsel, and the staff of the Board present recommendations and suggestions for possible legislative activities. The Board discusses each recommendation and moves ahead or abandons the idea.

Senator Hagedorn asked if there have been discussions about cash flow requirements compared to cash on hand. Two million dollars seems significant. He also asked if there have been discussions about reducing nursing licensing fees to reduce the balance or meet the flow requirements.

Ms. Evans said that about 24,000 nurses are licensed, and the majority of revenue is generated through license renewal. The remaining revenue comes from renewal licensure, reinstatement licensure, or other activities. The policy for fund management is to maintain six months of operating expenses. By practice the Board prefers to have about 12 months of operating expenses. The dedicated fund supports the activities of the Board, and the ability to spend the fund is directed by the Legislature through the budget appropriation process. Part of the reason for the large balance is our projection that the baby boom nurses will discontinue their renewal of licensure, impacting the revenue generated by the Board. There are initiatives that come forward that may not be funded by the Legislature.

Senator Martin asked for the amount of the operating expenses for six months or a year.

Ms. Evans replied that the annual operating budget is around a million dollars.

Chairman Heider recognized that revocation or suspension is a harsh sanction and is recorded on a nurse's history. He asked if this fine would also be recorded on a nurse's history.

Ms. Evans replied that the Board reports formal sanctions to the public and to a national disciplinary databank. It also has the ability to take informal action that would not be publicly reported. A monetary sanction could fall into either category. If the violation was significant enough that the public needed to be aware of the nurse's conduct, it would not fall into the informal category. However, any violation is kept on file in the Board's office to track behavior of nurses and to identify repetitive behavior. If there are repeats, the sanction would rise to the formal level.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Lodge**, to print **RS 22389**. The motion carried by **voice vote,** but discussion was requested.

DISCUSSION: **Senator Guthrie** commented that there is a lot of sanction opportunity, and this does not say anything about what the employer says about the performance of the nurse. He added that any sanctions that are monetary would not benefit the Board because the balance is two years out, and they don't need the money. This is beyond what is reasonable so he could not support it.

Vice Chairman Nuxoll stated that she agreed with Senator Guthrie because nurses don't get paid very much. This could destroy a nurse based on someone becoming angry.

POINT OF ORDER: **Senator Hagedorn** pointed out that the vote was already taken.

Chairman Heider noted that the vote had been taken and it will be recorded as being passed with three nay votes and six aye votes. **RS 22389** will be sent to print.

RS 22460 **Relating to changes to Board of Nursing statute establishing grounds for denial of an application for nurse licensure and disciplinary action against an existing nursing license: Sandra Evans,** Executive Director, Idaho Board of Nursing, stated that the changes in **RS 22460** more fully protect the public by broadening and clarifying grounds for discipline. It accomplishes this in two ways:

1. The change authorizes the Board to impose disciplinary action against an Idaho license when formal sanctions have been imposed by another jurisdiction on that license in another state.
2. "Sexual misconduct with or sexual exploitation of a patient or former patient by a licensee" is added as specific grounds for discipline. The change provides for appropriate rules defining the terms and implementing the statutory provision, and is in response to a court decision holding that the Board's authority was insufficiently clear to impose discipline against a nurse who engaged in sexual misconduct with a patient.

Ms. Evans concluded by stating that the changes in the proposed legislation are consistent with national uniform licensure requirements and provide for greater uniformity and consistency between states.

Ms. Evans reported that this proposed legislation has no fiscal impact.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 4).

Senator Lakey and **Senator Bock** expressed concerns about the wording of the proposed legislation.

After discussion about the wording with the Board's General Counsel, **Roger Gable**, **Ms. Evans** withdrew **RS 22460** to reword it for clarification.

RS 22390 **Relating to Vital Statistics: Revising a Definition and Clarifying the Role of an Advanced Practice Registered Nurse: James Aydelotte,** Bureau Chief, Bureau of Vital Records and Health Statistics, Department of Health and Welfare, explained that in 2012, the Legislature passed **S 1273** changing the term "advanced practice professional nurse" to "advanced practice registered nurse." The old term is used often in the Vital Statistics Act. **RS 22390** updates the Vital Statistics Act to be consistent with the term's use in other parts of Idaho law. **Mr. Aydelotte** stated there are no changes to responsibilities or scopes of practice.

Senator Hagedorn asked if there had been a mistake in changing the name and if the statute was being changed to cover the mistake. He also asked if it would be cheaper to go back to the original name than the $10,000 that will be spent to update everything.

Mr. Aydelotte replied that it was not a mistake, but that they are trying to reflect a change that was made by the nursing community for accuracy. The cost is a reflection of the changes we will need to make to death certificates. That will be internal money, not general fund money. It may be lower than that estimation.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Lodge,** to print **RS 22390**. Motion passed unanimously by **voice vote**.

ADJOURNED: **Chairman Heider** thanked the committee and adjourned the meeting at 3:40 p.m.

Senator Heider
Chair

Linda Hamlet
Secretary

Carol Cornwall
Assistant Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Thursday, January 30, 2014

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION:	Behavioral Health Managed Care Implementation Update	Rebecca diVittorio, Executive Director, Optum Idaho

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, January 30, 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 3:00 p.m., welcoming the Committee, presenters and guests in attendance, and introduced the main purpose of the meeting to hear about the behavioral health managed care implementation and Optum Idaho.

PRESENTATION: **Richard Armstrong,** Director, Department of Health and Welfare (Department), started by saying the Department has been working on the behavioral health system for the last couple of years with the first phase being contracted through Optum as of April 2013, with that contract in effect as of September 1st and running through March 2016. The contract has very specific performance standards. The Department has a team that monitors the performance with Medicaid, relating to the contract. He noted that the contract is an out-patient contract only, since that is the area of biggest problems and one they wanted to address first. The in-patient side of the business also has oversight through Qualis Health, and they seem to be doing a good job. Due to the correlation between in-patient and out-patient the Department has built in some incentives for Optum so that out-patient services didn't increase, to push up the cost on the in-patient side. The incentive comes into play only if the in-patient rates remain stable, but if the in-patient rates decline, through Optum's efforts, there is also sharing of those savings.

Mr. Armstrong stated that when the roll out took place, the Department was aware there would be some issues. One of the issues they noted was that paying claims once a week was not going to work, it was not adequate and providers were struggling. By the end of September, payments were increased to twice a week. Another problem addressed by the Department was that they were paying less on certain codes and those rates were adjusted in October. During the months of September and October, the Department was not doing pre-authorizations, which had been agreed upon with the roll out, but they started that process in November.

The Department saw that by the middle of November call volumes and hold times were starting to rise, and when it was brought to Optum's attention they addressed the problem, and the level of calls and hold times decreased to more acceptable levels. Unfortunately, when the problem arose again in December and into January the issue was not resolved as quickly or effectively as before. Part of the problem can be attributed to the renewal of some certifications that had been done earlier that were on a 90-day cycle, so that could've been compounding the issue, but there were other things that should've been done to address the volume and hold times. He mentioned that since then there has been a dramatic improvement in the process.

The Department takes ownership of its contract, **Mr. Armstrong** asserted, including managing the behavior of their contractors. In that regard, the Department can see they should've been more aggressive when things began to get out of control back in November, but the lesson has been learned and they are not only holding their Department to a higher standard but everyone else involved with this process. This is just the beginning, he pointed out, and this transformation will be going on for some time to come. The Department can see the potential of future risks and problems coming up, but his commitment is that the Department will be more diligent and aggressive as these issues arise. His team is committed to getting the services to the patients and Medicaid members in Idaho as quickly and efficiently as possible.

PRESENTATION: **Craig Herman**, Senior Vice President of Optum Specialty Networks (Optum), stated that in this role he is responsible for the execution of Optum's contract with the state of Idaho to manage the Medicaid program's out-patient behavioral healthcare. Optum is honored to be part of Idaho Health and Welfare's effort to transform the state behavioral healthcare system. He wanted to make it clear that Optum and its employees care deeply for the people they serve as they work with other health partners to make a difference in people's lives. Since last September, Optum has had two key responsibilities in its role managing out-patient behavioral health services. The first one is to ensure that Idahoans have access to the best and most appropriate behavioral healthcare services. The second is to ensure that public funds dedicated to providing those services are used appropriately, effectively and efficiently. To help achieve these goals Optum supports Idaho providers through a review process that ensures their patients have access to the best care possible, that are consistent with guidelines established by national medical and behavioral health organizations, peer review research and applicable laws. As a result, certain services available through the Idaho behavioral health plan require pre-approval also known as prior authorization. Prior authorization allows Optum to identify, based on these guidelines, whether the member is being under-served and may need a higher form of care or services, or perhaps the member will be receiving care that is not medically necessary.

As the Committee is well aware, Optum has experienced many implementation issues. This has included feedback from providers on the difficulty they have experienced with the prior authorization program. The problem arose because Optum had not fully anticipated the volume, the level of complexity, and the length of time needed for prior authorization phone calls, which resulted in the extended wait times. Optum realizes that this is not acceptable and understands the challenges it has placed on providers. The local team in Idaho had brought this to his attention early in the process, but the fixes that were put into place and the additional staff added during November and December were not sufficient to resolve the issue. It took too long to understand that their early efforts were not enough. He wanted to apologize on behalf of Optum for the impact it had on Idaho providers. Optum has made a renewed commitment to answer provider calls promptly, providing consistent information and supporting the community of providers that Idahoans count on. He was pleased to announce on behalf of Optum's local leadership that they have added more staff and have significantly simplified the process. These fixes have resulted in substantial improvements, for example, just this week the average speed to answer on the provider call lines was 2.5 minutes and the lowest time was within 2 seconds. Optum is working hard to make sure that these changes and improvements continue consistently for the providers.

PRESENTATION: **Rebecca DiVittorio**, Executive Director, Optum Idaho, said that for the past ten years, she has been in a variety of healthcare leadership positions here in Idaho. It has been the aim of her career in Idaho to strive toward one goal, and that is to ensure that quality, cost-effective, outcomes-driven services are available for her family, neighbors and community. This is the reason she joined Optum Idaho, which allows for the joint venture between the State and Optum in helping people access the behavioral healthcare services they need. More specifically, the out-patient mental health and substance abuse services that are needed to reach recovery and resiliency.

She expressed confidence in her team; with the support of Optum's leadership and vital organizational resources, it is well positioned to move forward in effectively serving the people of Idaho. In addition to answering any questions the Committee may have, they are happy to respond to the request by the Committee to provide them with a better understanding about who they are and what they hope to achieve in Idaho. In support of this effort, a presentation was given to address three major topics: (1) their role in Idaho, (2) their goals for improving the behavioral healthcare system in the State and (3) what has been done so far to achieve that. The things done so far have included: increasing care to rural communities, expanding the array of services available and implementing Idaho's first member access and crisis line.

Ms. DiVittorio then proceeded with her Powerpoint presentation and introduced Dr. Jeffrey Berlant, Medical Director, Optum Idaho, for any questions the Committee would want to direct to him later on.

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

DISCUSSION **Senator Bock** wanted to know the "nuts and bolts" of what Optum does, and how the value of what they do translates to the patients from the providers. **Ms. DiVittorio** answered that Optum credentials a network of providers, setting quality standards for those providers and have measures in place to make sure the standards are being met. Optum supports the individuals by helping them find access to care, providing referrals and information about their benefits under the Medicaid program for the Idaho behavioral health. It is their goal that individuals get the care they need when it is needed, which is evidenced based, and is done by getting prior authorization and perhaps even a retrospective review or audit of prior care if needed. They also attend to fraud, waste and abuse management within the organization to preserve their agency resources. **Senator Bock** asked to clarify the point that Optum assists the individual in determining the level of care they're entitled to receive under the Medicaid program in the State and wanted to know how that is arrived at. He had heard some reports that Optum merely looks at their contract with the State to determine the services available, whereas the more important document would be to consult the rules and regulations for Medicaid in Idaho as opposed to the contract. **Ms. DiVittorio** responded the way Optum helps its members is by facilitating their access to care through referrals to a provider and education about what services are included in the Idaho behavioral healthcare plan, which services are identified and are part of the Medicaid program as set by the state of Idaho. They're also going to be offering additional services such as peer support services, community transition support and family support services. The actual determination of what an individual needs is up to the provider through their care and diagnosing process, and Optum has some controls in place to make sure that care is done in a quality way.

Senator Guthrie wanted to ask about the problem with hold times for calls being answered. Even though it's good that the time to answer is down to seconds or

even a few minutes, he wanted to make sure the problems are being addressed adequately in that time and not just pushed off for the sake of favorable statistics to report. **Ms. DiVittorio** stated that Optum has put into place process simplifications for providers to go through the prior authorization and making it easier to have access to Optum's clinicians. They have a system in place where a series of reviews happen based on the information provided on the phone by the provider. Optum also has a written authorization process, which is part of the improvements implemented. The clinicians and clinical leadership with Optum are still very much involved in the prior authorization process and in making sure that all of the criteria is met and rules are followed in making sure the best and most cost-effective care is being delivered to the members. Optum is looking now for the future of what needs to be done to make sure that the system of behavioral healthcare is advanced in the State. **Senator Guthrie** then asked to clarify her points that Optum is looking for long-term approaches to address the concerns and issues that have already surfaced with the roll out of the program and will continue to look at ways to improve their process. **Ms. DiVittorio** said that Optum's clinicians are independently licensed and are involved in the conversations that take place regarding the medical necessity of a procedure for a member. **Senator Guthrie** inquired about the ten day response time to a complaint; was that an acknowledgement of the complaint or in fact a resolution of the complaint? **Ms. DiVittorio** responded that Optum's policy is to respond and acknowledge receipt of the complaint within five business days and to respond and resolve the problem within ten business days.

Senator Martin wanted to know what has changed to speed the call answer and hold times so significantly. His concern is that the call is being answered but the clinical review process is being suspended, and then by just getting the basic information from the call, that frees the operator to quickly go onto the next caller. But if they do the full review, then they may be going back to the longer hold times for calls. **Chairman Heider** invited any of the others present to respond to questions also. **Mr. Herman** apologized for any confusion from his prior statement made before the Committee and wanted to clarify what he had meant. When he talked about the 2.5 minutes and the 2 seconds in regards to the phone calls, that represents the speed to answer those calls, not how long a call lasted. **Chairman Heider** wanted to confirm that when the call is answered that the person answering is speaking to the caller for the adequate time necessary or are they required to be on hold and wait for longer. **Mr. Herman** clarified that once the call is answered it goes to the clinical review process, if it is required, and has an average talk time that is significantly longer than the 2.5 minutes that he had mentioned earlier. The 2.5 minutes actually represented the hold time not the length of the call. He then said that each call length depends on the particular case being reviewed with some providers calling for multiple authorizations with one call which makes for an even longer call.

Senator Martin asked specifically about this week's phone calls; have they been doing clinical reviews on the calls or just getting the basic information and giving an authorization without the review? **Ms. DiVittorio** responded that Optum has a step-wise approach so that within set boundaries their team can provide authorization, then beyond that is a clinical review and after that is a peer review with a doctoral level clinician. **Senator Martin** wanted to know if the reason for reduced hold times was due to no clinical review process taking place, only the caller giving the basic information and getting an authorization. If that's the case his concern is that when Optum goes back to doing the clinical reviews, that the call hold times will increase again. **Ms. DiVittorio** answered that it depends on the call, what's asked for, and the situation of the individuals. Within certain boundaries, Optum can do authorizations without a clinical review, and some authorizations can be done in writing per new guidelines. She stated this process mimics processes

already in place for other services on Level 3 authorizations. She wanted to add her commitment that Optum would provide good, prompt service to their providers through the care management line. There is a team in place looking at the entire process making sure that what Optum does for Idaho is "sustainable and appropriate" to help transform the system and promote advancement of the State's system of care. **Senator Martin** then wanted to clarify the process for an initial call, where the information is given to Optum and authorization is given, then service is provided and payment is made. In regard to the payment portion, he has heard that it can be confusing and hard for a provider to match up what services are being paid for and how much. **Ms. DiVittorio** stated that with Optum's network of providers there are many billing systems being used. There is support given through the provider customer service line to help give detailed information on their billing reconciliation. There was a transition from Molina to Optum using a different system. There's currently plenty of support available for providers as they go through the process, and there has been positive feedback from some regarding the quick payment and response to questions. She also wanted to confirm that for those providers who have problems or questions about payments, Optum is more than happy to help them.

Senator Lakey asked about the statistic used in the presentation regarding the 96 percent satisfactory resolution of complaints. **Ms. DiVittorio** said that 96.5 percent of their complaints have had a response and a resolution to them within 10 business days. **Senator Lakey** responded "not necessarily a satisfactory resolution", and **Ms. DiVittorio** answered that the statistic represented their response and resolution to the provider. **Senator Lakey** wanted to know with the extended hold times noted, how are complaints submitted to Optum, in writing or by phone. **Ms. DiVittorio** responded that there are a number of ways for a complaint to be submitted. There is a separate phone line dedicated for complaints, and they can also take complaints in writing. Once a complaint is received it is entered and tracked in their system. **Senator Lakey** then inquired if the complaints and resolutions to them is one of the measured items Optum is tracking. **Ms. DiVittorio** stated that Optum has shared information with the Department of Health and Welfare regarding the complaints turn around time and the nature of those complaints received. **Senator Lakey** asked if denied services go through a peer review process. **Ms. DiVittorio** said that the personnel with Optum who are authorized to deny services are doctoral level trained clinicians. **Senator Lakey** inquired how the peer review and communication was handled. **Ms. DiVittorio** answered that the determination of medical necessity is done over the phone, documents can be shared if needed, and the decision goes to the member and provider in writing. **Senator Lakey** wanted to know as far as the interaction on the phone for a complaint, (which one of his constituents claimed to take at least an hour) does that create additional backlog on the phones. **Ms. DiVittorio** responded that these calls are done through a separate call back procedure and are not part of the care management phone line.

Senator Lakey wanted to know about the rates charged through case management. It was his understanding that there are different reimbursement rates for face-to-face case management versus by telephone or "intake" case management; why is there a difference? **Ms. DiVittorio** said that there are two codes for case management, face-to-face and by telephone. The telephonic code was decided upon based on research done at the national level and understanding of medical complexity codes. The rate for the face-to-face case management code was made based on the State's code prior to Optum taking over the contract. The difference in the rate is related to the complexity of the service offered, as well as the belief that in a recovery and resiliency form of care, face-to-face is most appropriate and effective to help an individual become self-sufficient. **Senator Lakey** then quoted the rates found from his constituent and wanted to know where those rates are

posted and how to gain access to them. **Ms. DiVittorio** stated that those fees are posted on Optum's fee schedule, being part of the contract with their providers, which is given to the provider during the contracting and credentialing process.

Senator Hagedorn stated that although the efforts of Optum to reduce hold times are good, his hope was that they would move in more of a direction to educating, training and understanding of issues between Optum, providers and members. He wanted to know if Optum has planned outreach and what that outreach does or will entail and how it will be implemented. **Ms. DiVittorio** answered that Optum does have a provider training plan that they manage and update based on the information that is gained through their quality assurance process which includes feedback. Optum determined the need to do provider outreach a while ago and have scheduled, starting next week, clinical provided forums across the State in every region; where Optum's clinical leadership will meet with providers to discuss specifically medical necessity and other services that require prior authorization. **Senator Hagedorn** then asked with this being the initial phase of the transition, if Optum has considered doing other things such as a webinar or a "go-to meeting" type of option to reach a larger number of providers at one time and address a lot of the initial questions they may have. This would calm the tactical issues so that the system can work more strategically to ultimately provide the services but also save the State money in the long term. **Ms. DiVittorio** confirmed that Optum does offer online training and they have looked at what message they want to get to the providers and how best to deliver that message. They decided that it would be effective to have their clinical leadership out in the regions for the upcoming provider forums, but that will not prevent other web-based training and conversations from taking place. She wanted to point out that Optum employs regional care managers throughout the State who interact with providers, and are involved in coaching and support for those providers. These regional managers are sometimes involved in intensive case management where Optum helps support members who have specific needs so Optum can be watching them closely. Optum will continue to offer and update their training plan and program as needed.

Senator Hagedorn wanted to know how the Washington state authorized Medicaid programs that Optum (and other states Optum operates in) oversees compare with the programs being offered in Idaho. Also, he asked, with the types of programs available, how do they expect to meet their vision statement to "expand the array of covered services." **Ms. DiVittorio** stated that every Medicaid program is different. The way to meet their vision for the State is to offer services that go above and beyond what is required by the State. These services include: peer support services, family support services and community transition support services. The example used in her presentation from Pierce County, Washington was to show how peer support services done there had a definite impact in that community. **Senator Hagedorn** asked about a particular work training program that Idaho does and seems to spend more money doing than other states and wanted confirmation on that. Since the number of programs in the State are less than other states, is that a consideration when authorizing benefits for certain programs. **Ms. DiVittorio** asked if he was speaking about the community based rehabilitation services as part of the out-patient behavioral health program, which he was. She then stated that when Optum looks at a program it is with the idea that they will get the best opportunity to ensure they have an evidenced based practice with the most cost-effective methods for the members to use with the limited resources they have to achieve the needed outcome. In looking at the program in the State and working with the Department of Health and Welfare, certain services were identified that may be provided but in a way that's not cost-effective, so those are the services that were noted as needing prior authorization.

Vice Chairman Nuxoll wanted to confirm that Optum was hired in an effort for the State to go to a managed care system. **Ms. DiVittorio** said that Optum responded to the State's decision to go to a managed care system and bid on the out-patient behavioral contract to deliver what the State had requested. **Vice Chairman Nuxoll** asked in changing from the fee for service to the managed care system, if that was the cause of some of the problems. **Ms. DiVittorio** answered that this is a big transition in moving to a recovery oriented system of care to consistently deliver medically necessary effective services for those in need.

Senator Schmidt wanted to know about the graph in the presentation showing a marked rise in wait times. In correlating the wait times to service, he asked if there had been a marked rise in the amount of service given, as well as payment for services given in that same timeline, as well as denials. **Ms. DiVittorio** responded that the denials (both full and partial) are subject to review by a licensed clinician, and there's a very low number of those, but she will get the exact numbers for a future date. As far as the services given in that time period, there was an increased number based on the influx of calls, but many don't need prior authorization so no phone call was needed for them and they can be done on the web through a self-service area. She confirmed that Optum did receive an increase in call volume as the graph shows for that time frame.

Senator Lakey had a question on dual diagnosis that was brought to his attention from one of his constituents; regarding mental health and disability, has Optum changed the prior definition by saying that anyone with an IQ below 70 wouldn't benefit from mental health services? If that is in fact the case, he wanted to know why. **Ms. DiVittorio** stated that she did not have that information at this time. Their level of care guidelines are published for the providers to view in advance.

Senator Hagedorn wanted to follow-up on Senator Schmidt's question, and know if Optum had a reasoning or understanding as to why the call volumes also went up in the same week that the hold times went up. Is there some sort of common thread between all of the calls during that week? **Ms. DiVittorio** said that Optum is currently looking into what was driving the increase in holds and volume for calls. She knows that a lot of authorizations were done, and there were some longer noted call times that happened, but she believes it comes down to complexity and volume. **Senator Hagedorn** asked that once the reasonings had been discovered and evaluated if Optum could give that information to the Committee. **Ms. DiVittorio** expressed that she would be happy to follow-up with the Committee on their findings. She stated that some of the volume might be attributed to prior authorizations that had expired and were being renewed.

Senator Lakey wanted to go back to his question on dual diagnosis and asked for Dr. Berlant's input if possible. **Dr. Berlant** responded that, to his knowledge, there is neither a formal or informal listing of an IQ requirement that would cut off access to treatment. The program through Optum is to cover the mental health disorder part of it and does not have treatments for mental retardation, which is what he thought Senator Lakey was alluding to.

Senator Lakey asked about payments being made within ten business days; he had another constituent express concern over not only the timeliness but also consistency in what is or is not paid. How is all of that determined and is the breakdown available to providers? **Ms. DiVittorio** responded that payments made are based on Optum's fee schedule and prior authorization requirements that are outlined in their clinical program and available to providers in the provider contract and manual. As far as consistency, the practice in place is to process payments on a first-in, first-out basis. There are cases where the provider will bill beyond what

the fee schedule allows, and that would be an example where the payment does not and will not match what Optum has been billed for.

Senator Lakey wanted a good working definition of "best practices in evidence based treatment". He's heard that same phrase on the provider side and wants to understand it and see how it's applied. **Ms. DiVittorio** answered that Optum set their clinical practice guidelines based on research, state law, federal law, nationally peer reviewed research and the national guidelines that exist from behavioral health and medical organizations. Optum's guidelines were approved by the State and those are what drive the decisions for medical necessity and appropriateness of care. They are working with the providers to ensure the care is medically necessary as well as cost-effective. Optum, upon review, is finding some members are being under served and need more care than they are getting, which is an opportunity for education to the providers from Optum's clinical leadership. **Senator Lakey** confirmed that the term "evidenced based treatment" was taken from established national studies and research for what's needed. **Ms. DiVittorio** stated that was correct.

Senator Lakey asked about "peer service supports" and wanted to know if this was something new in the State and how it works. **Ms. DiVittorio** said that "peer services support" has been available in Idaho but has not been paid through Medicaid. Optum is providing a way for providers to develop these support services within their provider organizations and deliver those to members. Optum has put "peer support services" on their fee schedule as a reimbursable service. Providers will be paid to have credentialed peers, who have "life experience" with behavioral health issues, to deliver peer support to other members and receive payment for this. **Senator Lakey** was curious about the term "life experience" does that mean people with mental illness are treating others with mental illness. **Ms. DiVittorio** confirmed that "peer support" is provided by people that have a "life experience" with a behavioral health challenge, and are using their experience to help another through their own recovery. **Senator Lakey** mentioned the term "credentialed" and asked about their qualifications and credentialing. **Ms. DiVittorio** noted that the requirements for a peer support specialist are different just as they are different for a psychiatrist and a psychologist. **Senator Lakey** wanted to know about their education or other requirements. **Ms. DiVittorio** stated that they must be a certified peer support specialist which requires intensive training and then the ability to pass the certification. **Senator Lakey** confirmed it was a training course and not a degree. **Ms. DiVittorio** said she did not believe there was a degree requirement.

Senator Hagedorn was wondering if there was some type of common measurement not only for the Department but also for their contractors, the Committee and even for the providers, something so that everyone can understand what "the priority metrix of measurements are and where everyone is in regards to meeting those metrix." **Mr. Armstrong** answered that the Department is committed to providing the Committee with performance numbers, but need to meet with everyone involved to discuss the types of numbers and measurements most important. He mentioned that they are looking at statistics more closely and it is to everyone's advantage to meet the desired targets. It may take months or even years to gather enough data to really look at the performance in certain areas and its effectiveness.

Senator Lakey also wanted to know if the Department had their own standard they are using to measure these things by and what exactly those standards might be, specifically for the call answer times which have been discussed. **Mr. Armstrong** stated that per the Department's contract with Optum, the time to answer is two minutes or less, so that is the one that will be focused on, but felt confident that

Optum will continue to make improvements in this area. There are various call factors that will be looked at including time to answer, time to resolution and actual talk time.

Chairman Heider inquired as to the Director's overall satisfaction with Optum and the job they've done so far and in moving forward. **Mr. Armstrong** responded that perhaps the Department may have been overly optimistic in the beginning of the conversion process which found them a bit more relaxed than they should have been. The one thing the Department wanted to ensure was that providers were being paid properly. He also noted that with a new process it takes a while for the claims to start coming in and the volume to increase. In the first four months, Optum has paid out 84 percent of the claims submitted which he is satisfied with so far. He stated that it has been a good partnership with Optum, and he'll remain cautiously optimistic.

Senator Martin commented that when they were sworn in as legislators, they brought their arm to the square and made certain promises as part of the oath they took. He mentioned that part of the rights of Idaho citizens is to voice grievances, and they have certainly heard them about Optum's performance. He appreciated Optum's efforts to improve, but as an elected official, he is committed to watching to make sure the citizens' concerns are being met and taken care of in a timely and effective manner. It seems to come down to money. We need to pay for adequate phone staff, pay the providers and keep them happy, but we also need to be careful not to overspend the resources.

Senator Lakey wanted to note that he also appreciates the Department and Optum's willingness to be before the Committee and wanted the chance to meet again, if possible, before the session ends to hear more updates from them. **Mr. Armstrong** said that would certainly be possible. He knows they have a duty to Idaho and its citizens, but in any transition process there are problems to work out. The key is to monitor the quality and make sure the clients and members are being taken care of effectively.

Chairman Heider thanked the Department and Optum for their participation in the meeting. He noted that the role of a legislator is to answer to the people and for the people, especially when there is a problem or a complaint. It was his hope that an open door policy will continue between the Committee and the Department as well as with Optum, to contact them if there is a concern, and the open phone line has been appreciated. He asserted the wish that the Department and Optum will be open to good communication between them all, to allow the Committee to better represent the people they serve. He voiced faith in the efforts of Optum to assist the people in Idaho with behavioral health issues.

ADJOURNED: There being no further business before the Committee, **Chairman Heider**, adjourned the meeting at 4:25 p.m.

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Senator Heider
Chair

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Linda Hamlet
Secretary

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Linda Harrison
Assistant Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Monday, February 03, 2014

SUBJECT	DESCRIPTION	PRESENTER
RS22660	A Joint Memorial: Relating to SNAP	Senator Lodge
S 1226	Relating to Dentists - Amending Sections	Susan Miller, Executive Director, Board of Dentistry
S 1256	Relating to the State Board of Medicine	Nancy Kerr, Executive Director, Idaho State Board of Medicine
S 1261	Relating to Nurses: to Revise Provisions Relating to Criminal History Checks and to Make a Technical Correction	Sandra Evans, Executive Director, Idaho Board of Nursing
S 1262	Relating to Nurses: to Revise Terminology, to Authorize the Imposition of a Monetary Penalty as an Alternative to Formal Discipline Against Nurses Who Violate Nursing Statutes or Rules, to Correct a Codifier Error and to Make Technical Corrections	Sandra Evans

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 03, 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 3:04 p.m., and requested the Secretary take a silent roll call.

RS 22660 **A Joint Memorial Relating to SNAP: Senator Lodge** reminded the Committee that last year she had brought before them some legislation on Supplemental Nutrition Assistance Program (SNAP) benefits. The legislation made it through the Senate with no problem, but by the time it got to the House it was near the end of session and did not get a hearing on that side. Throughout last summer, the Idaho Medical Association (IMA), with the assistance of Molly Steckel, helped in putting this legislation together. This is a memorial to Congress asking for flexibility so that the state of Idaho can have control over the types of foods that are obtained using the SNAP benefits. It's also the aim to encourage the purchase of foods produced in Idaho, with the focus on more healthy foods rather than foods of convenience.

MOTION: **Senator Bock** moved that the Committee send **RS 22660** to print. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

S 1226 **Relating to Dentists - Amending Sections: Susan Miller**, Executive Director, Board of Dentistry (Board), stated that **S 1226** is primarily a housekeeping bill wherein the Board proposes to amend several sections of Idaho Code. Some of the sections in the code have more substantive revisions. This legislation is a result of the Board undertaking the task of reviewing the entire Dental Practice Act to ensure the statutes reflect current licensing and practice standards for dental professionals, and to address other areas in the code that needed clarification. The Board had invited comment and input from licensees as well as the dental and dental hygienists associations with no comments given, but support offered.

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

Senator Martin wanted to confirm the point that either the Board could do the exam or someone they select or hire could. He also wanted to know if this is going on currently and who exactly these outsiders are. **Ms. Miller** responded that this is currently the practice of the Board, and that they currently accept examinations offered by the Western Regional Examining Board (Board), which is a collection of about 13 western states that are members of this examining agency. The Board conducts clinical examinations for dental hygienists, dentists and dental specialists. There are other regional examining agency test results that the Board also accepts.

Senator Schmidt wanted to know about the "Licensure by Credentials" and wanted

to know if an applicant had a pending disciplinary proceeding in front of a board in another state, would it be made known to the Board in Idaho by the other state, or is it up to the applicant to report that to the Idaho Board. **Ms. Miller** stated that since this is an application for state licensing, it would be incumbent upon the applicant to report that at the time with the application. **Senator Schmidt** then asked if the Board is actually comfortable in leaving it up to the applicant since it seems to leave a hole in the process since a dentist could have a problem in one state, leave, come to Idaho and start over with a clean slate. **Ms. Miller** responded that the Board isn't necessarily comfortable with this idea, but it comes down to a legal matter as to what the prior state's board is legally obligated or allowed to disclose to the Idaho Board. **Senator Schmidt** thought there was somewhere in the rules that if the applicant makes a false claim on their application it becomes an invalid application and if discovered the practitioner could lose their license. **Ms. Miller** answered that this is correct, and it would be grounds for revocation of the license.

MOTION: **Senator Schmidt** moved that the Committee send **S 1226** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motioned carried by **voice vote**. Senator Schmidt will carry **S 1226** to the floor.

S 1256 **Relating to the State Board of Medicine: Nancy Kerr,** Executive Director, Idaho State Board of Medicine (Board), stated that the purpose of **S 1256** is to change Idaho Code §54-1805 of the Medical Practice Act to allow Board members to continue in their term until the appointment of a new member and the new member is qualified to take over the role. The Idaho Board of Medicine is responsible for the licensure and regulation of physicians and other health care professionals in Idaho. Part of the regulatory duties include the responsibility to make decisions as to the ability of a licensed professional to retain a license to practice. Members must be familiar with the laws and rules, administrative process and due process in order to fairly and impartially make these decisions.

Ms. Kerr noted the terms of appointment have expired in the middle of the administrative hearing process, putting a burden on the Board to ensure a qualified quorum of the Board members to hear the case. For an administrative hearing the members must read all documents related to the hearing. This can be more than several hundred pages. The Board members must be familiar with the rules and laws of the Board in order to make a fair and impartial decision affecting a licensee of the Board. While appointments are made promptly, it is very difficult to welcome a new Board member to the Board by asking them to read several hundred pages of legal documents, be familiar with the laws and rules of the Board and make informed, impartial decision in a few days. The changes suggested to Idaho Code §54-1805 will allow the experienced members of the Board to continue the hearing process and allow new members the opportunity to be appropriately oriented to the Board's responsibilities, laws, rules and procedures before having to assume the important responsibility of the administrative hearing process.

Senator Hagedorn wanted to know what happens to a Board member who is convicted of a crime, found guilty and is sentenced to prison before his term on the Board has ended. Would that member still remain on the Board until his time is up? **Ms. Kerr** responded that the Governor can remove any Board member at any time for a number of reasons, including committing a felony crime which would cause them to lose their license and also not qualify them to be on the board any longer.

Senator Lakey was curious to know how this would work if someone wanted to resign from the Board. **Ms. Kerr** answered that the Board would go through the same process as with a new appointee to the Board, by asking the Idaho Medical Association (IMA) for nominations. The IMA presents them to the Governor and the Governor appoints to the Board. **Senator Lakey** mentioned that the wording as it

now stands doesn't seem to provide for much flexibility. **Ms. Kerr** stated that in her 19 years on the Board she did not recall a public member of the Board ever being removed or leaving office prior to their term ending. If that were to happen, the Board would go to the Governor's office and request a nomination to fill that post.

Senator Schmidt was concerned with the confusing wording and wanted Ms. Kerr to read a specific example to illustrate his problem with the grammar. **Chairman Heider** stepped in and read the part requested by Senator Schmidt. **Ms. Kerr** apologized for the confusion, declaring that this was actually a draft that was worked on between the Board and several other organizations and it became a compromise in language as they addressed several changes. It didn't receive such tight scrutiny at that time. **Chairman Heider** requested that Ms. Kerr make the needed changes and bring it back before the Committee so that it will be correct as they would like to have it printed.

Senator Lakey noted that while corrections are being made to the document, it might be helpful to add something to the effect that this is not a mandatory requirement. This might allow for more reasons to leave the Board other than the expiration of their term. **Senator Lodge** wanted to be clear as to what the process would be before the Committee since **S 1256** is a bill, will it be sent to the Amending Order or is the Chairman going to call it back, or will it be tabled. **Chairman Heider** responded that he does not want to send it to the floor as it is now. He thought it should be tabled at this point and have a new RS presented to the Committee.

Senator Guthrie noted that there is another section to the bill that needs clarification on how long a Board member has to remain in office, especially if the Board is in the middle of a serious case and his term is almost over, but the new appointee is not ready to take on the role. Who determines how much longer the veteran member has to stay on beyond his term? **Ms. Kerr** answered that the new appointee would have the opportunity to meet with other board members and others who could familiarize them with the process. **Senator Guthrie** brought out the point that there are several boards operating throughout the State that are short members, and it doesn't seem like such a big issue to allow them to be short for a time.

MOTION: **Senator Hagedorn** moved to table **S 1256** before the Committee and wait for a corrected RS which would be better than trying to fix what they currently have. **Vice Chairman Nuxoll** seconded the motion.

SUBSTITUTE MOTION: **Senator Bock** proposed that tabling is not necessarily the correct approach since the RS deadline is coming in a few days. He moved that **S 1256** be sent to the floor on the 14th Order for possible amendment. **Senator Lodge** wanted to confirm that Senator Bock would be willing to work this through for the 14th Order, and **Senator Bock** stated he would.

Senator Hagedorn had concern with the substitute motion since there are a number of other groups that need to be notified and consulted with as far as the changes, and that could take some time. He requested the Committee go back to his original motion to table since there really is no hurry and that what the Board is currently doing seems to be working just fine.

AMENDED SUBSTITUTE MOTION: **Senator Guthrie** asked that the Committee to consider another option, to hold **S 1256** in Committee. **Senator Martin** seconded the motion.

Chairman Heider then reviewed the three motions that had been placed before the Committee. **Senator Bock** wanted to know what the purpose was of holding the bill in Committee. **Senator Guthrie** responded that the aim would be to solve the problems before it reaches the floor since there seems to be too many to be solved in the Amending Order. **Senator Martin** stated that in seconding the motion, he has not given up on **S 1256**, and by holding it in Committee, the Chairman has the power to bring it before the Committee again.

Chairman Heider stated that the motion to hold **S 1256** in Committee was before them, and had been seconded. The motion passed with all voting aye except for **Senator Schmidt** who voted nay. The motion carried by **voice vote**.

S 1261 **Relating to Nurses: to Revise Provisions Relating to Criminal History Checks and to Make a Technical Correction: Sandra Evans**, Executive Director, Idaho Board of Nursing (Board). **Ms. Evans** stated that **S 1261** amends Idaho Code §54-1401(3), related to the existing authority for the Board to conduct fingerprint-based criminal background checks on applicants for initial and reinstatement of nurse licensing. The National Crime Prevention and Privacy Compact governs the exchange of criminal history record information for non-criminal justice purposes, such as applicant licensing, and requires participating agencies to strictly adhere to established standards concerning enabling statutory language, record use and dissemination, and information security among others.

Ms. Evans stated that the changes are necessary to correct deficiencies identified in the 2011 FBI and Idaho State Police audits of the Board's compliance with state and federal regulations related to non-criminal justice use of criminal record history information. This proposed legislation has no fiscal impact.

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 Martin** moved that the Committee send **S 1261** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motioned carried by **voice vote**. Senator Martin will carry **S 1261** to the floor.

S 1262 **Relating to Nurses: to Revise Terminology, to Authorize the Imposition of a Monetary Penalty as an Alternative to Formal Discipline Against Nurses Who Violate Nursing Statutes or Rules, to Correct a Codifier Error and to Make Technical Corrections. Ms. Evans** stated that Idaho Code §54-1404(3) allows for the Board to establish alternatives to formal discipline when a licensee revocation or suspension would constitute an unreasonably harsh sanction. The purpose of **S 1262** is to amend the code by adding the authority to impose a monetary penalty, not to exceed $1,000, as an alternative form of discipline. Other professional licensing boards in the State, including both health and non-health related professions, have the ability to impose monetary sanctions for proven violations. The Board has determined that a penalty of up to $1,000 is appropriate to deter nurses from future violations without imposing undue hardship on the nurse. **Ms. Evans** noted that the proposed legislation may result in a positive fiscal impact to the Board's dedicated fund and the projected impact would be less than $15,000 a year.

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

MOTION: **Senator Hagedorn** moved that the Committee send **S 1262** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion.

Senator Martin reminded the Committee that this legislation had come before them last session, and though it has been cleaned up a little, he still has a problem with the penalty and feels it is too harsh. **Senator Guthrie** also voiced opposition against the motion feeling the penalty is too steep where other corrections could be put into place. **Vice Chairman Nuxoll** had the same problem with the penalty and would not be able to support the motion. **Senator Hagedorn** noted that there are a number of other licensing boards that have the authority to impose monetary penalties on their members without the harsher penalty of pulling their license to practice and make a living. The language states that the Board may fine "up to $1,000", the intent is not to fine everyone and every situation $1,000 but to serve as a deterrent rather than ending someone's career.

Senator Martin requested to address a question to Ms. Evans by asking if it's not already in statute that a monetary fine of $100 can be imposed. **Ms. Evans** responded that there is, but that is only a fine imposed if a nurse is found to be practicing without a license, and the $100 can be imposed each day for the time they are not licensed. **Senator Martin** then asked if there is not currently a provision in code such that if they want to impose a monetary penalty they have the authority to do so. **Ms. Evans** answered that there is currently nothing to give them authority to impose a monetary penalty.

ROLL CALL VOTE: **Chairman Heider** asked the Secretary to take a roll call vote on sending **S 1262** to the floor with a **do pass** recommendation. **Chairman Heider, Senators Lodge, Hagedorn, Schmidt**, and **Lakey** voted aye. **Vice Chairman Nuxoll, Senators Guthrie** and **Martin** voted nay. The motion carried by **voice vote**. Senator Hagedorn will carry **S 1262** to the floor.

ADJOURNED: There being no further business to come before the Committee, **Chairman Heider** adjourned the meeting at 3:43 p.m.

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Senator Heider
Chair

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Linda Hamlet
Secretary

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Linda Harrison
Assistant Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, February 04, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Welcome	Chairman Heider
S 1224	Relating to Behavioral Health Services - Amendments	Ross Edmunds
RS22460C1	Relating to Nurses	Roger Gabel, the Board of Nursing's General Counsel
16-0309-1301	Rules relating to Medicaid Basic Plan Benefits	Pat Martelle, Program Manager, Medicaid Office of Mental Health & Substance Abuse
16-0310-1301	Rules relating to Medicaid Enhance Plan Benefits	Pat Martelle

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Tuesday, February 04, 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 3:03 p.m., and asked the Committee Secretary to take a silent Roll Call.

S 1224 **Relating to Behavioral Health Services: Ross Edmunds**, Administrator for the Division of Behavioral Health at the Department of Health and Welfare, stated that**S 1224** has been sent to the Amending Order, and he stood for any questions the Committee may have.

Senator Lakey stated that one of the concerns was the definition of behavioral health, and after speaking with Mr. Edmunds earlier, it had been determined that the definition for behavioral health could be eliminated.

Mr. Edmunds replied that the bill adequately described the definition of behavioral health, which is a combination of mental health and substance abuse disorders. He offered to work with Senator Lakey on the definition if he so desired.

Senator Lakey informed the Chairman that he thought he could work with Mr. Edmunds on any changes in the Amending Order, and he had no further questions.

Senator Hagedorn asked if redefining behavioral health would impact the balance of the bill where the words, for example, "regional mental" were changed to "regional behavioral" health services.

Chairman Heider explained that mental health would be changed to behavioral health. The definition is where the problem lies.

Senator Hagedorn then asked if the definition of behavioral health is going to be changed to something other than what it currently is.

Senator Lakey responded that the bill provides that definition. The intent was to remove that definition.

Senator Hagedorn asked that since the term behavioral health would be used throughout the bill, where will the definition be located.

Mr. Edmunds replied that the best solution would be to work with Senator Lakey to find a solution to that. He thought a modification of the term in general terms would be appropriate, to have it mean mental health and substance abuse.

Senator Bock stated that behavior is something that is observed externally, whereas mental health is different, and suggests internal states of mind that are not observable. He wished to know where the change in terminology is coming from.

Mr. Edmunds replied that the term "behavioral health" is the current term used by the industry to describe a combination of mental health and substance abuse care. Behavioral health services would be the combination of mental health and substance abuse disorder services. Federally, it is known as behavioral health.

Senator Bock asked if behavioral health is terminology that has been adopted by the Diagnostic and Statistical Manual of Mental Disorders (DSM) as a standard term, or is this a more generic term that has been used outside of formal descriptions.

Mr. Edmunds replied that he believed the answer was both.

Vice Chairman Nuxoll asked what was the reasoning for combining them into one.

Mr. Edmunds responded that the purpose of combining mental health and substance abuse disorders is because that is practice. Efforts over the past decade have resulted in the integration of mental health and substance abuse into a single delivery system as opposed to two systems. It is a nationally recognized term.

RS 22460C1

Relating to Nurses: Roger Gabel, the Board of Nursing's General Counsel, informed the Committee that Sandy Evans, Board of Nursing Executive Director, is out of town on a previous commitment and is unable to appear before the Committee this afternoon. Ms. Evans requested his assistance in presenting this RS. The Committee may recall that Ms. Evans and Mr. Gabel appeared at last Wednesday's print hearing. After hearing objections from at least two senators, and at the suggestion of the Chairman, the prior RS was withdrawn. Slight revisions were made to hopefully address the concerns of the Committee members and Mr. Gabel is here today to present the revisions. **RS-22460C1** proposes changes to current Board of Nursing statute that establish grounds for denial of an application for nurse licensure and disciplinary action against an existing nursing license. The changes proposed in this RS more fully protect the public by broadening and clarifying grounds for discipline.

The statute is broadened by authorizing the Board, in the exercise of sound discretion, to impose appropriate disciplinary sanctions whenever an applicant or existing licensee has been formally disciplined, in any fashion, by another nurse licensing agency. Current statute only authorizes the Board to act if the discipline in the other jurisdiction was either a revocation or a suspension.

The second amendment is the addition of sexual misconduct with or sexual exploitation of a patient or former patient as specific grounds for discipline against an applicant or licensee. A change was made, at the suggestion of members of the Committee at last week's hearing, to clarify that the conduct would be evaluated using a reasonable person standard. This proposed amendment is in response to a recent court decision holding that the Board's current authority is vague and insufficiently clear to impose discipline against a nurse who engaged in sexual misconduct. This change provides the statutory basis for subsequent promulgation of appropriate rules defining the terms and otherwise implementing the statutory provision. This proposed legislation presents changes that are consistent with national uniform licensure requirements adopted by the National Council of State Boards of Nursing, and endorsed by the Idaho Board of Nursing. These changes provide greater uniformity and consistency between states. This proposed legislation has no fiscal impact.

Senator Hagedorn asked if there were any nurses who were currently counseling persons with sexual maladies.

Mr. Gabel stated that he did not have any specific information to answer Senator Hagedorn's question.

Senator Hagedorn referenced the language in the RS that stated that it is a violation to engage in conduct with a patient that is sexual, and that his concern was that if a nurse were counseling someone with a sexual malady, it could be interpreted as a disciplinary issue.

Mr. Gabel replied that this is where the sound discretion of the Board of Nursing would come into play, that the Board would know the difference and would not take discipline against such a situation.

MOTION: **Senator Bock** moved, seconded by **Senator Guthrie**, to print **RS 22460C1**. The motion carried by **voice vote**.

PASSING THE GAVEL: **Chairman Heider** announced that it was time to continue with rules, and passed the gavel to Vice Chairman Nuxoll.

DOCKET NO. 16-0309-1301 **Rules Relating to Medicaid Basic Plan Benefits: Pat Martelle**, Program Manager of the Office of Mental Health and Substance Abuse in the Division of Medicaid, stated that she was pleased to present rules written to support the implementation of managed care administration of Medicaid-funded behavioral health services. These rules are temporary proposed rules with the implementation date of September 1, 2013, the date the Department of Health and Welfare's (Department) managed care contract went live with United Health's behavioral health platform, Optum Health (doing business in Idaho as Optum Idaho).

These rules focus on the requirements necessary for managed care administration of Medicaid-funded mental health and substance-use disorder services, collectively known as "behavioral health" services. H 260 from the 2011 Idaho Legislature provided direction to the Department for the development of Medicaid managed care plans. Idaho Code directs the Department to implement managed care tools to develop an accountable care system to improve health outcomes. Following the enactment of Idaho Code § 56-261Medicaid began the work of formalizing stakeholder input on what such reform should look like for behavioral health services.

Medicaid had been meeting with stakeholders since 2004 to address needed reforms in the benefits and delivery system for behavioral health services. With the statute in place, Medicaid recognized the value of documenting distinct stakeholder input in the development of the transformed system. In an effort to provide a representative forum, Medicaid invited representatives from varying stakeholder perspectives: consumers, behavioral health providers, advocates, primary care providers and the Governor's State Planning Council on Mental Health. The forum was also open to the public. The forum was telecast statewide. Information taken from this forum was used to inject the RFP with requirements linked to very real and heartfelt concerns and desires of behavioral health stakeholders based on their lived experiences.

The State's procurement process led to awarding Optum Health the managed care contract. Optum Health is nationally accredited by the National Council on Quality Assurance (NCQA) that puts Optum in position to create a higher standard of care for the Medicaid population. This is a capitated contract, based on actuarial analysis of the costs of behavioral health over the three year period from 2011-2013. Simultaneous to the procurement process, the State entered into a collaborative process with its federal partner, the Centers for Medicare and Medicaid Services (CMS), to develop a 1915(b) "Freedom of Choice" waiver in order to provide the State with the authority to switch from a fee-for-service reimbursement model to one of managed care administration. This is a waiver of the Medicaid participants' right to choose their provider so that one statewide managed care company can administer the behavioral health program.

Members are still able to choose their provider within the Optum network. The waiver is a technical document describing federal requirements and providing state assurances for protections Medicaid participants are guaranteed in the newly developed managed care behavioral health plan, named the Idaho Behavioral Health Plan (IBHP). The waiver was approved by CMS last summer.

In summary, these rules: require Medicaid participants to enroll in a statewide outpatient behavioral health plan; require the use of evidence-based practices in the delivery of services; integrate the service of mental health clinics, psychosocial rehabilitation (PSR) agencies, service coordination agencies and substance use disorder agencies into one "behavioral health" service system; and replace artificial service limits with a care management process that relies on individualized clinical reviews of a member's medical necessity for services.

These rules are targeted to the managed care contractor, not the provider network, because the network is not enrolled with Medicaid any longer. The provider network is enrolled with the managed care contractor.

Vice Chairman Nuxoll asked if this all dealt with outpatient, and **Ms. Martelle** confirmed that it did. **Vice Chairman Nuxoll** asked what is "Healthy Connections" that is referred to in the context. **Ms. Martelle** replied that Healthy Connections is the primary care managed program that has been in place for over ten years in Medicaid.

Senator Bock asked if there were any parts of this that were controversial or had negative input, and asked the audience if there was anyone present who would be testifying against this long rule.

Ms. Martelle responded that public hearings were held and no one attended. One comment regarding the rule clarification was received. To date, there have not been any concerns about the text.

Senator Martin asked if the contract was readily available to the provider, to understand the types of services to be provided and the level of compensation assigned for those services.

Ms. Martelle replied that a contract is a public document that is available to the public information request process, and work is being done with the Department of Administration to provide another opportunity for the contract to be available publicly. The contractor has published its fee schedule on its website that providers can access, and when a provider enrolls with the contractor to be a part of their network, the provider receives a hard copy of the fee schedule.

Senator Hagedorn stated that it is difficult to find what the agreement is between the State and Optum on the Optum website.

Ms. Martelle referred to David Simnitt, Deputy Administrator of the Department of Health and Welfare in the Division of Medicaid. **Mr. Simnitt** stated that the contract with the managed care contractor is a public information document. The contract will be posted on the Division of Medicaid's website, and the public will have immediate access via the Internet.

Senator Hagedorn commented that the Idaho Administrative Procedures Act (IDAPA) is typically where the public goes to look for information, and that the agreement between the State and Optum is not on the IDAPA website.

Paul Leary, Administrator of the Division of Medicaid, stated that on the Optum website there is a section for members and a section for providers. Under the member section, there is a handbook that goes through the available services, what services are covered, explains the grievance and appeals processing, and all other processes that one might need. Under the provider section, there is also a handbook.

Senator Hagedorn asked Mr. Leary if the legislative rules review process is applied to the contract as daily changes are made.

Mr. Leary replied that the legislative appeals process rules do apply in the contract.

Senator Lakey asked that if an individual has a grievance or concern with a coverage decision, is there a process they can go through to challenge that denial.

Ms. Martelle answered that there is.

Senator Lakey asked if the process for challenging a denial of coverage or services is addressed in the contract.

Ms. Martelle replied that it is in the contract.

Senator Lakey commented that if an individual had a claim previously under the rules for a grievance and took it through the process internally with the Department, there would be standing for them to challenge the denial in court based on noncompliance with the rules. Does a violation of the contract from the perspective of an individual give them the ability to pursue it to district court?

Mr. Leary stated that individuals have the right of appeal with Optum, and if they are not satisfied at the end of the second level of appeal with Optum, they can go through the Department of Health and Welfare's appeal process.

Senator Lakey asked Mr. Leary if the contract would change an individual's grievance rights.

Mr. Leary responded that an individual can appeal any decision.

Senator Lakey then asked about contract amendments being subject to rule amendments; is there an ability to scrutinize a change in the rules through this process? He asked if there was the ability to scrutinize a change in the contract that would have previously been addressed in rule but now is addressed between the Department and Optum?

Mr. Leary replied that the contract is developed under state statute. In order to make changes to the state plan, we need legislative direction, which comes through Idaho Code § 56-255, that defines the services that Medicaid can provide, or it would come under requests for an additional waiver if we were going to waive services.

Senator Schmidt referred to the section of the rule that states: "Participants must utilize the complaint, grievance, and appeal process required by the contractor prior to initiating an administrative appeal with the Department." He asked how the contractor determines eligibility verification.

Ms. Martelle stated that the Department makes a file available to the contractor on a daily basis that contains that information.

Senator Schmidt then asked if the eligibility is determined by the Department that is communicated to the contractor. **Ms. Martelle** confirmed that was correct.

Senator Hagedorn requested that Dennis Stevenson, Administrative Rules Coordinator for the Department of Administration, yield for a question about the rules. He asked that under the Administrative Rule Act, how is public input or negotiated rulemaking managed with a contract outside of IDAPA that might change with amendments. He also asked how does the Legislature review and have oversight on those rules or amendments.

Dennis Stevenson responded that unless the information is published in the Administrative Bulletin, it is not something that is shareable. This is not a document that would be incorporated by reference. A contract falls outside of what is allowable as far as incorporation by reference goes in those rules. Only rules that have been amended come before Committees, whereas a change to the contract would not.

Vice Chairman Nuxoll asked what "ambulatory" meant.

Ms. Martelle replied that it means services that are outpatient.

Vice Chairman Nuxoll then inquired about the part of the rule under Prior Authorization that states that some providers may require prior authorization from the Idaho Behavioral Health Provider (IBHP) contractor. How are providers selected?

Ms. Martelle responded that the Department did not make a decision about what providers would be enrolled in the contractor's network. It is the responsibility of the contractor to recruit, enroll, train, and reimburse the provider network.

Vice Chairman Nuxoll asked why some providers were not accepted.

Ms. Martelle explained that 97 percent of the provider agencies that were enrolled with the Department under the fee for service reimbursement model joined the Optum network. Some off those who did not join, did so by choice. This managed care company is National Committee for Quality Assurance (NCQA) accredited, and they operate under a higher standard of care. There may have been an agency that was unable to meet the requirements.

Vice Chairman Nuxoll asked if that happened because a Master's equivalent to supervise was required.

Ms. Martelle replied that there had to be a Master's level clinical professional in a supervisory role at all locations.

Senator Hagedorn stated that he assumed that was an Optum choice. The Legislature has no oversight or review on that criteria or process, and sought conformation that his thought was correct.

Mr. Leary informed the Committee that the Legislature gave clear direction to ensure that all mental health providers were nationally certified, which came out of H 260, and is part of the certification process. The NCQA certification that Optum provides is the easiest way to be certified.

Senator Schmidt asked about the wording in the section regarding psychiatric telehealth, where it says: "This rule does not apply to outpatient behavioral health services provided through the Idaho Behavioral Health Plan (IBHP) that are delivered via telehealth methods." He asked what is meant by the term "this rule."

Ms. Martelle replied that section of the rule applies to physicians, and that it needed to be clearly stated to avoid misinterpretation by providers. These rules, written to govern physician practice, apply under the Optum contract andset the parameters for the psychiatrists it enrolls.

TESTIMONY: **Alan Humble**, who worked for the Joint Commission for 20years, stated that they compete with NCQA for business. NCQA, the Joint Commission and others that are similar are large businesses that are highly political and their revenue is streamed from the very people that they are accrediting. The material that is being reviewed today was written by Optum, specified by the State and the patient is rarely embodied in any concerns. He referred back to an earlier question of how to register a complaint, which he described as tedious. The Joint Commission would say to put the patient first. Patients need to be utilized more in these types of discussions.

Kathie Garrett, on behalf of the National Alliance on Mental Illness (NAMI) Idaho, stated that NAMI supports Idaho's move to a Medicaid mental health managed care system if it is used as a tool to be more effective and more efficient, and to provide a better service to those Idahoans who have mental illness. NAMI is working with Optum and had concerns about the rules, as well as the prior rules repeal which dealt with members' rights and rights to file grievances. Today's meeting covered many of those concerns in a positive manner.

Greg Dickerson, Treasurer of the Mental Health Providers Association of Idaho, commented that this docket repeals the rules governing State Plan Basic Mental Health benefits and replaces those sections with general requirements for the Idaho Behavioral Health Plan under the administration of Optum. He informed the Committee that he has served as a provider representative on the Optum Advisory Committee. He voiced concerns about the limited contract that these rules describe, and whether the needs of members will be sufficiently met. He urged legislators to monitor this contract going forward.

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

Vice Chairman Nuxoll commented that before a vote is taken, she wished to inform everyone present that there was a hearing concerning Optum, that the Committee is very concerned about patients, and agreed that we will move forward cautiously. She furthered that the delays in answering the phones were addressed and have improved. Her personal opinion was that Optum, being a national organization, was troublesome to her because of the difficulties they'd had in Idaho. She wished to have her comments recorded.

Senator Hagedorn stated that was troubled by the move. Idaho is very unique in the fact that we have IDAPA and elected officials who review those rules to ensure that what we are implementing meets the intent of the bills that we pass. It is concerning that we are relinquishing that ability under this particular contract by the strike outs in this rule.

Vice Chairman Nuxoll asked Senator Hagedorn if he had a solution.

Senator Hagedorn replied that all the processes in the contract should be replicated in IDAPA, which would be a long term solution.

MOTION: **Senator Bock** moved, seconded by **Chairman Heider**, to adopt **Docket No. 16-0309-1301**. The motion carried by **voice vote**.

Senator Martin commented that he commended the Department of Health and Welfare and Ms. Martelle for the direction we are going. He furthered that a number of people are voicing concerns, and that there is a duty and responsibility to listen and address those issues. He hoped the process would work.

DOCKET NO. 16-0310-1301

Relating to Medicaid Enhance Plan Benefits: Pat Martelle informed the Committee that this docket is the companion docket to the docket that was just discussed. Prior to the implementation of managed care, the rules for substance use disorder and mental health services were spread across two chapters: Chapters 9 and 10. They represent the basic and enhanced level of benefits. Under this managed care contract, there is no need for a basic and enhanced level of care. The contract covers all needs according to medical necessity. In Chapter 10, we struck out all references to the mental health services because it is no longer applicable.

Vice Chairman Nuxoll asked for further explanation on service coordination.

Ms. Martelle replied that the rules are no longer relevant regarding the benefit of service coordination for the purposes of individuals who have mental illness. It would be an overlay of Optum's authority on how these benefits will be delivered.

MOTION: **Senator Martin** moved, seconded by **Senator Lodge**, to adopt **Docket No. 16-0310-1301**. The motion carried by **voice vote**.

PASSED THE GAVEL: Upon the completion of rules, Vice Chairman Nuxoll passed the gavel back to Chairman Heider.

ADJOURNMENT: **Chairman Heider** thanked the Committee members for working through the rule process. There being no further business before the Committee at this time, **Chairman Heider** adjourned the meeting at 4:30 p.m.

Senator Heider
Chair

Linda Hamlet
Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Wednesday, February 05, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Welcome	Chairman Heider
S 1225	Relating to Dental Practice - Amendments	Susan Miller, Executive Director, State Board of Dentistry; Michael Kane, Board Counsel, Board of Dentistry
RS22627	Relating to Dentists - Amendments	Bill Roden
RS22379	Relating to Child Support - Amendment	Andrea Sorenson, Child Support Program Manager
RS22700	Relating to Adoption - to Revise a Provision Relating to When an Unmarried Biological Father Has Manifested a Full Commitment to His Parental Responsibilities and to Revise Provisions Relating to When an Unmarried Biological Father is Deemed to Have Waived and Surrendered Any Right in Relation to a Child; to Revise a Provision Relating to When an Unmarried Biological Father is Deemed to Have Waived and Surrendered Any Right in Relation to a Child	Rob Luce, Administrator, Division of Family and Community Services at State of Idaho
RS22603	Relating to Licensure of Genetic Counselors	Heather Hussey, MS CGC and Jennifer Eichmeyer, MS CGC
RS22626	Relating to Immunization - Repealing Section Relating to the Sunset Provision of the Idaho Childhood Immunization Policy Commission	Senator Guthrie

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

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.**

S 1225 **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 statue 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.

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Senator Heider
Chair

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Linda Hamlet
Secretary

_____

Carol Cornwall
Assistant Secretary

AMENDED AGENDA #1

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Thursday, February 06, 2014

SUBJECT	DESCRIPTION	PRESENTER
RS22685C1	Relating to Radiologic Imaging	Mike Gurr, Chairman, Idaho Society of Radiologic Technologists
RS22822	Emergency Medical Services	Wayne Denny, Bureau Chief, Dept. of Health and Welfare
RS22804	Time Sensitive Emergency System of Care	Rep. Rusche
RS22722	Relating to Staff of Residential Care or Assisted Living Facilities: to Revise Background Check Requirements for the Staff	Keith Fletcher
RS22724	Relating to Administrators of Residential Care or Assisted Living Facilities: Revise Qualifications for Administrators	Keith Fletcher
RS22723	Relating to Residential Care or Assisted Living Facilities: Amending to Revise Payment Levels and Methodology	Scott Burpee
RS22725	Relating to Residential Care or Assisted Living Facilities: Amendments and Revisions	Scott Burpee
PRESENTATION	Annual Report of the Community Care Advisory Council	Scott Burpee

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

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 Tippets 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**.

RS 22724 **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

AMENDED AGENDA #2
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, February 10, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Welcome	Chairman Heider
RS22702C2	Stating Legislative Findings and Encouraging Companies to Avoid Substances Likely to Be Harmful and Substitute Safer Alternatives Whenever Feasible in Household Products, Especially Those Likely to Be Used by Pregnant Women and Children	Senator Buckner-Webb or Senator Johnson
RS22796	Relating to Indigent Sick	Senator Thayn
S 1263	Relating to Vital Statistics	James Aydelotte, State Registrar at Idaho Dept. of Health & Welfare

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Monday, February 10, 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 3:04 p.m., and noted that the Committee members needed to be back on the Senate floor by 4:00, so the meeting would be shortened and items shifted around from what the agenda had noted.
RS 22796	**Relating to Indigent Sick: Senator Steven Thayn** stated that with the talk of Medicaid expansion in the coming years, this RS will offer an alternative to that expansion. One of the problems with Medicaid growth is that it makes it hard to have accountability. His aim is to try to create a program outside the Medicaid system and that it would be through the community health centers-with about 34 existing throughout the State and more in the planning stages. With **RS 22796** the Catastrophic Care (CAT) fund and county indigent fund will be eliminated. Those funds will then be used to build more community health centers. There is a certain percentage of the population that do not have access to subsidies, and his fear is that there are no alternatives other than Medicaid. **Senator Thayn** asked that the Committee consider printing the RS and that by the end of the session there could be a more thorough discussion on the details. **Senator Bock** confirmed the need for further discussion after the RS is printed, especially due to the fact that many of the community health centers are supported, in some degree if not fully, by Medicaid, so he's not sure if this will solve the problem. **Senator Schmidt** wanted to know if there was a definition of a community health center within the RS. **Senator Thayn** responded that he believed there was, but he will have to get back to the Committee to let them know.
MOTION:	**Senator Martin** moved to print **RS 22796**. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**. **Senator Martin** wanted to commend Senator Thayn for his efforts in this area. He, like Senator Bock, has a lot of questions, but would like to wait for the full hearing to address them.

RS 22702C2 **Stating Legislative Findings and Encouraging Companies to Avoid Substances Likely to Be Harmful and Substitute Safer Alternatives Whenever Feasible in Household Products, Especially Those Likely to be used by Pregnant Women and Children: Senator Dan Johnson** began by saying this is a concurrent resolution to protect children and families from harmful substances. He wanted to note and thank the co-sponsors on the legislation, Senator Cherie Buckner-Webb and Representative Steven Miller. The purpose of **RS 22702C2** is to encourage the voluntary reduction of potentially harmful substances from household products and give recognition to those Idaho companies that are already reducing or eliminating the harmful substances from their products.

Senator Johnson pointed to evidence that shows as children develop in the womb they are vulnerable to harmful substances in household products, which have been found to cause problems to the fetus as it develops. The growth of the fetus in the womb can be hastened, halted or harmed by these chemicals. The fetus is also not able to de-toxify from its body any foreign chemicals, with one of the risks being an increase in childhood cancer. He then introduced the Committee to Trevor Schaefer, who was diagnosed with brain cancer at the age of 13, and who has since started the Trevor's Trek Foundation to help other children with cancer. Trevor's foundation is now working with a cleaning company, using only products that are made from naturally safer alternatives, to provide free services for the families of children suffering from cancer as they go through treatment.

TESTIMONY: **Trevor Schaefer**, founder of Trevor's Trek Foundation (Foundation), told the Committee that during and after his diagnosis with brain cancer at the age of 13, he witnessed many other children, of all ages, battling the illness as well. In speaking to the children and their families, he felt the need to start his foundation because of the growth of childhood cancer. The Foundation believes in creating a healthy environment for the children who have and are fighting cancer and making efforts to protect families and communities for the future. He stated that the Foundation supports this effort to promote healthy cleaning products, since the more harmful substances (such as chlorinated compounds and mercury) have been shown to cause birth defects and diseases.

Mr. Schaefer told the Committee that just because he is cancer-free it does not mean that he is free from its effects, such as vision, hearing and memory problems, which are all related to the disease and treatment. These are things that he will have to deal with for the rest of his life. Many of the other children that the Foundation works with have lost limbs, vision, and their lives as they struggle not only with cancer but the subsequent treatments, surgeries, etc... He stated that, even though they do not know the cause of cancer, anything that can be done to help in eliminating this type of suffering and loss would be appreciated and helpful.

DISCUSSION: **Vice Chairman Nuxoll** wanted to clarify what exactly is being discussed, is it cleaning products, or does it include food and other items. **Mr. Schaefer** responded that for this legislation they are concerned with cleaning products used in the home.

Senator Hagedorn thanked Trevor for being before the Committee and congratulated him on his valiant fight with cancer. In looking at the list of harmful substances that accompanies the legislation, some are known cancer causing agents, but asked if they all are regulated by a federal government agency such as the Food and Drug Administration (FDA). **Mr. Schaefer** answered that yes they are regulated, in a sense, but these harmful substances are still being used in certain products, and any level of exposure to these agents can be detrimental. **Senator Hagedorn** wanted to know if any of these substances could be traced back or related to Mr. Schaefer's particular type of cancer. **Mr. Schaefer** stated that is not known for certain since there are so many theories that go into the cause of cancer diagnosis, but it is the Foundation's goal to support the efforts to eliminate the

substances that are known to be harmful. **Senator Hagedorn** asked if the list of substances is complete, or could there be other harmful materials that aren't on the list. **Mr. Schaefer** said that he was certain the list was not complete just because of the great amount of harmful substances, but the list represents a good first step towards addressing the most commonly used harmful agents.

Senator Johnson named off some of the agents on the list and the household products they're found in that are used on a daily basis in the home. He also confirmed that instead of making such an overwhelming list all at once, it is better to address the issue in small doses and bring about awareness and change.

Chairman Heider wanted to ask about the larger document of chemicals referenced by Senator Johnson, yet the legislation only notes a few and that seems to be counter-productive to their cause. **Senator Johnson** said that the studies that have actually been done relate to the chemicals that are listed in the legislation.

MOTION: **Vice Chairman Nuxoll** moved to print **RS 22702C2**. **Senator Schmidt** seconded the motion.

ROLL CALL VOTE: **Chairman Heider** asked the Secretary to take a roll call vote. **Vice Chairman Nuxoll, Senators Guthrie, Lodge, Bock** and **Schmidt** voted aye. **Chairman Heider, Senators Hagedorn, Lakey** and **Martin** voted nay. The motion carried.

S 1263 **Relating to Vital Statistics: James Aydelotte**, Bureau Chief of the Bureau of Vital Records and Health Statistics, Public Health Division, Department of Health and Welfare (Department), stated that this legislation seeks to redefine the use of the term "advanced practice registered nurse". During the 2012 Legislative Session S 1273, introduced by the Board of Nursing, was passed. That bill changed the term "advanced practice professional nurse" to "advanced practice registered nurse". This same terminology is used several times throughout the Vital Statistics Act. This is a simple housekeeping change to update the vital statistics law to be consistent with how this term is used in other parts of Idaho law. **Mr. Aydelotte** confirmed that there are no changes to the nurses' responsibilities or scope of practice.

Senator Schmidt wanted to know if the term "certified nurse midwife" listed in the legislation would be a licensed position. **Mr. Aydelotte** answered that the terminology has been pulled from the Board of Nursing law and the language as taken notes "certified nurse midwife". **Senator Schmidt** was curious as to how that was related to a "licensed midwife". **Mr. Aydelotte** stated that he is not that familiar with the licensing of midwives, so he didn't feel confident to address that question.

MOTION: **Senator Hagedorn** moved that the Committee send **S 1263** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**. **Senator Martin** wanted it noted that he is voting nay. Senator Hagedorn will carry the bill to the floor.

ADJOURNED: There being no further business before the Committee, **Chairman Heider** adjourned the meeting at 3:25 p.m.

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Senator Heider
Chair

_____

Linda Hamlet
Secretary

_____

Linda Harrison
Assistant Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Tuesday, February 11, 2014

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION	The Department of Health and Welfare's Management of Appropriated Funds	Rakesh Mohan, Director Lance McCleve, Principal Evaluator
H 348	Relating to Uniform Controlled Substances: to Provide that a Recipient of a Dispensed Controlled Substance or the Recipient's Designee Shall Have Access to Certain Prescription Monitoring Program Data Upon Production of Certain Information	Mark Johnston, Executive Director, Board of Pharmacy
H 349	Relating to Uniform Controlled Substances: to Revise the List of Schedule III Uniform Controlled Substances; to Revise the List of Schedule IV Uniform Controlled Substances	Mark Johnston
H 350	Relating to the Board of Pharmacy: to Revise a Provision Relating to the Registration to Practice as a Pharmacist; to Revise a Provision Relating to Requirements for a Drug or Device Outlet Doing Business in this State; to Revise a Provision Relating to Whom a Manufacturer or Wholesale Distributor May Furnish Prescription Drugs or Scheduled Controlled Substances	Mark Johnston
Minutes Approval	Approval of the Minutes of the January 15, 2014 Meeting	Senator Lakey, Senator Bock
Minutes Approval	Approval of the Minutes of the January 21, 2014 Meeting	Senator Hagedorn, Senator Schmidt
Minutes Approval	Approval of the Minutes of the January 22, 2014 Meeting	Senator Martin, Senator Schmidt

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 11, 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 3:00 p.m. and welcomed the audience. He asked the secretary to take a silent roll.

PRESENTATION: **Rakesh Mohan,** Director, Department of Health and Welfare (Department), began his presentation regarding the Department's management of appropriated funds by reporting on a project they completed last December. He reported that concerns were voiced at the last legislative session by Senator Schmidt with reference to the complexity of the Department, the size of the Department, and the big budget of $2.5 billion. **Mr. Mohan** stated that it is very difficult to track the movement of the money through the agency. He pointed out that Senator Schmidt did not have concerns regarding wrongdoing, and that he didn't say anything negative about the management of the agency. The Senator only wanted to better understand how the Department manages the funds and how the money moves. The Cooperative Welfare Fund (Fund) has funds from different sources which are commingled into one fund, and then are distributed from there.

Mr. Mohan related that they did not realize how difficult this project was going to be. This report was completed after many conversations with several legislators, as well as Department officials in order to understand the issue, the context and the scope of the study. **Mr. Mohan** emphasized that he and his staff wanted to make this report useful to the Legislature and to the Department. He then introduced Lance McCleve who played a major role in the production of this report.

Lance McCleve, Office of Performance Evaluations, Idaho Legislature, said he is here to present the Department of Health and Welfare's Management of Appropriated Funds Evaluation Report (Evaluation Report). **Mr. McCleve** explained that the report focuses on JFAC and those who would be working on the Department's budget. The report is geared toward the Department's finances, but it also has policy relevant to the Legislature obtaining information when considering how the Department has spent appropriated dollars for specific programs or areas, and how their finance data is tied to their policy or program implementation data.

Mr. McCleve said there were a couple of key findings from the study. He explained that financial information is complex, but it is understandable. The Fund is a single fund that pools the bulk of the Department's appropriation into one fund from which they can expend money throughout the year. Financial management systems are set up for federal reporting and are not prioritized for legislative reporting, an important consideration when the Legislature is trying to get information from the Department. He stated that the last key finding was that the Department's physical organization is comparable to similar agencies in other states. Like Idaho, the health and welfare agencies in most other states combine one or more of the major federal programs.

Mr. McCleve stated that he would report on the State's accounting system (STARS) and its relationship to the Department, the Fund and how it relates to STARS, the Department's internal systems, transfers throughout the year, and a few other considerations.

As pointed out by **Mr. McCleve**, STARS was not intended to meet all the demands of the Department's financial reporting or recording. He explained that when the program first came online the Department worked with the Controller's office to see if it would meet the needs of the Department. Cost allocations, a federal reporting requirement, was a capability STARS did not have and using it would have been cost prohibitive, so FISCAL, a modified version of STARS, which is used internally and which interfaces with STARS, was selected to use with STARS.

Mr. McCleve reported that the Fund dates back to before STARS and essentially allows the Department to be flexible in how they make payments and how they do cash deposits. He went on to say that the Department, by using the Fund, is able to effectively pay their transactions in a way that they do not have to identify at the time of the transaction whether funds are general funds, federal funds, or dedicated funds. This same flexibility applies to cash deposits in that they do not have to identify the time of the transaction or the fund source. The Fund also helps limit costs of transactions with the Controller's office, so having the single fund house general funds, federal funds, and dedicated funds allows the Department to make fewer transactions than they would otherwise have to make.

Mr. McCleve reiterated that the Department's financial systems are not optimized for legislative reporting. The systems are responsive to federal reporting requirements since most of the Department's finances come from federal funding sources that require specific types of reports and information in order for the State to be paid for services offered. He pointed out that FISCAL is an aging system and is limited in its capabilities to report and track data. In looking at priorities, FISCAL was modified to report federal requirements, leaving a gap in legislative reporting needs.

In referring to cost allocations, **Mr. McCleve** explained that FISCAL uses a system of lookup tables to relate data from the financial systems to other data, eg. cases worked or calls received, that the Department uses for federal reporting. These statistics are used to determine how costs will be allocated to federal grants. He further said that there is data showing that a particular service was performed in a particular way resulting in a situation that is applicable to a specific federal grant, so costs are charged to that federal grant. The way FISCAL manages that procedure is in the lookup tables. He pointed out that if the Department hasn't set up the correct relationships in the lookup tables, the data will not be associated with other types of program data. So specific questions that are not something that federal grants are asking to be reported will not be related in a way that permits the Department to readily provide answers to the legislature. Examples and charts can be found in the Evaluation Report.

Mr. McCleve stated several considerations that should help policymakers be able to work with the Department to get the kind of information that will help with policy and budget decisions:

- Consider the advantage of requesting information from the Department as early as possible. This has to do with long-term reporting needs by the Legislature so the Department can set up long-term relationships to track that information over time and put the information into FISCAL's tables.
- Consider requiring a detailed transfer report from the Department geared toward budget, policy and JFAC if policymakers or budget policy need to see more specifically how money is moving around within the Department.
- Consider automating more of its year end processes having to do with more timely reporting, less load on staff, and more accurate reporting.

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 asked if it was correct that transfers affect around 4 percent of the Department's funds.

Mr. McCleve replied that statement was correct for 2013; it was about 4.2 percent.

Senator Schmidt pointed out that Mr. McCleve had said in the Division of Physical Health it was 0.3 percent. He asked if there was one division that had a significantly higher transfer rate.

Mr. McCleve said the transfers are broken down within divisions and across division by type. He added that he could get exact numbers but that he didn't have them with him. He pointed out that in looking through transfers, no single division stood out significantly.

Senator Hagedorn asked about the wiring diagrams and asked for an explanation of the grey area.

Mr. McCleve responded that the grey going across is everything that was spent exactly as it was appropriated.

Chairman Heider thanked Mr. Mohan and Mr. McCleve, commenting that the work was very informative and very complex.

H 348 **Relating to Uniform Controlled Substances, to provide that a recipient of a dispensed controlled substance, or the recipient's designee shall have access to monitoring program data: Mark Johnston**, Executive Director, Board of Pharmacy (Board), stated that the Board is statutorily required to maintain a State's prescription monitoring program (PMP) whereby the Board collects certain data on dispensed controlled substances, collates the date into patient profiles, and makes the data available to authorized users listed in Idaho Code § 37-2726, Subsection 2. He explained that while the most frequent users are prescribers, pharmacists, and law enforcement, an individual or that individual's attorney may receive PMP data that pertains to that individual. Southworth Associates is the peer assistance entity that administers the Board's Pharmacy Recovery Network for Impaired Pharmacists, as well as the Physicians' Recovery Network and other similar program at the Board of Nursing, Dentistry, and for the attorneys.

Mr. Johnston presented a case in which a physician's assistant in a recovery program died due to an overdose of prescription drugs. This occurred because the physician's assistant produced a valid prescription for the medication for each positive drug screening and received enough of the drug from different prescribers which, in combination, constituted a lethal dose. **Mr. Johnston** stated that Southworth Associates, as the peer assistance entity, believes that PMP access to data for the professionals in their recovery network can prevent more cases like this one.

Mr. Johnston explained that this legislation would provide for an individual to have any designee receive their PMP data, not just their attorney. As people enter a recovery network it would be easy for the enrollee to sign, along with other documents, a contract naming a peer assistance entity to receive PMP data. He also indicated that the Idaho Medical Association was in support of the bill.

Senator Schmidt asked if the individual couldn't print out his/her own record and give it to a peer assistance entity.

Mr. Johnston replied that they could print it out, but if they wanted to hide that fact they wouldn't have to produce the report.

Senator Hagedorn referred to the bill and quoted page 1, line 28: " Authorized individuals under the direction of the Department of Health and Welfare for the purpose of monitoring and enforcing ..." and asked if Southworth Associates would fall under that particular portion of the bill under current existing law.

Mr. Johnston noted that Southworth Associates is a private entity, defined as a peer assistance entity by Idaho Code giving them some structure, but they do not answer to any government agency.

MOTION: **Senator Bock** moved, seconded by **Senator Nuxoll**, to send **H 348** to the floor with a **do pass** recommendation. The motion passed unanimously by **voice vote**. Senator Bock will carry the bill.

H 349 **Relating to Uniform Controlled Substances, to revise the list of Schedule III Uniform Controlled Substances, and to revise the list of Schedule IV Uniform Controlled Substances: Mark Johnston,** Executive Director, Board of Pharmacy (Board), quoted Idaho Code § 37-2702(d): "If any substance is designated, rescheduled or deleted as a controlled substance under federal law and notice is there given to the Board, the Board shall similarly control the substance under this act after the expiration of 30 days." He pointed out that the Board must update Idaho's schedule of control substances annually as mandated by Idaho Code § 37-2714. **Mr. Johnston** stated that this proposal accomplishes the Board's statutory requirement to update the scheduling, that the substances listed are already controlled substances in Idaho, and that this bill will just put the substances into print.

Mr. Johnston reported that there are four controlled substances this year, two designer steroids listed with other steroids in Schedule III, a depressant listed in Schedule IV, and a stimulant used for weight loss listed in Schedule IV.

Senator Nuxoll asked if it was correct that these are already listed as controlled substances.

Mr. Johnston answered that under the law the Drug Enforcement Administration (DEA) publishes a notice in the Federal Register that they are going to control a substance. The Board then has 30 days to object and if there is no objection the substance becomes scheduled in Idaho. These newly identified substances cannot be listed in the schedules until the Legislature takes action and allows the Legislative Service Office to make that printing. **Mr. Johnston** explained that they are controlled substances, but you cannot go to the printing and see them yet.

Senator Nuxoll asked if it is correct that the federal government made them controlled substances and Idaho was just following them.

Mr. Johnston replied that is correct because the Board did not object within their 30 day period. The State can't ignore it's responsibility of scheduling by delegating that to a federal agency like the DEA.

MOTION: **Senator Hagedorn** moved, seconded by **Senator Martin**, to send **H 349** to the floor. The motion passed unanimously by **voice vote**. Senator Hagedorn will carry the legislation.

H 350 **Relating to Uniform Controlled Substances to clarify that controlled substance distributors must verify that persons receiving distributions containing controlled substances are registered with the Drug Enforcement Agency and the Board of Pharmacy unless exempted by state or federal law:** **Mark Johnston**, Executive Director, Board of Pharmacy (Board), pointed out the Board covers areas other than pharmacy, including drug outlets and is charged by statute with regulating the wholesale distribution of drugs into Idaho. He stated that in 2007 the Legislature passed the Idaho Wholesale Drug Distribution Act which mandated that wholesalers only furnish prescription drugs to a person licensed by the Board or another appropriate licensing entity like the Board of Medicine. But the law did not require that a wholesale distributor only furnish controlled substances to those who possess a Drug Enforcement Agency (DEA) and an Idaho Controlled Substance registration. In the last year the Board has found several shipments from wholesalers to prescribers who are not properly registered to receive these substances. He said this bill will take care of that issue.

Mr. Johnston stated that the Attorney General's office identified another topic which the Board added to this bill to address this concern. The current law states that a registrant must be located in the 50 states or the District of Columbia. Federally the U. S. territories have the same rights as the states, so our language unfairly does not allow registrants from the territories. He emphasized that striking that language from the law does not mean the drug outlets and pharmacists from foreign countries can obtain a registration as the law says elsewhere that an applicant must be licensed or registered and in good standing in a state in which they reside. "State" refers to the 50 states, District of Columbia, and U. S. territories, but not foreign countries. **Mr. Johnston** received oral verification from HDMA, the wholesalers' national association, that they are not opposed to this bill.

Senator Nuxoll asked Mr. Johnston to clarify what will be restricted with this change.

Mr. Johnston replied that the Board is mandating that the people to whom the distributors send controlled substances have authority to receive controlled substances, namely that they have a DEA registration and an Idaho Controlled Substance registration.

Senator Nuxoll asked who has the right to receive controlled substances now, without this bill.

Mr. Johnston responded that nobody has the right to send controlled substances to somebody who is not properly registered. This is happening, though, and that is what the Board is trying to remedy.

Senator Nuxoll requested more clarification on exactly what will be restricted as a result of this bill.

Mr. Johnston gave examples of professionals who had been registered at one time, but after retiring and their registration lapsed, they continued ordering controlled substances which they abused in their homes. These are the things the Board is trying to stop by requiring the sellers of controlled substances to make sure the people receiving the drugs are still registered.

Senator Nuxoll explained that it bothers her that we often restrict something because the federal government is asking us to. She stated that we can't cover every abuse, but we may be restricting some freedom and therefore limiting competition.

Mr. Johnston replied that without this bill people without prescriptive authority, such as chiropractors and naturopaths, could be shipped controlled substances. He went on to say that without the requirement of registration, controlled substances could be shipped to anyone in Idaho, even children.

Senator Nuxoll asked what is wrong with a naturopath or chiropractor getting these substances. Are they getting them now and they can use them, but this will restrict them?

Mr. Johnston explained that they are not permitted to have them by law. Perhaps their own boards and criminal law will take care of the abusers in Idaho, but this bill would allow us to take action against the distributors who ship the drugs illegally into Idaho.

Chairman Heider reiterated that those drugs could only be shipped to someone who is licensed to receive them. He asked if that was correct.

Mr. Johnston replied that Chairman Heider was correct.

Senator Hagedorn asked what the reason would be to not ship these controlled substances to someone who is not licensed.

Mr. Johnston indicated that the law currently states that a wholesale distributor should not furnish prescription drugs to anybody who is not properly licensed, but it does not go on to say "and ship substances to somebody who is not properly registered" with the DEA and with Idaho. A prescription drug is a controlled substance and should not be shipped into Idaho anyway, but the prosecutors are not comfortable with that and they want it plainly stated that you need a controlled substance registration in order to receive controlled substances.

Senator Hagedorn asked, "What is the difference between someone who is licensed to receive it and someone that is not licensed to receive it, like my son?"

Mr. Johnston replied that the difference is who is doing the shipping. He pointed out that this is a change to the Idaho Wholesale Drug Distribution Act and regulates wholesalers and manufacturers. He explained that the Senator's son can receive prescription drugs through a valid prescription drug order from a pharmacy, including a mail order pharmacy, but a wholesaler can't ship them to the son because he is not legally able to receive them without that valid prescription drug order. He also clarified that the law extends to all controlled substances.

Senator Guthrie indicated that the new portion states that they can ship only to a person who has been issued a valid controlled substance registration by the DEA and the Idaho Board of Pharmacy and asked if there would be an issue in taking out the DEA . He also asked for an example of something that would be exempted under state or federal law.

Mr. Johnston responded that Idaho exempts what the federal government exempts, i.e. Indian Health Services, the Veteran's Administration, the Mountain Home Air Force Base. He stated that if you work on a federal piece of territory you are exempted from having a DEA registration so you are also exempt from having the Idaho Controlled Substance registration.

With regard to Senator Guthrie's first question **Mr. Johnston** did not think there would be a problem with removing the DEA from the requirement if there is the perception that enforcing federal law is an issue. He explained that because there is a reciprocal relationship wherein DEA won't issue a registration unless the applicant has an Idaho controlled substance registration, and Idaho has a law that says the same thing with regard to federal registration, they literally access the registration system at the same time and issue the registrations at the same time. Therefore, issuing the registration would be the same without the enforcement of federal law being included.

MOTION: **Senator Schmidt** moved, seconded by **Senator Hagedorn,** to send **H 350** to the floor with a **do pass** recommendation. The motion passed by **voice vote**; however, **Senator Nuxoll** voted nay and wished to be recorded as such.

MINUTES APPROVAL: **Senator Lakey** moved, seconded by **Senator Bock**, that the Minutes of January 15, 2014, be approved. The motion passed by **voice vote.**

Senator Hagedorn moved, seconded by **Senator Schmidt**, that the Minutes of January 21, 2014, be approved. The motion passed by **voice vote.**

Senator Martin moved, seconded by **Senator Schmidt**, that the Minutes of January 22, 2014, be approved. The motion passed by **voice vote.**

ADJOURNED: **Chairman Heider** adjourned the meeting at 3:50 p.m.

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Senator Heider
Chair

_____

Linda Hamlet
Secretary

_____

Carol Cornwall
Assistant Secretary

AMENDED AGENDA #2
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, February 12, 2014

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION	Concern Over Immunizations	Leslie Manookian, The Greater Good
PRESENTATION	Idaho Council on Suicide Prevention	Kathie Garrett, Chairman, Idaho Council on Suicide Prevention
PRESENTATION	Idaho Suicide Crisis Hotline	John Reusser, LCSW
PRESENTATION	Idaho Lives	Kim Kane, Program Director, Idaho Lives Project

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Wednesday, February 12, 2014
TIME:	3:00 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Heider, Senators Martin and Schmidt
ABSENT/ EXCUSED:	Vice Chairman Nuxoll, Senators Lodge, Guthrie, Hagedorn, Lakey and 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.

NOTE: The presence of a quorum is required in order for a committee to act legally and officially. Due to a lack thereof, the members present listened to presentations by **Kathie Garrett**, Chairman of the Idaho Council on Suicide Prevention; **John Reusser**, Director of the Idaho Suicide Prevent Hotline; **Matt McCarter**, Division Director of the State Department of Education; and **Leslie Manookian**, Codirector of the National Vaccine Information Center Advocacy Portal.

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Thursday, February 13, 2014

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION	Idaho Criminal Justice Commission (ICJC) overview	Sara Thomas, Chair, Idaho Criminal Justice Commission Ross Mason, Chair, ICJC Children of Incarcerated Parents Subcommittee Monty Prow, Member, ICJC Criminal Justice Research Alliance Subcommittee
S 1291	Relating to Dentists: Revise the Definitions of "Dental Assistant," "Dental Specialist" and An "Extended Access Oral Health Care Program"	Bill Roden
S 1295	Relating to Immunization: Repealing Section 2, Relating to the Sunset Provision of the Idaho Childhood Immunization Policy Commission	Sen. Guthrie
S 1292	Relating to Child Support: to Revise Terminology Relating to Collection	Kandee Yearsley, IV-D Director for the Idaho Child Support Program

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 13, 2014

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators 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 3:15 p.m. and welcomed guests. He asked Allison McCarthy to approach the podium and introduced her as the Senate Health and Welfare Page. He commented that the Committee has been very appreciative of her fine work, and therefore has two letters of recommendation for her, as well as two gifts. He thanked her for doing an outstanding job.

Ms. McCarthy thanked the Committee and commented that she had learned several things, loved helping out on the Committee, and that her experience has been very interesting. She added that she was thankful that she had gotten to know the members of the Committee.

Chairman Heider asked the Secretary to take a silent roll, and introduced the first speaker.

PRESENTATION: **Relating to the Idaho Criminal Justice Commission (ICJC) Overview:**
Sara Thomas, State Public Defender and Chair of the Idaho Criminal Justice Commission (ICJC), stated that she would like to give an update on what ICJC has been working on in 2013. She informed the Committee that the ICJC meets once a month and looks at ways to propose balanced solutions that are both cost effective and achieve a safer Idaho.

Ross Mason, Chair of the Children of Incarcerated Parents Subcommittee to the Idaho Criminal Justice Commission, and Regional Director for the Idaho Department of Health and Welfare, stated that effort is being made to improve the lives of children who have an incarcerated parent.

Vice Chairman Nuxoll inquired if the club meetings were structured, and **Mr. Mason** replied that the meetings were conducted by a counselor with a curriculum loosely based on the life skills curriculum, which most schools are familiar with. It is a socialization curriculum aimed at directing children to better social skills and better discipline skills.

Sharon Herrigfeld, Director of the Department of Juvenile Corrections, stated that Monty Prow (Quality Improvement Services Director) was listed on the agenda, but that he is reviewing a program and she is taking his place to speak. She stated that when the ICJC developed their strategic plan, it was discovered that there was no avenue for discussion regarding data. Through the Department of Juvenile Corrections, they obtained a juvenile grant application to create communication with the Idaho Supreme Court, the Department of Health and Welfare and the State Department of Education.

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

Senator Martin thanked Ms. Thomas for the handout on medical marijuana (included in attachment 1).

INTRODUCTION **Chairman Heider** introduced former Senator Joyce Broadsword, who served in Health and Welfare Committee for many years, and stated that it was a pleasure to have her here today.

S 1291 **Relating to Dentists - Revisions: Bill Roden**, who represents Delta Dental of Idaho, informed the Committee that this bill amends Idaho Code § 54-903 in the definition of "extended access oral health care programs" to permit non-profit entities organized as 501(c)(3) or 501(c)(4) corporations to provide free dental or dental hygiene services to persons who, due to age, infirmity, indigence, disability or other similar reasons may be unable to receive regular dental or dental hygiene treatment, subject to approval of the Idaho Sate Board of Dentistry. This bill also amends the definition of "dental assistant" and "dental specialist" to make the terms gender neutral. There is no fiscal impact to the State or local government.

Senator Lakey wanted to know if Delta Dental is providing these services free of cost and not seeking reimbursement from Medicaid or any other government program.

Mr. Roden replied that was correct and that all of the programs are free of charge.

Senator Lakey commented that allowing Delta Dental and other 501(c)(4) corporations to do this type of thing reduces the potential burden on government, where people would have to go to a government program funded by taxpayer dollars.

Mr. Roden replied that he hoped that would be true. We work with other community resources and direct them to dentists who are willing to provide dental treatment and dental hygiene services. The extended services may or may not have some cost.

Senator Lakey asked for clarification on the change regarding the Board reapproval process - and that it looked like they are moving from an automatic annual approval to something a little more flexible.

Mr. Roden responded that was correct. The initial program has to be approved by the Board before they can embark on the program. Sometimes they have an ongoing program and it may be approved for a three year period of time, but the way this is structured, the Board can continue to do it on an annual basis, if they desire to do so, but that they would not be obligated. They could also do it in a lesser time period than a year if they wished. That discretion is left with the Board. The previous law provided for an annual review.

Senator Lakey then asked if the general thought behind the flexibility was so the Board would not have to review as often.

Mr. Roden confirmed that was the case.

Senator Hagedorn recognized Mr. Roden as a former Majority Leader and Senator from many years ago, and congratulated him on his 85th birthday. Then he asked about the strike out of the words "reduced fee," and voiced concern about what organizations will be removed with these deletions.

Mr. Roden replied that Senator Lakey had asked a similar question when the bill was introduced. He was not aware of any programs that would excluded by this language. He has not had contact from anyone who said this would exclude them from offering the programs and they are not trying to make this an exclusive program with Delta.

MOTION: **Senator Guthrie** moved, seconded by **Senator Lakey** to send **S 1291** to the floor with a **do pass** recommendation. The motion carried by **voice vote**. Senator Guthrie will carry the bill to the floor.

Senator Martin noted that when Mr. Roden was in the Senate, he was the only Senator in Ada County, whereas now there are nine Senators from Ada County. It took nine Senators to replace Mr. Roden.

S 1295 **Relating to Immunization - Repealing Section 2, Relating to the Sunset Provision of the Idaho Childhood Immunization Policy Commission: Senator Guthrie** stated that if the legislation fails, the Childhood Immunization Policy Commission (Commission) will dissolve on July 1, 2014. The Commission has eight regular members, two ex officio (the ex officio are the legislative members, in which Senator Guthrie and Representative Jeff Thompson participate). The Commission makes recommendations to public agencies, health care providers and others regarding policies and practices that are designed to improve Idaho's childhood immunization rates. Members of the Commission shall not be paid for their service or be entitled for reimbursement for travel expenses, except that members of the Idaho legislature serving as ex officio members of the Commission shall be reimbursed for their vouched travel expenses associated with their service on the Commission in a manner consistent with policy for other state officers and employees.

Dr. Perry Brown, a general pediatrician, Director of Pediatric education at the Family Residency in Boise and Codirector of the State Cystic Fibrosis Center in Boise stated that since the Commission was established a little over three years ago, he has served on this Commission, and it was highly worthwhile. He informed the Committee that the eight standing members of the Commission are: a representative of the Department of Health and Welfare; a representative from the Idaho Public Health Districts; a member of the Idaho Primary Care Association; a member of the Idaho Hospital Association; a member of the Idaho Academy of Family Physicians; a member of the Idaho Chapter of the American Academy of Pediatrics; a member of the Idaho Immunization Coalition and a member of the Idaho Medical Association (IMA). **Dr. Brown** indicated he is the member of IMA.

Dr. Brown said that the Commission makes great contributions to Idaho and asked that the sunset clause be removed so that the Commission may continue.

Senator Hagedorn asked why there is a separate Vaccine Assessment Board and an Immunization Commission, and why are they not combined.

Dr. Brown replied that the Vaccine Assessment Board's primary function is to get the insurers represented and gather funds to supply to the Department of Insurance and the Department of Health and Welfare to purchase the vaccines at the discounted Center for Disease Control costs. The Immunization Commission does not deal with funding for the vaccines, but rather vaccine access and administration in rural areas during vaccine shortages. That is why the representation of the Vaccine Assessment Board is, for the most part, insurers, whereas the representation of the Immunization Commission is primarily for those providing care.

Senator Bock stated that when he was a child, schoolchildren lined up to receive vaccines in the schools and asked why that approach cannot be implemented again to ensure a greater vaccination rate.

Dr. Brown answered that in those days, vaccines were given first and questions were posed later. Today, it is critically important that when vaccines are administered, it is done with parental consent and that parents receive information about the vaccines prior to administration. Although the old method would likely increase the vaccination rate, it is not an appropriate approach today.

Senator Schmidt stated that the Commission has been in existence for four years, and the stated goal in the statute is to improve immunization rates. He inquired on the status.

Dr. Brown replied that the status has gotten better.

Susie Pouliot, IMA, stated that one of the missions of IMA is to support and advocate for the medical profession and public health, and voiced support for **S 1295**.

MOTION: **Senator Bock** moved, seconded by **Senator Martin**, to send **S 1295** to the floor with a **do pass** recommendation. The motion carried by **voice vote**. Senator Guthrie will carry the bill to the floor.

S 1292 **Relating to Child Support - to Revise Terminology Relating to Collection:**
Kandee Yearsley, Child Support Bureau Chief for the Division of Welfare in the Department of Health and Welfare (Department), stated that she was asked to come today with a definition of a child support obligation. Idaho Code § 7-1202 defines "child support" as a legally enforceable obligation assessed against an individual for the support of a child which shall include medical care, including health insurance premiums for the child, and any amount owing under an order for support during a period in which public assistance was expended. One of the child support program's responsibilities is to ensure that child support is collected as it becomes due, before becoming delinquent. Idaho Code § 7-1203 specifies remedies available to Idaho child support enforcement for the collection of delinquent child support. When this section was written, child support payments were made by check, money order or cash. There was no electronic fund transfers at that time. If a case was current, it was anticipated that a parent would pay the payment. A withholding order to an employer or agency to make that payment was only in situations where the paying parent wasn't making their payments. As of 1996, Idaho child support orders have automatic and immediate income withholding language in the order. This language is a child support state plan requirement which the courts routinely include in child support orders.

Over 50 percent of the payments received, including income withholding (whether for ongoing or past due support) are paid electronically. This percentage continues to grow. Some states receive in excess of 90 percent of all payments electronically. Agencies, employers and parents request ongoing payments be made electronically. This statutory change clarifies Idaho Code § 7-1203 and allows the Department to utilize all available remedies for the collection of ongoing and past due child support obligations.

Parents today are retiring and are responsible for children under the age of majority in their home. They wish to have their child support withheld from their retirement account for an ongoing basis, despite remaining current with their ongoing obligation. Under the present version of § 7-1202, the Public Employee Retirement System of Idaho (PERSI) can only honor a child support withholding order for past due support. If a PERSI participant's child support order is current, PERSI cannot withhold that participant's ongoing support obligation. The participant must become delinquent for child support to be withheld. This interferes with the constant flow of support into the household of the child. This change allows agencies, including PERSI, to honor a single income withholding order for both past due and ongoing support, which will be more efficient and effective in maintaining monthly support payments to the child.

Senator Hagedorn asked if the idea is to obtain ongoing collection from any means available.

Ms. Yearsley replied that there are many places where electronic payments can be taken for support to enable people to pay their current support, such as state taxes. PERSI had not been included to enable people to pay their current support, and it is hindering those people to meet their obligations. This applies to people who are in arrears with their payments or by people who are requesting it.

Senator Hagedorn stated that he was confused by the language. If the term "delinquency" is being replaced by "support obligation," then that would encompass situations where the child support obligations were current.

Ms. Yearsley replied that support obligation includes any monies that are owed, which could mean current or in arrears. The way the statute currently reads, it does not allow for agencies to take retirement funds.

Senator Hagedorn asked if the individuals who own these accounts have the ability to set up an electronic transfer on their own.

Ms. Yearsley responded that, according to the Attorney General of PERSI, there is no ability to do so. It would have to be done through an income withholding; otherwise, it would have to be deposited into their bank account.

Senator Lakey stated that the request is to amend a section that deals with remedies. This is more of an accounting process to receive payment. This would give the ability to go after people for payment, even if they are current.

Ms. Yearsley replied that the concept of child support is to be able to collect the money when it is due. If a person is current, the remedies for delinquent payments are not utilized. The change in the wording for the statute is to say that if a case is current and someone wishes to continue to pay this way, they have the ability to do so. They presently do not.

Senator Lakey commented that if the focus is primarily just an accounting process to allow for someone to make payments, then perhaps the language should appear in another section other than the section that deals with remedies and collections for delinquencies.

Senator Schmidt referred to § 7-1203 (4), where it states that: "The department shall intercept and withhold a portion of any veteran's benefits payable to an obligator pursuant to state or federal law." That language is already in the remedy section of the statute, and payments can already be garnered with or without a delinquency.

Ms. Yearsley replied that the Department worked with the Attorney General's Office to make this change, and would like to defer to an attorney rather than guess at the intent herself.

Senator Guthrie asked if "support obligation" was defined in code.

Ms. Yearsley replied that Idaho Code § 7-1202 defines child support obligation as a legally enforceable obligation accessed against an individual for the support of a child.

Senator Guthrie stated that it appeared as ifdelinquency sufficiently addresses the need to enforce payment from someone's support obligation. Someone could be current and this revision states that the department "shall" obtain payment by various means. He voiced his concern.

Senator Bock was curious to know what the lag time was between the actual collection (whether current or in arrears) and when the recipient receives the payment.

Ms. Yearsley stated that if payment is electronically received, the money is available the next day. There is a 24-hour turnaround. That money is deposited into their account within 24 hours. We have either the direct deposit or Idaho Family Support Card, where the money goes into a debit type card.

Senator Bock asked if the Department were collecting all of the child support payments in the State.

Ms. Yearsley confirmed that was correct. In the child support program, we are referring to those cases under Title IV-D of the Social Security Act. This refers to people who have not been paying or need to be enforced to pay. We are not involved in cases where payments are being received on time.

Senator Hagedorn pointed out the bill's language which states that the Department shall intercept and withhold tax refunds, any unemployment benefits and any veteran's benefits payable to an obligor to satisfy child support obligations. The Statement of Purpose, on the other hand, is focusing on PERSI. PERSI is not mentioned in the bill itself. Because support obligation is such a drastic change from delinquency, he thought it opens up more than what the actual intent is.

MOTION: **Senator Hagedorn** moved, seconded by **Vice Chairman Nuxoll** to hold **S 1292** in Committee.

SUBSTITUTE MOTION: **Senator Bock** moved to send **S 1292** to the 14th Order for Amendment. The substitute motion failed for lack of a second.

Senator Lakey commented that the change does not accomplish the voluntary nature in keeping payers current and accepting payments in a more modern, appropriate fashion. He felt that the change should appear in another section.

VOTE ON ORIGINAL MOTION: The motion carried by **voice vote**. **Senators Schmidt, Martin and Bock** voted nay, and wished to be recorded.

ADJOURNED: There being no further business at this time, **Chairman Heider** adjourned the meeting at 4:28 p.m.

Senator Heider
Chair

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, February 17, 2014

SUBJECT	DESCRIPTION	PRESENTER
S 1329	Time Sensitive Emergencies	Molly Steckel, Policy Director, Idaho Medical Association; Dr. Robert Polk; Representative John Rusche
S 1293	Relating to Adoption	Rob Luce, Administrator, Department of Health and Welfare
Minutes Approval	Approval of the Minutes of the January 20, 2014 Meeting	Senator Bock, Senator Schmidt
Minutes Approval	Approval of the Minutes of the January 27, 2014 Meeting	Senator Martin, Senator Lakey

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Monday, February 17, 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 3:08 p.m., and requested the Committee Secretary take a silent roll. He wanted to welcome the new Senate Page, Anne Young, to the Committee for the second half of the Session.

S 1329 **Time Sensitive Emergencies: Molly Steckel**, Policy Director, Idaho Medical Association (Association), stated the Association and a lot of other groups are in support of this bill, and have no knowledge of any opposition to the legislation. She then requested to yield the remainder of her time to Dr. Polk.

TESTIMONY: **Dr. Robert Polk**, Chairman of the Health Quality Planning Commission (HQPC) for the state of Idaho, and Vice President and Chief Quality Officer for the Saint Alphonsus Health System. The HQPC was established in 2006 by the Legislature with representatives appointed by the Governor, and are pulled from hospitals, health plans physicians, employers, the public and the Director of Health and Welfare. **Mr. Polk** stated that the initial assignment of the HQPC was to develop and facilitate a plan for the electronic exchange of healthcare information, which eventually became what is now the Idaho Health Data Exchange. The next task was to examine and report on issues of quality and patient safety that impacted citizens of Idaho and that could possibly be improved.

The HQPC has been focusing on these issues of healthcare quality and patient safety, **Mr. Polk** said. The Legislature had asked the HQPC to study stroke systems of care in 2011, and in 2012-2013 the HQPC looked at the various issues involving stroke care and the expeditious care of other conditions. Their recommendation, as a result, showed that Idaho has a lack of an organized system of emergency and subsequent hospital care when needed for three main types of time sensitive emergencies. This study showed that with this lack of an organized system, there were higher death rates and disability from stroke, heart attack and trauma. In 2013 the Legislature responded to the HQPC with the creation of HCR 10, instructing the Department of Health and Welfare to develop a plan for such a system of care for time sensitive emergencies. Time sensitive emergencies constitute those illnesses and injuries where delays in receiving the right care results in significantly worse patient outcomes including death, disability and greater cost.

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

DISCUSSION: **Senator Bock** asked about the increase in bad outcomes due to no system in place at this time allowing the ability to track the information. He wanted to know how Idaho compares to other states. **Dr. Polk** responded that the best data comes from the trauma system and every state around Idaho has an organized trauma system. The experience from other states has shown that it has reduced mortality rates by about 15 percent.

TESTIMONY: **Representative John Rusche** said that he had been asked to go through the bill to highlight some of the major points. This bill calls for the creation of a coordinating system for the State with a Time Sensitive Emergency (TSE) Council and local committees made up as specified. He went on to state that the structure of the bill is fairly simple. Section 1 is a Statement of Intent noting that the trauma group has the best understanding on how to setup an effective system. The trauma system is intended to be voluntary and inclusive. Section 2 is definitions, and Section 3 states that it will be a creation of a TSE system within the Department of Health and Welfare. Section 4 talks about the council that would make up the membership being pulled from urban and rural areas and from different branches of healthcare. The members of the council will be appointed by the Governor and serve for four years and may be removed by the Governor at his discretion. Section 5 discusses the duties of the council and Section 6 talks about the ability of the council to designate levels of care and to survey those entities. Section 7 talks about the regional councils in which everyone can participate and take a role since those will be used as the tool to implement the best program for the region. The remainder of the bill, with Section 8, is a renaming in various parts of code the existing trauma registry (maintained for the State by the Hospital Association) to the TSE registry and expanding its scope to accommodate all TSEs.

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

DISCUSSION: **Chairman Heider** wanted to know for an urban area with more than one large hospital, how is it determined which one will participate in the TSE system? **Representative Rusche** responded that the idea would be that they all would and could be a part of the TSE system and participating to their fullest extent. Depending on the specialties and capabilities of the hospital, if they couldn't handle the particular trauma, they would recommend the other facility.

Vice Chairman Nuxoll had a question regarding the impact to the State General Fund of $225,750 and wanted to know what that would be used for. **Representative Rusche** answered that the rehabilitation services for one stroke victim can be well over $100,000 and if that can be prevented in the first place, there would be a resulting savings. He then wanted to defer to the Department who had put the budget together for the legislation.

Elke Shaw-Tulloch, Administrator for the Division of Public Health, Department of Health and Welfare (Department), stated that the costs associated with the legislation mirror other states in relation to the population being served. The Department has put together a supporting budget for the legislation and helped with the fiscal note and they made every effort to be as fiscally conscientious as possible. The areas that the funds will be directed towards will be operating costs, with the idea that this is the initial "kick-off" and that eventually, after the first year of funding, the program will be self sustaining. These start-up costs will go towards supporting the state level council, supporting rule promulgation, upgrading the existing trauma registry to include heart attack and stroke data, and the biggest piece for funding is to support the individual hospitals to get them up and running in this effort.

Senator Bock went back to the mortality rate of 15 percent and asked when

determining what should be included in the fiscal note was it a consideration for the actual cost-savings that would be gained by lives saved for the positive impact the bill would have. **Ms. Shaw-Tulloch** stated the issue faced in trying to do what he suggests is that there aren't other states who have this complete comprehensive system with all three components, as this bill will implement for Idaho, in order to do a thorough comparison. What is known are the costs for certain rehabilitative services as mentioned by Representative Rusche that indicate certain cost-savings if these services are not needed due to the effectiveness of the system to be put in place.

Senator Hagedorn wanted to know how this program will be measured for its successes and failures, what the guidelines for those measurements would be and how they would be reported. **Ms. Shaw-Tulloch** said that the purpose of increasing the capacity of the existing trauma registry, by including heart attack and stroke data from the hospitals, is to utilize the information so the state level council and regional advisory committees can do quality improvement work. **Senator Hagedorn** asked if there is a baseline for what the current mortality rate is so that next year, and after that, there will be information to compare with. **Representative Rusche** responded that there is current baseline data for trauma through the existing trauma registry. There's scattered data, mainly from Medicare, for the hospital portion. There's nothing really in place to show statistics from the first call and all the steps in between. This missing information will be gathered with the new system. The actual measurements for improving the program will be the role of the council in place who will manage it with the idea to help better the health and lives of Idahoans.

Senator Lakey noted that the intent of this legislation seemed to be to share information quickly to have that information available for the treatment of patients. **Dr. Polk** stated that he was correct. **Senator Lakey** asked that with existing technology already in place that rural and urban hospitals use between each other, why couldn't they just continue on in this manner without the legislation. **Dr. Polk** answered that every system is designed to get the results that it gets. The way the system is set up now, Idaho will experience 675 deaths a year, but 15 percent of those could be prevented with this system. **Representative Rusche** also wanted to note that most of the problems in the healthcare system are not from the hospital, doctor or the technology, but the connection between the facilities and practitioners. A system approach has been shown to improve situations where delays in treatment can cause more damage and death.

Senator Bock said he thought the purpose of the legislation was to develop a system whereby you could identify weak points in how emergency services are delivered and thereby reduce future mortality, but does not necessarily apply to an individual case. **Representative Rusche** said that if there is already someone hospitalized with a stroke or heart attack, then the system will not be much help at that point, but should improve the survival of future traumas, heart-attacks and strokes. He also stated that in several places throughout the State it's hard to find first-responders due to their isolation.

TESTIMONY: **Les Eaves**, Director of Clearwater County Ambulance, stated that he started with the EMS system in 1968 in Seattle, WA, in the beginnings of the Medic One program. After spending nine years there, and watching their system grow, he could see that they were able to collect the data that showed the information for what person would need to go to which hospital and when and the quickest way to get them there. He said that in Idaho, the EMS system is fractured at best with a lot to learn but they won't be able to learn it if the data isn't there to be studied.

He spoke of the system that has been devised in his county on their own, to know which hospital (Orofino, Spokane, Lewiston, Coeur d'Alene) a person should be sent to, or if they have the authority to make the decision on their own. Many times the local hospital is totally bypassed with the help of a helicopter to transport the patient to a larger hospital farther away. This legislation and system would help tremendously in gathering the data needed to know the best place for a patient to be treated.

DISCUSSION: **Vice Chairman Nuxoll** wanted it explained exactly how this piece of legislation will help with the transport. **Mr. Eaves** responded that it would allow the EMS units to have the prior authorization to bypass the local hospital and notify helicopter transportation to a larger area hospital. **Vice Chairman Nuxoll** asked where the prior authorization comes from. **Mr. Eaves** answered that it would come from the data gathered from the system they are wanting to put in place with this legislation and would include communication between all the area hospitals with a plan in place for different scenarios. **Vice Chairman Nuxoll** confirmed that the prior authorization is coming from the hospitals. **Mr. Eaves** stated it is from the hospitals and other healthcare agencies that would normally be in involved in the transport and care of an individual in an emergency situation.

TESTIMONY: **Dr. Brian O'Byrne**, Trauma Program Director at Eastern Idaho Regional Medical Center, noted that after a car race is finished, the crew in the pit have a chance to go over what went right and wrong to improve their systems to go out and do it better the next time. The same can be applied to healthcare time sensitive events, especially when dealing with stroke, heart attack and other trauma, where time is of the essence. The problem comes sometimes with rural areas staffed by volunteers who do the best they can and are looking for support to do it better, or hospitals with limited staff and resources. The system designed by **S 1329** will allow for a collaboration among hospitals and providers in a region to discuss with each other and produce protocols to be put into place. The idea is to have agencies critiquing their own performance and the ability to critique on a regional basis for later improvements. It is the goal to assist the individual (patient) as well as the facilities and agencies to bring about quality and effective care. He noted that there is a lot for facilities to learn from the review process. Smaller hospitals can't afford certain reviews on their own, but if it is done on the state level that would be very useful and help in improvements.

Senator Hagedorn wanted to confirm that with the current system now, an individual who has a stroke in Orofino, for example, would now be possibly taken to a hospital in Spokane, WA, but with the new system, perhaps it would be better to get the initial treatment locally for stabilization and then be transported to a distant facility. **Dr. O'Byrne** confirmed that was absolutely correct, the system would have the ability to make the call as to what was best for the particular individual and circumstances.

TESTIMONY: **Dr. Bill Morgan**, Medical Director of Trauma Services at Saint Alphonsus Medical Group, said that the idea of helicopters picking up and dropping off patients as in the MASH movies (Korean War), is not how it's done anymore. In the Vietnam War, they found that if a patient was taken to a facility within 30 minutes, that would lower the mortality rate, so the helicopter was even more critical then. Going back to the statistic as quoted by Dr. Polk, if 15 percent of 675 known deaths are prevented, that also represents about 99 people that would be able to get back to work, back to their families, and back to their communities.

This number represents only the trauma patients and doesn't even consider the additional victims of stroke or heart attack, so the numbers would be greater than that. With the system in place, when certain injuries are looked at throughout the system, the participants in the system can assist each other to help the patient correctly.

DISCUSSION: **Senator Guthrie** had a concern that people who are making the judgement call will err on the side of sending a patient to a larger facility, taking time, when the local facility could do just as well and save time. He wanted to know where this is being done in other states, has it changed the market share dynamic significantly with business being routed away from the smaller local hospitals in favor of the larger city hospitals farther away. **Dr. Morgan** responded that he came to Idaho from Texas which has a very active trauma system. The hospital he worked at would receive patients from outlying facilities, but they looked at each of those patients and noticed that every facility finds their own level of comfort for what they can handle and take care of with their staff and resources. Every facility that chooses to become part of the TSE system in Idaho will be able to care for what they know they can care for. This is where the review process will come in handy, to make sure that the treatment given at a smaller hospital, for example, is not sub-standard. After a year, the economic impact would be seen as small, since the more rural facilities would gain confidence in treating patients that perhaps now they are sending to larger urban facilities.

Senator Lakey asked, with Dr. Morgan's different perspectives on the issue, why it has taken so long between all of the groups involved to finally move to this type of system. **Dr. Morgan** answered that he couldn't answer for anything that happened before 2007 when he came to Idaho from Texas. But he can say that for all of the facilities, agencies and providers who have been involved in forming this legislation, there is a desire to do the right thing and make a better system. He noted that, like Texas, Idaho is a geographically separated state. Whereas Texas has 22 regional advisory committees throughout the state, Idaho will have 7. What this will mean is that every region will have a different way of looking at and doing things based on what will work best for them. This will also be a way of holding the facilities more responsible for the things that were done correctly or not.

TESTIMONY: **Jana Perry**, stated that she has been a nurse for 17 years at a variety of facilities and served on the committee involved in drafting the legislation as an expert in trauma care. It was her desire to improve the coordination between EMS and the rehabilitation efforts for patients since trauma affects all people of all ages and circumstances. She supports the legislation since it will ultimately provide appropriate care at the appropriate time that will improve patient outcomes.

Christine Shirazi, said that she has been a nurse for 23 years, and is currently the STEMI coordinator for Saint Alphonsus. She was part of the work group on the legislation in an effort to improve care for heart attack victims throughout the State. The most deadly form of heart attack is the STEMI, and in Indiana, for example, after the implementation of a STEMI system, they went from seeing patients within the 90-minute window (which is the best timeframe to see these patients) from 28 percent of the time to 71 percent. With that they also saw a decrease in the length of stay for those patients and a decrease in hospital costs. As a nurse she supports this legislation and felt that we as a state can do better for our patients.

Nichole Whitener has been a nurse for 25 years and is currently working at Saint Alphonsus Medical Group. She served on the committee as an expert for stroke care. Locally stroke care has changed and by creating a state-wide system of care it would have a positive impact on stroke victims. Within the Treasure Valley, Saint Alphonsus has been partnering with other facilities to help them bring their

protocols and standards of care to the highest level. They've also been educating and communicating with pre-hospital providers and EMS agencies so they are aware the patient can be taken to the local hospital where treatment can be started and then the patient can be moved to a higher level facility if necessary.

Adrean Cavener, representative for the American Heart and American Stroke Associations, who stated that with these two (heart and stroke) minutes truly do matter. She mentioned that one of the survivors, who is on their state board, Mark P. Dunham, was unable to be present, but had written the Committee a letter in support of the legislation.

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

MOTION: **Senator Hagedorn** moved to send **S 1329** to the floor with a **do pass** recommendation. **Senator Bock** seconded the motion.

Senator Martin requested to ask a question of Ms. Shaw-Tulloch regarding the fiscal impact of the legislation. He asked what the funds were for, to hire new people, computer time or what. **Ms. Shaw-Tulloch** responded that it is for operating costs, since the Department is covering the personnel piece, so the funds will be supporting the state wide council, rule promulgation, technical support to the hospitals and increasing the trauma registry to include heart attack and stroke. **Senator Martin** wanted to know if this was for additional employees or are the funds for employees; what is already being received from the State? **Ms. Shaw-Tulloch** answered that the personnel portion are funds they already have, the funds for the legislation are purely for operational costs as outlined.

Vice Chairman Nuxoll wanted to comment that she agrees with the idea behind the legislation, and can see that what is really needed is connection and education between the agencies, providers and facilities. She was surprised to see that hospitals are in favor of this legislation since she had heard that initially they weren't and wondered what changed their minds. In rural areas, such as where she comes from, helicopters are used all the time, so there seems to be no problem or issue with the transportation aspect. The hospitals seem to be the ones who should give prior authorizations as far as transporting, and she was concerned that they were not encouraged to come up with a plan to organize this effort without legislation that will require more government intervention. If the system is voluntary, why not put it on a private industry instead of the government, with the Governor having to appoint the board members, requiring more work for the executive branch, the Department of Health and Welfare, etc... She will be voting against the legislation at this time.

ROLL CALL VOTE: **Chairman Heider**, at the request of **Senator Bock**, called for a roll call vote on sending **S 1329** to the floor with a **do pass** recommendation. **Chairman Heider**, **Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock** and **Schmidt** voted aye, with **Vice Chairman Nuxoll** voting nay. The motion carried. Senator Hagedorn will carry **S 1329** to the floor.

PASSED THE GAVEL: Needing to testify before another Committee, Chairman Heider passed the gavel to Vice Chairman Nuxoll for the remainder of the meeting.

S 1293 **Relating to Adoption: Rob Luce**, Administrator for the Division of Family and Community Services for the Department of Health and Welfare (Department), said that he is before the Committee presenting on behalf of Senator Bart Davis who had another commitment and is the sponsor of the bill. He said that **S 1293** is a bill pertaining to technical corrections in the termination of parental rights as referenced in code concerning putative fathers.

During the 2013 Legislative Session, legislation was passed wherein was granted a set date and time certain for putative fathers to take action and protect their rights with their children born out of wedlock when a single birth mother terminates her parental rights. The most common example of a public adoption is where a single mother gives up her parental rights and the child enters the foster care system. With the passage of H 214, they discovered that they had overlooked establishing a similar date and time certain with respect to a smaller group of private adoption scenarios. These situations would include cases such as a step-parent adoption, or where the single mother consents to her termination of parental rights before the child is placed in foster care. At this point, the applicable statutes do not have a specified date and time certain for a putative father to protect his rights in private adoptions. This legislation is merely a correction for what was missed last year.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 4).

Vice Chairman Nuxoll asked when preparing this legislation if they had checked with any private adoption agencies. **Mr. Luce** responded that they had checked with private adoption agencies and attorneys and worked with Senator Davis on the bill language over the summer.

MOTION: **Senator Martin** moved to send **S 1293** to the floor with a **do pass** recommendation. **Senator Bock** seconded the motion. The motion carried by **voice vote**. Senator Martin will carry **S 1293** to the floor.

Senator Lodge did want to ask one clarifying question in the case of a father not paying any attention to the child and then is notified of adoption efforts for the child; does this legislation take all of that into account? **Mr. Luce** stated this is exactly the type of situation the legislation is trying to correct. It was done last year for more public adoptions, and now they are addressing more of the private adoption scenarios.

MINUTES APPROVAL: **Senator Bock** moved to approve the January 20, 2014 Minutes as written. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Martin** moved to approve the January 27, 2014 Minutes as written. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business to come before the Committee, **Vice Chairman Nuxoll** adjourned the meeting at 4:10 p.m.

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Senator Heider
Chair

_____

Linda Hamlet
Secretary

_____

Linda Harrison
Assistant Secretary

AMENDED AGENDA #2

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Tuesday, February 18, 2014

SUBJECT	DESCRIPTION	PRESENTER
S 1328	Relating to Emergency Medical Services	Wayne Denny, Bureau Chief, Department of Health and Welfare
S 1347	Relating to the Indigent Sick	Senator Thayn

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Tuesday, February 18, 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 3:02 p.m. and requested the Secretary take a silent roll call.

S 1328 **Relating to the Personnel System: Wayne Denny, Chief, Bureau of Emergency Medical Services and Preparedness (Bureau), Division of Public Health, Department of Health and Welfare,** stated that he had spoken with the Committee before regarding the definition of Emergency Medical Services (EMS) as currently written in Idaho Code. He said the Bureau has reworked the language of the bill in hopes of addressing the concerns mentioned previously by the Committee. This bill is the result of collaboration with the Legislative Services Office (LSO) under the guidance of Senator Schmidt. He explained that they could combine the key attributes of the two definitions from **S 1222** into one definition that will serve regulatory needs while meeting the need for clarity.

Mr. Denny explained that they struck out the language that referred to the system discussed previously and replaced it with language that focuses on the aid that is rendered by a person or group of persons. He pointed out that the language further describes elements that must be met for the aid to be considered EMS. These elements include that a person or group of persons rendering aid

- respond to a need of assistance,
- are prepared to provide interventions within the scope of practice defined by the EMS commission, and
- use an alerting mechanism such as the 911 system.

He went on to say that they simplified the existing language specific to ski patrollers.

MOTION: **Senator Nuxoll** moved that **S 1328** be sent to the floor with a **do pass** recommendation.**Senator Schmidt**, seconded the motion. The motion carried by **voice vote**. Senator Nuxoll will carry the bill on the floor.

S 1347 **Relating to the Indigent Sick: Senator Thayn** stated that he is presenting an alternative to Medicaid expansion and some other ways to deal with helping those who do not have insurance while using some infrastructure that already exists in Idaho. He explained that medical costs in the United States are about twice as much as they are in almost any other developed nation in the world, about 18 percent of our gross national product; others are at about 10 percent. In Idaho we spend about $10 million on medical costs. **Senator Thayn** went on to say that the level of medical costs is a problem mainly because of the third party payer system. About 86 percent of medical spending in the United States is controlled by third party payers, including private insurance, Medicaid, Medicare, and some others.

Senator Thayn pointed out that on the private side, the only way doctors and providers can receive income is by treating people who are sick. Medicaid, on the government side, has good intentions but also some harmful effects. One of the problems is that it is a third party system and there are no consequences for not paying copays or deductibles. This system does not encourage self-sufficiency. Also there are cliffs, where if you earn a few hundred dollars more, you may lose a couple of thousand dollars in benefits, discouraging people from working and leading to a detrimental effect on the economy. He continued that another problem of Medicaid is that much of it is funded by deficit spending, and if changes are not made now services will be cut or the State will have to take over more of these responsibilities which we cannot afford.

Senator Thayn stated that he doesn't want to expand the Medicaid system which has problems, but that the system needs to be reformed. He also is not suggesting an end to Medicaid. He emphasized that it is time to discuss some alternatives that will transition to a more sustainable system that provides services that help the needy, provides adequate pay for the providers, reduces overall costs, strengthens the economy, and promotes self-reliance and independence.

On the private side, according to **Senator Thayn**, we could use direct primary care where a membership is paid into a doctor's office.

Regarding the public side, **Senator Thayn** suggested that one tool would be Community Health Centers (CHC). He discussed the role of CHCs in the health care delivery system in Idaho, details of which can be found in attachment 1. The definition of a CHC can be found in Title 39, Chapter 2. Some of the benefits of CHCs are a sliding pay schedule so there shouldn't be any cliffs, the reduction of the feeling of entitlement, and being able to free ourselves from reliance on federal dollars. Under this bill, the CAT Fund money would be used to expand the CHCs, using money we are already using, rather than expanding Medicaid. **Senator Thayn** pointed out that the bill indicates we would use all of the CAT Fund immediately, but that would not be necessary as the money could be shifted over time. He stated that the goal is to build up the CHC network and reduce the costs that the county indigent funds and the CAT Fund currently absorb.

Senator Nuxoll asked about the rural areas that have no CHCs.

Senator Thayn replied that part of the funds could be used to give grants to build CHCs and to start operation of the center.

Senator Nuxoll inquired how the first CHCs were funded.

Senator Thayn deferred that question to Tom Fronk who is familiar with the development of CHCs.

Tom Fronk, Executive Director, Idaho Primary Care Association, explained that the CHCs are a national effort and have been around for about 50 years. They usually started with a federal grant designed to help cover the expected losses that come from opening a CHC focused on serving the uninsured and underinsured.

Senator Nuxoll asked if Mr. Fronk sees federal grants as a possibility for setting up more CHCs.

Mr. Fronk replied that it is a possibility, but Idaho is competing with other states. Regarding the rural areas of Idaho, **Mr. Fronk** stated that Idaho suffers as other rural states suffer, and the grants tend to follow the population, so it is difficult for Idaho to compete with more highly populated states.

Senator Nuxoll asked Mr. Fronk if he believes the counties in the rural areas would be willing to support this if they have to go further away for the service.

Mr. Fronk stated that he has not had conversations with the counties, so he has no answer. He did state that Idaho is unusual in that it does not have any state funds available to help CHCs start up, especially in rural areas.

Senator Bock asked how many CHCs there are in Idaho now, and he asked if Mr. Fronk has analyzed the capacity of those centers to expand services.

Mr. Fronk replied that there are 13 different organizations, none of them for profit, running about 45 service locations around Idaho. Twelve are domestic to Idaho and one is headquartered in Spokane but with two sites in Idaho. The CHCs in Idaho are not as well capitalized as they are in most states, but are a direct product of Idaho's Medicaid program. They have a lower rate of Medicaid patients and a higher rate of uninsureds, so they have fewer funds with which to operate, and very little to cover expansion.

Senator Bock asked how the CHCs will handle a big increase in patients that are currently served by other providers if there is no possibility of expanding, through capitalization or federal grants, the services they are able to deliver.

Mr. Fronk responded that if this bill were to pass, the CHCs are no substitute for the services that are being provided today by hospitals and other providers. They focus on primary care, and the services that are hitting the CAT Fund are not primary care. If the bill passes it would mean a cost shift for services in areas other than primary care that are now being covered by CAT funds onto other payers, including employers.

Senator Heider stated that a CHC is not designed to take accident victims who are now going to the emergency room and being covered by some of this indigent care money and then asked if that is correct.

Mr. Fronk answered that Senator Heider is correct. There are some centers around the State that have some first responder capacity due to their rural location. They are unusual as the CHCs are not emergency rooms.

Senator Nuxoll asked Senator Thayn if there was any consideration of 50 percent of the CAT funds going toward expanding CHCs rather than 70 percent.

Senator Thayn replied that the work of the CHCs can be expanded but that they are short of funds. He noted that the transition could not be made all at once, though that's how the bill is written. But as he mentioned before, he is trying to get some other ideas to consider in relation to expanding the CHCs. **Senator Thayn** enumerated several types of health issues currently paid for by the CAT Fund, some of which could be covered by CHCs. He stated that he is suggesting that the Committee look at how expanding the CHCs can take care of the uninsured needs and reduce some of the costs that are now going to the CAT Fund. To determine how this would be done would require assistance by someone with a firm understanding of health care systems.

Senator Hagedorn asked if the numbers have been done on the CAT Fund to really understand what percentage of funds are now being spent on things that could be managed in a CHC. The way the bill is written, 100 percent of the CAT Fund will go to this and that's not a viable situation. He suggested that data from the counties be analyzed to ascertain what percentage could be handled by a CHC.

Senator Thayn replied that the numbers have not been done with that in mind.

Senator Hagedorn asked if Senator Thayn would consider working with a single county, including its commissioners in initiating a pilot program to ascertain how well the program would work for a county.

Senator Thayn stated that there were a couple of counties in the area that he could work with, particularly Canyon County as they have already begun applying this idea.

Senator Guthrie requested clarification concerning the significant cuts in financial resources to help the indigent population. He asked if the burden of picking up those costs will be put on the hospitals, the doctors, or the providers.

Senator Thayn explained that **S 1347** is in its infancy and needs work. He stated that a lot of the numbers are basically place holders in order to get a concept established.

Senator Lodge asked Senator Thayn if he worked with counties in drafting the bill.

Senator Thayn replied that he had worked with a member of the House who was working with the counties, so they are aware of the approach. He said he personally had not yet worked with the counties.

Senator Lodge suggested that Senator Thayn work with stakeholders to make developing this idea easier. She also stated that she had some concerns with the way the bill is drafted, especially that it is not clear on how everything follows through.

Senator Lakey asked why the definition of county hospitals was added to the bill.

Senator Thayn explained the definition is there so county indigent monies currently being used could be used for a CHC which meets the "facility for the care of a sick person" reference in the definition of county hospitals.

Senator Heider expressed concern that if the county gets rid of the indigent funds, the mill levy also goes away. Therefore the money is no longer there. Part of the reason for this plan is to reduce the taxes for the average homeowner while providing care. If we do away with the levy we won't be able to fund the facility. He continued that this could cut into the funding and in turn the level of care for those needing care at county hospitals will suffer.

Senator Schmidt wanted to know what percentage of money expended from both CAT funds and county indigent funds goes to hospital care as opposed to out patient care.

Senator Thayn responded that he doesn't know the exact amount but that the majority of the funds go to hospital care.

Senator Hagedorn pointed out that the bill refers to "any indigent person." He expressed a concern that the term "indigent person" be better defined.

Senator Thayn noted the concern.

TESTIMONY:

Christine Tiddens, Community Outreach Director for Catholic Charities of Idaho, spoke **in opposition** to **S 1347**. She said that Idaho is not providing good medical care for many of her citizens, and she expressed appreciation to Senator Thayn and the Senate for attempting to find remedies for Idaho's inadequate system. She did not think that this bill is the answer as the most vulnerable in Idaho will still be left without necessary care, especially in rural areas, and the uninsured will continue to drain our resources. A collaborative effort between government and non-profits is essential for providing health care for those most in need, but this bill does not provide a comprehensive solution needed to repair Idaho's health care system. **Ms. Tiddens** then suggested another option, i.e. looking at Governor Otter's Medicaid expansion study. She indicated the following positive results of enacting the expansion:

- Idaho has an opportunity to create a more efficient and effective health care system.
- Idaho can eliminate needless suffering in the State.
- Idaho can save 590 lives next year.
- Idaho can create about 16,000 jobs.

According to **Ms. Tiddens**, this can happen if Idaho takes advantage of federal funds available for increasing Medicaid coverage to every person living in poverty.

Ms. Tiddens stated that with the influx of money Idaho can redesign the health care system and craft a program that is focused on promoting personal responsibility and accountability for participants, improving healthy behaviors, increasing preventative care, increasing access to low-cost primary care, and reducing costly treatment in emergency rooms. Redesigning Medicaid will eliminate the CAT Fund and the county indigent fund programs, saving Idaho tax payers an estimated $479 million over the next ten years. She concluded by encouraging the Committee to oppose **S 1347** and to look at the Medicaid expansion workgroup's recommendation to accept the federal dollars to redesign Medicaid and increase coverage to the working poor in Idaho.

Wayne Hoffman, President of Idaho Freedom Foundation, a nonprofit public policy research organization, spoke **in support** of **S 1347**. He pointed out that the issue of health care has been talked about many times. He stated his belief that the expansion of Medicaid is not the solution because it puts the poor and people in desperate financial situations into a Medicaid situation that is basically broken and dependent on a federal treasury that has no money. **Mr. Hoffman** reported that in Nampa there is a bible study group that wanted to contribute to the community. They set up a community health clinic and have now been operating for three or four years. They were serving patients one time a week, but now they are doing so two to three times a week. The clinic is funded by people who give money, medicine, and time. The doctors practice in a setting that is free from accountants, bureaucrats, and federal technicians, serving people who do not have insurance and do not have Medicaid. He pointed out that these are the people currently served by the county indigent program and the state CAT Fund. The group is accountable to their donors, knowing that if they do a good job they will continue to receive support.

Mr. Hoffman supports the bill as it is written, understanding that there are some concerns. He emphasized that there are some free-market charitable services that can be replicated throughout Idaho. They improve the quality of care, improve patient access to doctors, and improve the accountability needed to make the health care system in Idaho a model for other states.

Senator Schmidt asked Mr. Hoffman how many patients and what amount of money is paid for hospitalized care versus outpatient care in our current funding program and under the program that he would promote.

Mr. Hoffman replied that he was not advocating hospital services with this model, but rather he was advocating non-emergency services. Using Canyon County Clinic (Clinic) as an example, $500,000 in taxpayer dollars has been saved from a $2.5 million budget, so they have reduced the cost of services.

Senator Hagedorn then asked for numbers that show savings to the county, and if the County Commissioners are in agreement to starting a program of this type. He also wanted to know how much of the care is provided by the donors.

Mr. Hoffman stated that he would not speak for anyone else, but in his conversations with the Commissioners they were supportive and impressed with the work of the Clinic. He reiterated that there was a $500,000 savings per year on a $2.5 million county indigent budget.

Senator Hagedorn asked Mr. Hoffman if he knew the total percentage of revenue the Clinic received from donors as opposed to the amount from the county.

Mr. Hoffman replied that he believes all the money comes from donations. He thinks there may have been some money received from the county a year ago, but he said he doesn't know if they are still receiving any.

Senator Lodge asked if the team of researchers have found any other examples of the CHCs.

Mr. Hoffman replied that they have gone to several different CHCs and interviewed patients, doctors, and administrative supporters for information.

Senator Lodge asked for a list of the ones he has visited or the ones he knows exist in Idaho.

Mr. Hoffman replied that he would do that.

MOTION: **Senator Nuxoll** moved that **S 1347** be held in committee until further questions are answered and further work has been done. **Senator Bock,** seconded the motion. The motion carried by **voice vote.**

ADJOURNED: **Chairman Heider** thanked all who attended and the concepts brought forward. He adjourned the meeting at 4:00 p.m.

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Senator Heider
Chair

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Linda Hamlet
Secretary

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Carol Cornwall
Assistant Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Wednesday, February 19, 2014

SUBJECT	DESCRIPTION	PRESENTER
S 1288	Relating to Nurses: Amendment to Revise a Provision Relating to Discipline and to Provide that Certain Conduct with a Patient May Be Grounds for Discipline; and Declaring an Emergency	Sandra Evans, Executive Director, Idaho Board of Nursing
H 395	Relating to Medicaid	Paul Leary, Administrator and State Medicaid Director
H 390	Relating to Plats and Vacations	Barry Burnell, Administrator, Idaho Department of Environmental Quality (DEQ); and DEQ Director Curt Fransen
H 391	Relating to the Wastewater Facility Loan Account and the Drinking Water Loan Account	Barry Burnell
MINUTES APPROVAL	Approval of the Minutes of the Meeting of January 28, 2014	Senators Lodge and Guthrie
MINUTES APPROVAL	Approval of the Minutes of the Meeting of February 3, 2014	Senators Nuxoll and Schmidt

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Wednesday, February 19, 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 3:02 p.m. and requested the Secretary take a silent roll call.
S 1288	**Relating to Nurses: Sandra Evans, Executive Director of the Idaho Board of Nursing,** explained this legislation is intended to add to and improve the Board's grounds for denying or disciplining a nursing license. As currently written, the Board's disciplinary statute allows the Board to deny a license or discipline an existing license when the applicant or licensee has had a nursing license suspended or revoked in another jurisdiction; however, the statute does not expressly permit the Board to take action when another form of discipline has been imposed. This legislation also addresses a recent court decision holding the Board's disciplinary authority as insufficient to permit discipline of a nurse for sexual misconduct, or sexual exploitation by a licensee, as specific grounds for discipline.
MOTION:	**Senator Lakey** moved that **S 1288** be sent to the floor with a **do pass** recommendation. **Senator Bock**, seconded the motion. The motion carried by **voice vote**. Senator Martin will carry the bill on the floor.
H 395	**Relating to Medicaid: Paul Leary, Administrator and State Medicaid Director,** informed the committee that this legislation restores cuts to Medicaid made during the 2011 Legislative Session in House Bill 260. The services being restored relate to preventative dental services to adults with disabilities or special health needs. This legislation will cost $1,418,100 to the state General Fund which is included in the Medicaid budget request for FY 2015.
MOTION:	**Senator Bock** moved that **H 395** be sent to the floor with a **do pass** recommendation. **Senator Guthrie**, seconded the motion. The motion carried by **voice vote.** Senator Hagedorn will carry the bill on the floor.
H 390	**Relating to Plats and Vacations: Barry Burnell, Administrator, Idaho Department of Environmental Quality,** stated the purpose of this legislation is to make a technical correction to the definition of sanitary restriction. The current definition of sanitary restriction, Idaho Code 50-1301(15), references the "Board of Health and Welfare by its administrator" when it should reference the Director of the Department of Environmental Quality (DEQ).
MOTION:	**Senator Lakey** moved that **H 390** be sent to the floor with a **do pass** recommendation. **Senator Martin**, seconded the motion. The motion carried by **voice vote**.

H 391 **Relating to the Wastewater Facility Loan Account and the Drinking Water Loan Account: Barry Burnell Administrator, DEQ,** explained the purpose of this legislation is to amend state revolving fund provisions to allow fund transfers between drinking water and wastewater loan accounts so all funds may be put to immediate use by the state. The Department of Environmental Quality (DEQ) allocates low interest loans from two revolving loan funds, one dedicated to drinking water systems and one dedicated to wastewater systems. Historically, there has been much greater demand for loans from the wastewater fund than from the drinking water fund. Over the past two years, the drinking water fund has been underutilized, leaving money unallocated after all requests have been funded while wastewater loan requests exceed funding availability. This legislation will allow the Board of Environmental Quality, through DEQ, the flexibility to transfer funds between the two loan accounts. This is a federally approved practice that several other states have already begun utilizing. A net economic gain is expected for the state by maximizing state revolving fund implementation and making more resources available to communities.

MOTION: **Senator Guthrie** moved that **H 391** be sent to the floor with a **do pass** recommendation. **Senator Hagedorn**, seconded the motion. The motion carried by **voice vote**. Senator Guthrie will carry the bill on the floor.

ADJOURNED: **Chairman Heider** thanked all who attended and the concepts brought forward. He adjourned the meeting at 4:30 p.m.

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Senator Heider
Chair

_____

Jennifer Novak
Secretary of the Senate

AMENDED AGENDA #3
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, February 20, 2014

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointment Hearing Only	**Janet Penfold** of Driggs, ID was appointed to the State Board of Health and Welfare to serve a term commencing May 15, 2013 and expiring January 1, 2017	Janet Penfold
SCR 135	Starting Legislative Findings and Encouraging Companies to Avoid Substances Likely to Be Harmful and Substitute Safer Alternatives Whenever Feasible in Household Products, Especially Those Likely to Be Used By Pregnant Women and Children	Senator Johnson and Senator Buckner-Webb
S 1352	Relating to Behavioral Health Crisis Centers	Dick Armstrong, Director, Dept. of Health and Welfare
RS22900	Unanimous Consent to Send to a Germane Committee, Relating to the Personnel System	Ross Edmunds, Administrator, Department of Health and Welfare
RS22959	Unanimous Consent to Send to a Germane Committee, Relating to Licensure of Genetic Counselors	Chairman Heider
H 354	Relating to Counselors and Therapists	Roger Hales, Administrative Attorney, Bureau of Occupational Licenses
H 355	Relating to the Social Work Licensing Act	Roger Hales
H 394	Relating to Health and Safety	Rep. Wood

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

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

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Monday, February 24, 2014

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointment Vote Only	**Janet Penfold** of Driggs, ID was appointed to the State Board of Health and Welfare to serve a term commencing May 15, 2013 and expiring January 1, 2017	
H 354	Relating to Counselors and Therapists	Roger Hales, Administrative Attorney, Bureau of Occupational Licenses
H 355	Relating to the Social Work Licensing Act	Roger Hales
H 353	Relating to Children's Trust Fund	Roger Sherman, Executive Director, Idaho Children's Trust Fund
Minutes Approval	Approval of the Minutes of the January 28, 2014 Meeting	Senator Lodge, Senator Guthrie
Minutes Approval	Approval of the Minutes of the February 3, 2014 Meeting	Senator Nuxoll, Senator Schmidt

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Monday, February 24, 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 3:08 p.m.

GUB APPT: **Senator Martin** moved to send the gubernatorial appointment of Janet Penfold to the State Board of Health and Welfare to the floor with a recommendation that she be confirmed by the Senate. **Senator Bock** seconded the motion. The motion carried by **voice vote**. Senator Martin will carry the appointment to the floor.

H 354 **Relating to Counselors and Therapists: Roger Hales**, Administrative Attorney on behalf of the State Board of Counselors and Marriage and Family Therapists (Board), stated that this bill is rather straightforward. It would allow the Board to have authority to promulgate certain rules to set forth standards and other requirements for the use of communication technology in the practice of counseling and marriage and family therapy. The rules that the Board creates would come back before the Committee for review and approval. The rules would cover various forms of practitioner and client interaction using the newer types of electronic communication methods. Those rules would also need to address issues of client confidentiality in relation to the different types of communication.

Mr. Hales said that this Board has been working with other mental health boards to come up with more uniform language in dealing with the technology available. He noted that there has been no opposition to the bill and it is being brought forward at the request of the practitioners due to the lack of clear guidelines in this area.

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

Vice Chairman Nuxoll wanted to know why they needed rule legislation to use modern technology. **Mr. Hales** responded that it comes down to what type of security, guidelines, and consent might be needed since there are privacy issues involved between the provider and patient where a lot of confidentiality is required. These guidelines have been requested by the practitioners to protect them in cases where there may be claims of inappropriate use of technology in interacting with their clients. **Vice Chairman Nuxoll** asked for examples of possible abuse. **Mr. Hales** stated that if a provider is using just email to communicate with a client and sensitive issues are being discussed, you need to be careful and understand who may be able to also have access to those emails.

Senator Bock gave a hypothetical example of a counselor who has a message to pass on to his patient through an email, and he gives it to his secretary instead to take care of, that would be a breach in confidentiality to watch out for. He wanted to know if this type of scenario is something the rules for **H 354** will address and clarify for the practitioners. **Mr. Hales** agreed with Senator Bock, and said that this is a perfect example of what the rules will attempt to address with the legislation: who should be privy to the information and what types of forms to use in various settings.

Senator Martin wanted to make sure that Mr. Hales was familiar with the Idaho Telehealth Task Force and the efforts they are putting into place. **Mr. Hales** said that he was aware of that group, they have the needed information, and are passing it onto the Board so they can also be involved with that group.

Chairman Heider commented that it seems as though any medical field seems to be moving to telemedicine and he could certainly see the need to set standards for privacy and confidentiality. He assumed that this was the reason for the legislation at this time. **Mr. Hales** stated that was well said by the Chairman, and agreed with his points.

MOTION: **Senator Bock** moved to send **H 354** to the floor with a **do pass** recommendation. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**. Senator Bock will carry **H 354** to the floor.

H 355 **Relating to the Social Work Licensing Act: Roger Hales**, on behalf of the State Board of Social Work Examiners (Board), stated that this legislation has basically the same language as the previous legislation before the Committee.

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

Senator Martin also wanted to recommend that this legislation be communicated to the Idaho Telehealth Task Force. **Mr. Hales** said he would be happy to do that.

MOTION: **Senator Schmidt** moved to send **H 355** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**. Senator Schmidt will carry **H 355** to the floor.

H 353 **Relating to the Children's Trust Fund: Roger Sherman**, Executive Director of the Idaho Children's Trust Fund (ICTF), said the ICTF was created by the Legislature in 1985 in an effort to support community based programs and services to prevent child abuse and neglect throughout the State. **Mr. Sherman** stated that in the 28 years since the ICTF was formed, the board has worked to remain faithful to the high words of the intent language and prevent child abuse and neglect before it ever occurs. The ITCF's board and staff have provided funding, training, technical assistance and convened practitioners throughout the State in order to create a system of prevention that uses the best research based practices that have existed throughout the years. Over the years since the ITCF was established, Idaho has grown substantially and the field of prevention has changed as well. Many issues remain the same but the approach to solving them is different. It is the goal of **H 353** to do three things. It cleans up obsolete language. It brings the statute into compliance with current business practices in regard to the board and staff and provides the board with additional tools that will allow it to do its work more effectively.

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

Senator Bock wanted to know the current balance of the fund and what is the source of their operating expenses. **Mr. Sherman** responded that at the end of 2013, the balance of the fund was at $1,359,758.36. Part of the operating costs are covered by the fund and the rest are covered by the Community-Based Child Abuse Prevention grant. **Senator Bock** inquired as to what the approximate operating budget for the ICTF is on an annual basis. **Mr. Sherman** answered that it's around $325,000.

Vice Chairman Nuxoll asked how much of the funds come from the federal government and the amount. **Mr. Sherman** stated that part of the funds do come from the federal government, through grants given to each state, the rest of the money comes from the voluntary designation on the tax forms as a means for citizens to donate to the fund, along with interest that adds up on the account. **Vice Chairman Nuxoll** wanted to know if the ICTF is considered a nonprofit organization. **Mr. Sherman** said that the ICTF is considered a governmental entity, being governed by the board of directors that are appointed by the Governor and established by the Legislature. **Vice Chairman Nuxoll** had a concern over the language within the legislation regarding "other monies" and why was it added to the bill. **Mr. Sherman** explained to the Committee that they worked with a lawyer on the wording for the legislation, and stated that term is basically "lawyer language".

Senator Lakey requested clarification on the wording in the bill regarding "monies appropriated by the legislature may also be used for salaries, etc..." and wanted to specify if those were not general fund dollars. **Mr. Sherman** responded that these are not general fund dollars, but monies that come from the trust fund and the federal grant.

Senator Hagedorn noted that the current statute only funds ten hours a week for an Executive Director and wanted to know how long ago that changed and could the ICTF ever operate at just the ten hours a week for just one person. **Mr. Sherman** clarified that this information is talking about a part-time administrator and doesn't specify ten hours. The original statute that had been used before the existing legislation, specified ten hours since that is what they had the money for.

Senator Schmidt wanted to know as far as the fund balance, have they seen it increase or decrease and what does the trend look like. **Mr. Sherman** responded that it generally increases and they have not seen it go down.

TESTIMONY: **Rosie Delgadillo Reilly**, ICTF Board Member, stated that she represents region 3 on the board and lives in Nampa. She spoke for the entire board of directors in letting the Committee know that they are fully behind this effort to change the statute. The need to change the statute has been clear for the last couple of years especially to provide the board with more tools to raise money to support community based work. As Mr. Sherman had stated, the ICTF has seen revenues plummet in the last five years and although they are continuing to do exemplary work, they have fewer resources to do it with. The need remains great she stressed. As a school teacher, then school counselor and now as a counselor in private practice, she has seen the consequences of not preventing abuse and neglect. She was enthusiastic about joining the board in order to support prevention efforts. The board is also interested in bringing this statute and practice into alignment. After 28 years, the need and the organization have changed and it was their hope the Committee will support this effort to modernize the statute.

DISCUSSION: **Senator Schmidt** was concerned about the fiscal oversight of the ICTF and wanted to know if Ms. Delgadillo Reilly felt comfortable paying attention to the balance of the fund and is there a long term goal to keep the fund sustainable for the future. **Ms. Delgadillo Reilly** answered that they work with what they have, and are asking to raise funds in ways beyond what they already have available to them. As far as being sustainable, she would need to refer that question to Mr. Sherman to answer.

TESTIMONY: **Laura Mahan**, Branch Executive Director for Youth Development, Treasure Valley YMCA, stated she was there to speak as a partner with the ICTF. She said that for over 20 years the YMCA has been training their staff on child abuse prevention even before other youth-serving agencies jumped on board. It's been a positive experience, but they always feel they should be doing more, but didn't know what they could do. They've been able to work in partnership with the ICTF to leverage what each group can offer the other to help parents and staff become more aware of the issues. With the large membership in the area YMCAs there is a great venue to get the information out and the ICTF helps with the tools to accomplish that. She stated there are amazing things happening throughout the State to improve awareness and prevention of child abuse and her group is happy to be a part of it and supports this legislation.

Richard Johnson, Chief Executive Officer (CEO), Family Advocates, which has been around for 35 years and are best known for their Court Appointed Special Advocates (CASA) program for children. They have a lot of partnerships as a result of the CASA program, and one thing that is common among them is the need to get to the child (family and situation) early for intervention and prevention of abuse. The language and guidelines they use in their CASA program was nurtured by the ICTF, who have been educating state wide on these issues. The CASA group has also benefited from grants from the ICTF for several of their programs for children of all ages. He stated that the ICTF staff is small but very resourceful and have a large impact throughout the State. The ICTF is a very vital asset to the Family Advocates and to the State and he is supporting their efforts with this legislation.

DISCUSSION: **Senator Martin** wanted to know, for the ICTF's funded projects, what is the process to decide on what programs to fund. **Mr. Sherman** responded that the ICTF puts out a Request For Proposal (RFP) through a variety of sources, then the board takes the proposals to review and score them and the determination is made as a grant-making process, for large and small grants depending on the need.

MOTION: **Senator Lodge** moved to send **H 353** to the floor with a **do pass** recommendation. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**. Senator Schmidt will carry **H 353** to the floor.

MINUTES APPROVAL: **Senator Lodge** moved to approve the January 28, 2014 Minutes as written. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Vice Chairman Nuxoll** moved to approve the February 3, 2014 Minutes as written. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business to come before the Committee, **Chairman Heider** adjourned the meeting at 3:52 p.m.

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Senator Heider
Chair

_____

Linda Hamlet
Secretary

_____

Linda Harrison
Assistant Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, February 25, 2014

SUBJECT	DESCRIPTION	PRESENTER
H 396	Relating to Uniform Controlled Substances - amends existing law to provide that certain prescribers shall register for online access to the Controlled Substances Prescriptions Database	Representative Christy Perry; Mark Johnston, Executive Director, Board of Pharmacy; Elisha Figueroa, Director, Idaho Office of Drug Policy
H 352	Relating to Public Assistance	Matt Wimmer, Bureau Chief, Department of Health and Welfare

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 25, 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 3:04 p.m., and thanked the Committee members for their comments on the Senate floor earlier in the day in discussing a bill that had been presented by a fellow Committee member, and he appreciated their support.

H 396 **Relating to Uniform Controlled Substances - amends existing law to provide that certain prescribers shall register for online access to the Controlled Substances Prescriptions Database: Representative Christy Perry** began the presentation by stating that this piece of legislation is geared to help curb the growing prescription drug abuse problem in Idaho. Deaths due to prescription drug overdose have increased and have overtaken car fatalities as a cause of death in the state. This legislation is one of a series of items that has been brought forth in the last few years by the Prescription Drug Abuse Workgroup working in conjunction with a long-term plan and a multi-prong approach to combat prescription drug abuse in Idaho. The legislation is basically ensuring that all controlled substance prescribers are to register for the Prescription Monitoring Program (PMP), both when they are being issued their license and when they are renewing their license. This step should allow for 100 percent coverage when it comes to controlled substance prescribers. She noted that the bill does not require veterinarians to register on the database.

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

TESTIMONY: **Elisha Figueroa**, Administrator for the Office of Drug Policy, stated the purpose of her appearance before the Committee is to give them information behind the issue at hand and the purpose of the legislation at this time. She gave the statistic that Idaho ranks 4th in the nation for pain medication abuse, and also that 20 percent of Idaho high school students reported they have abused a prescription drug. Another statistic she shared was that Idaho has experienced a 250 percent increase in drug induced deaths since the year 2000, so there is an obvious concern regarding this growing problem. She noted the previously referenced Prescription Drug Abuse Workgroup that has been formed to help plan, instigate action and implement strategies to combat the abuse issue. She stated that one of the approaches is to use, more fully than it is being used now, Idaho's "robust" PMP.

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

Mark Johnston, Executive Director for the Idaho Board of Pharmacy, started by giving a little history and insight to the PMP. The State's PMP was created by the 1997 Legislature and was the nation's second PMP, and there are now 49 such programs across the nation with a 50th one in progress. So Idaho has been a leader in this area and continues to be. He then went on to define the PMP through established statute, what it is, its role, and advancements through the years. He wanted to note that there will be a brand new system for the PMP that will be in place as of February 26, 2014 and they are excited for the changes and improvements this will provide.

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

DISCUSSION: **Senator Bock** wanted to know the differences between this legislation and other similar legislation that has come before the Committee in previous sessions. **Mr. Johnston** responded that a few years ago there was a very progressive bill based on a Nevada requirement that the first time a doctor prescribes a controlled substance and annually after that, they are required to go to the PMP to check the patient, but this did not get passed. There are about 16 states that do have this mandatory use requirement, but **H 396** falls short of mandatory use, and just requires mandatory registration. There are about 13 other states that require mandatory registration as well, and it is their hope that this effort will curb the problem before having to go as strict with mandatory use.

Vice Chairman Nuxoll wanted to know what would happen if people are not required to register on the PMP, and why wouldn't it just be voluntary. **Mr. Johnston** answered that the registration on the PMP is required because with all of the efforts done over the last two years, only 38 percent of the prescribers are registered at this time for online use. It's a great tool that isn't being utilized enough and this legislation would mandate registration which is an online process that takes only minutes to do. **Vice Chairman Nuxoll** asked again why do they have to be required to register. **Mr. Johnston** stated that voluntary efforts have not worked to the level that they had anticipated in the name of public safety. **Vice Chairman Nuxoll** was curious as to what the safety issues are. **Mr. Johnston** said that every month they are able to identify at least 100 patients who have seen five doctors for the same controlled substance prescription. The record they have seen has shown one patient seeing 31 doctors in a month, which shows those 31 doctors did not go to the PMP, did not identify the illegal activity and continued to prescribe to the patient. Those drugs were not used by the one individual, but were most likely on the streets being sold to others. **Vice Chairman Nuxoll** wondered how registering on the PMP helped the problem. **Chairman Heider** stepped in to phrase it another way, that if a provider registered on the PMP yesterday, how does the doctor know a patient he has already seen is getting another prescription. **Mr. Johnston** responded that once the physician registers on the PMP for online use, then with a couple of keystrokes they can go online and look at the patient profiles for any patient in Idaho who's had a controlled substance dispensed to them, and try to determine if they are a "doctor shopper" or have inappropriately accessed controlled substances from other prescribers.

Senator Hagedorn wanted Mr. Johnston to expound on the issue of "data sharing", how that works between the different states, what kind of data is shared, etc... **Mr. Johnston** answered that this is a system that the National Board of Pharmacy has developed with 21 states sharing data between them effectively. You can choose the state(s) you wish to query and then receive back reports from those states, and it is up to those states' users to verify that the "authorized users" are in fact authorized. In all of the years of its operation there have been very few breaches because of the strong language in statute that applies criminal penalties for the misuse of wrong information as far as credentials and licenses of the registered physicians. **Senator Hagedorn** wondered with the states sharing information, what security concerns there might be on someone's personal data being compromised. **Mr. Johnston** stated that everyone shares a concern over the misuse of private data being taken, but assured the Committee that the processes are in place, technology wise, to protect the citizen's data. He said, that with all things, a breach is possible, but in the time he has been aware of this system, there have been very few issues around the country. It's up to each state to set its own standards and restrictions on security and address any abuses.

Senator Hagedorn wanted to clarify the statistic that deaths from controlled substance overdoses is greater than highway deaths, and what percentages of those deaths are due to direct prescription abuse by that individual; not from drugs the person had received from another individual who had abused the prescription system. **Ms. Figueroa** responded that she did not have that information at this time but would be happy to go back and research for the answer.

Senator Lakey wanted to clarify if the registration to the PMP is required no matter what, or just for the prescribers to obtain access to the database. **Mr. Johnston** answered that it is tied to a controlled substance registration, so if the provider wants to prescribe controlled substances in Idaho then they would also have to be registered to use the PMP, which is the same process upon license renewal on an annual basis.

Senator Martin noted that he can see how the database administrators can look at a pattern of abuse by individuals, but he doesn't understand how the doctors would be able to see it for themselves before prescribing for the same individual. **Mr. Johnston** stated that the doctor would be able to look up that individual patient to see their history and the other doctors they have been to for medications. By seeing a pattern of abuse, they can determine or decide to not fill another prescription for that person. **Senator Martin** wanted to know what percent of the doctors actually do go in and check the database before prescribing or denying. **Mr. Johnston** said that initially around 65 percent of the substances prescribed had first been looked at by someone to determine abuse, with that number being has high as 82 percent. They know that the doctors currently registered are using the system and it has been an effective tool for them. The general practitioners and dentists are the group that typically get "shopped" by abusers, and are the ones that are not using the system as much as they should be.

Vice Chairman Nuxoll stated that it was her understanding that any prescription is considered a controlled substance, and does this apply to things like vitamins and minerals if they have to be prescribed for larger dosage. **Mr. Johnston** clarified that not all prescription items are considered a controlled substance, but a small subset of prescription items are designated as controlled substances, especially those that can be abused or habit forming. **Vice Chairman Nuxoll** wanted to know if there was a specific list for those substances that would qualify for this legislation. **Mr. Johnston** responded that within the statute itself is a listing of those drugs that have been determined to be controlled substances.

TESTIMONY: **Molly Steckel**, Policy Director, Idaho Medical Association (Association), said that the Association represents about 80 percent of the physicians around the State. Since this legislation has an impact on the Association's membership, they do support it, even though there are some concerns, for the most part they are all in favor of it. She said some changes had been made to address physician concerns, and that was appreciated. She has seen that the older the physician the more resistance this system has generated since they have issues in general with getting more up to speed with advancing technology. The younger practitioners are more fully in support and see this as a great tool to use and are using it now. The Association is working to get the word out to their membership, encouraging them to use the system, and training them to get them up and going with it.

Representative Perry wanted to close by saying that she hoped the Committee members could see the value in this legislation and see that it is simply registration to keep track of what is going on. She went back to the question raised by Senator Hagedorn regarding the percentage of deaths from individuals who had gotten their own controlled substances versus people who got them from someone else. Even though she did not have that information at this time, she wanted to share some other statistics that were gathered in a two year period: 4 people died from codeine, 6 from heroin, 28 from morphine, 43 died from oxycodone, 54 from methadone, 68 from hydrocoodone, and all of these are available to local school children for $10-20 a pill. Another 92 died from drugs that were not specified. She also wanted to state that once everyone is on board and registered, then some of the medical associations and other stakeholders will be going through education efforts so people can truly understand the value.

MOTION: **Senator Martin** moved to send **H 396** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion.

Senator Bock wanted it noted that the prior legislation he had worked on with Mr. Johnston in this area was the result of two teenagers he knew, who died as a result of drug overdoses that were linked to prescriptions. For that reason, he feels this current legislation is very important and he will be supporting it.

Vice Chairman Nuxoll stated that she likes the idea but she has a problem with the privacy issues, drugs being obtained with or without the database in effect, and the fact that the registration has to be renewed each year.

Senator Guthrie said that he has a couple of grandchildren who are in high school and he has learned just enough from them to scare him, and he knows this prescription abuse is out of control. He also knows that privacy is a big issue now, but it was interesting to see that the younger physicians are supportive of this since they are more in tune with new technology, and he will be supporting the motion.

Senator Hagedorn voiced his concern over privacy, especially when connecting with other states, and not knowing how those other states will regulate the handling of personal data by others. He also knows that the prescription drug abuse is an important issue and this legislation is trying to help in those efforts. He is concerned and torn, especially since there is no real data to point to the prescription abuse and the deaths. He will be supporting the bill but wants to make sure that privacy concerns are or will be addressed.

Senator Bock also wanted to voice concern over the privacy issues with this system. His understanding of the system as it is now, is that the information is already out there for view, so this legislation is not changing anything in that regard, only mandating that providers register for the database.

Senator Hagedorn commented that he understands this legislation does not change the information that's already out there, but one of the sponsors had commented that all of the databases for the various states will be interconnected, and that is where his concern comes in.

The motion carried by **voice vote**. **Vice Chairman Nuxoll** wanted it recorded that she was voting nay. Senator Guthrie will carry **H 396** to the floor.

H 352

Relating to Public Assistance: Matt Wimmer, Bureau Chief of Medical Care at the Division of Medicaid (Division), stated that the Division is requesting this update to statute because of changes in federal funding for the small business health insurance premium assistance pilot program outlined in code for three different programs. Those programs are: Children's Health Insurance Program (CHIP) Plan A, CHIP Plan B, and the Small Business Health Insurance Pilot Program. The changes in this bill do not impact the CHIP A or CHIP B programs in any way. The changes modify only the small business health insurance pilot program. The premium assistance program was established under legislative direction in 2003. It helps purchase private insurance for individuals employed by small businesses. The Department of Health and Welfare informs and educates insurance agents and brokers about the program. These agents assist small businesses who have not previously provided health insurance benefits to enroll in the program.

Mr. Wimmer noted that this bill removes references to the Children's Access Card program, which lost federal support in September 2013. It also modifies the eligibility for premium assistance by making it available only to those with incomes of 100 percent of federal poverty or less. Individuals with incomes over that amount now have federally funded premium assistance available to them through the Idaho Health Insurance Exchange. These changes reduce the number of individuals who are covered under premium assistance, which is why there is a $64,000 cost savings reflected in the fiscal impact statement for this bill. Those who no longer have coverage due to this change in federal funding have continuing coverage available through the Idaho Health Insurance Exchange or through other sources. The Division worked with the Centers for Medicare and Medicaid Services (CMS) to obtain a temporary extension to the federal support for those individuals. This bridge coverage allowed the individuals covered by premium assistance the opportunity to transition their coverage to the Idaho Health Insurance Exchange or other available coverage options.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 4).

Vice Chairman Nuxoll wanted to know if this legislation will put more people on Medicaid than we've had before. **Mr. Wimmer** responded that it does not. **Vice Chairman Nuxoll** asked if it puts more people on government assistance. **Mr. Wimmer** answered that it does not.

Senator Lakey pointed to the fiscal note for the legislation that states a savings of $64,000 annually, and wanted to clarify if this legislation does not pass if that will mean an expense of the $64,000. **Mr. Wimmer** confirmed that was correct, the $64,000 would be needed to support the program since the federal funding is no longer in place to support it. **Senator Lakey** wanted further clarification on what might happen exactly if this legislation does not pass. **Mr. Wimmer** said there would be direction in existing statute on how to run a program that is no longer federally supported. **Senator Lakey** confirmed that there would be no federal funding but the State would still be required to run the program. **Mr. Wimmer** responded that is correct.

MOTION: **Senator Bock** moved to send **H 352** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion.

Senator Bock wanted to point out to the Committee, in taking a second look at the fiscal note, that with the $64,000 positive impact, the reality is that if the program is continued, the State's share for Medicaid is 29 percent, which would mean the remaining 71 percent would be made up out of general fund revenues. This would then mean that the actual savings would be more than the $64,0000, and more in the neighborhood of $180,000 if you consider that we as a state would have to spend that additional $120,000.

The motion carried by **voice vote**. **Vice Chairman Nuxoll** wanted it recorded that she was voting nay. Senator Bock will carry **H 352** to the floor.

ADJOURNED: There being no further business to come before the Committee, **Chairman Heider** adjourned the meeting at 3:58 p.m.

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Senator Heider
Chair

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Linda Hamlet
Secretary

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Linda Harrison
Assistant Secretary

AMENDED AGENDA #2

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Wednesday, February 26, 2014

SUBJECT	DESCRIPTION	PRESENTER
H 357	Relating to the Speech and Hearing Services Practice Act	Tana Cory, Bureau Chief, Board of Occupational Licenses
H 405	Relating to Drinking Water and Wastewater Professionals	Roger Hales, Administrative Attorney
H 356	Relating to Podiatrists	Roger Hales
H 438	Relating to Midwifery	Kris Ellis, Idaho Midwifery Council
H 476	Relating to Medicaid - Amends Existing Law to Revise Provisions Relating to Home-Based and Community-Based Services for Persons with Developmental Disabilities	Representative Luke Malek
RS22993C1	Unanimous Consent to Send to Judiciary and Rules Committee, Relating to Uniform Controlled Substances	Senator Lakey

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Wednesday, February 26, 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:	**Vice Chairman Nuxoll** called the meeting to order at 3:01 p.m. and asked the secretary to take a silent roll.
RS 22993C1	**Relating to Uniform Controlled Substances: Senator Lakey** stated that he is here with a request for unanimous consent to send **RS 22993C1** to the Judiciary and Rules Committee for printing and then to have it come back for hearing. The legislation adds a couple of designer forms of LSD that are being seen in Idaho.
UNANIMOUS CONSENT:	**Senator Lakey** requested unanimous consent to send **RS 2293C1** to the Judiciary and Rules Committee for printing. There were no objections.
H 357	**Relating to the Speech and Hearing Services Practice Act: Tana Cory,** Chief, Bureau of Occupational Licenses, presented **H 357** on behalf of the Speech and Hearing Services Board (Board). Idaho Code § 54-2908 provides that the Board's membership consists of three speech-language pathologists, two audiologists, one hearing aid dealer, and one public member. **Ms. Cory** explained that the bill amends Idaho Code § 54-2909 which covers what constitutes a quorum. Currently four members of the Board constitutes a quorum, provided that at least one member of each profession and the public member are present. She pointed out that this bill strikes the requirement for one member of each profession and the public member to be present, and it adds the requirement for a member of the relevant profession to be present when any action affecting that profession is taken. It maintains that four members constitute a quorum. She said that although the Board meets several times a year, there are times when an application may be received from someone who has a job pending and is waiting for the license. This bill will allow the Board to be more responsive to those applicants. **Ms. Cory** said this proposal was discussed in open meetings of the Board, posted on the Board's website in October, and distributed to interested parties. There has been no opposition to the bill. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 1). **Senator Martin** asked for clarification of the purpose for wanting this change. **Ms. Cory** explained that they may have someone call and say they have a job pending in the next week, but because of the open meeting law the Board has to have a quorum. If a member from one of the professions or the public member is not available for a week, this could delay convening a quorum, thus preventing that person from going to work. **Senator Schmidt** asked if the public member has to be present at every meeting.

Ms. Cory explained that currently the public member is required to be at every meeting. The requirement for the public member to be at every meeting was unique with this Board, as opposed to other boards, and it has caused some issues. This bill would state that someone from the relevant profession needs to be there but not the public member. Someone from the other professions would be there to establish the quorum of four.

MOTION: **Senator Guthrie** moved to send **H 357** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Martin.** The motion passed unanimously by **voice vote.** Senator Heider will carry the bill to the floor.

DISCUSSION: **Senator Nuxoll** asked what issues may have been evident in the House on the floor.

Ms. Cory replied that there were some no votes but there was no debate and she is not aware of any issues.

H 405 **Relating to Drinking Water and Wastewater Professionals: Roger Hales,** Administrative Attorney, Idaho Board of Drinking Water and Wastewater Professionals (Board), explained that this is an independent Board served by the Bureau of Occupational Licenses and regulates and licenses operators of drinking water and waste water facilities and backflow assembly testers. He went on to say that this Board issues different classes and types of licenses depending on the nature of the facility or the system. There is federal oversight of the drinking water operator licensing program based on federal law.

Mr. Hales said that this bill reduces regulation. Currently a water operator's licensee must renew the license each year on the licensee's birthday. If the license is not renewed it is cancelled. Reinstatement within five years requires payment of delinquent fees and proof of the appropriate continuing education. After five years the person is treated as a new applicant and has to pass the exam again as well as comply with any new requirements. Water operators are the only licensees under this Board who are not allowed up to five years to reinstate without the additional requirements and penalties. Originally it was thought that the EPA wanted the reinstatement limited for water operators to two years. That is not the case hence the change.

This legislation was discussed in open meetings of the Board, was posted on the Board's website, and interested parties were notified. There has been no opposition.

MOTION: **Senator Lakey** moved that **H 405** be sent to the floor with a **do pass** recommendation. **Bock** seconded the motion. The motion passed unanimously by **voice vote.** Senator Guthrie will carry the bill to the floor.

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel to Chairman Heider.

H 356 **Relating to Podiatrists: Roger Hales**, Administrative Attorney, State Board of Podiatry (Board), explained that the Board is a self-governing board made up of podiatrists and one public member which regulates the practice of podiatry and is served by the Bureau of Occupational Licenses. This bill removes outdated language relating to the establishment of the original Board. He said it also revises language regarding examinations and disciplinary actions. He added that the bill clarifies that the Board's proceedings for discipline, i.e. suspension or revocation of licenses, shall be in accordance with the Administrative Procedures Act. It also gives the Board the ability to grant an inactive license.

Mr. Hales continued that this bill revises language related to the old examination. This Board used to give its own examination and charged a fee to the potential licensee, but it was costly for the Board to do so. Now the Board uses a national examination. The bill leaves it up to the Board to establish which examinations are appropriate. He pointed out that the bill eliminates the administrative fee since the Board no longer conducts the examination.

As explained by **Mr. Hales**, this bill allows the Board to charge a lower fee for an initial license than for a renewal. This was done because when licensees are first starting out they are less able to pay a large fee.

According to **Mr. Hales**, another revision in this legislation gives the Board additional authority for alternative disciplinary actions other than revocation or suspension of the license. These alternatives would involve education, training, and/or supervision. The bill adds consideration for failure to comply with a Board order. He explained that this change is based on a recent Idaho Supreme Court finding that if the Board has not been given the authority to discipline a failure to comply, then it cannot do so.

Mr. Hales explained that the bill was discussed at open meetings of the Board, was posted on the Board's website, and notices have been sent to the interested parties. There has been no opposition.

Senator Martin asked about language indicating that the Board acts as judge and jury in cases where the licensee is out of compliance.

Mr. Hales replied that the Board would still be obligated to take action under the Administrative Procedures Act to establish that violation. The licensee would still have full due process rights. This will give the Board recourse in cases where there are violations and the licensee does not comply with the Board order.

Senator Hagedorn stated that he didn't see any increase in fees and that the Board is currently $155,000 in the red. He asked if there have been any discussions about how to become solvent.

Mr. Hales deferred Senator Hagedorn's question to Tana Cory.

Tana Cory stated that the deficit the Board faces is the result of some long-standing disciplinary issues. Last year, after those issues were resolved, the Board picked up about $10,000 more than they spent, and this year they have picked up more. The Board will be coming to the Legislature next year regarding this issue.

Senator Lakey inquired if there is an occasion when the Board would issue an order that is not a disciplinary order.

Mr. Hales stated that he could not think of one.

Senator Bock pointed out a problematic phrase in an existing statute, i.e., moral turpitude. Due to the evolving perception of moral turpitude, it would be a phrase we should look at more carefully before using it in the future.

Mr. Hales responded that he understood the Senate's point. They will review the language.

Senator Schmidt said it looks like the Board is contracting out the examination and the fee goes straight to the person doing the exam. He asked if there is a relationship between the Board and the person doing the exam, fiduciary or otherwise.

Mr. Hales explained that a national organization developed the exam, and there is no relationship with the Board. The exact exam is specified in the rules.

Senator Nuxoll asked if there are different companies they can go to for the exam.

Mr. Hales stated that most of these national examination entities utilize exam companies. The exam is the American Podiatric Medical Licensing Examination (Exam) and there are a number of entities where the applicant can go to take the Exam. This allows for more flexiblility for an individual applicant to take the Exam.

Senator Nuxoll asked what the cost was before and what it is now for a national exam. Also, she asked if there would be less expense if the Board kept to the state exam.

Mr. Hales replied that the Board has used the national exam for some time and it is about $600. He stated that it costs about $150,000 to prepare a national exam and to hire the right people to make it defensible in court. Because it is a national exam, once a person is licensed under it he/she can move anywhere in the United States and use the license.

MOTION: **Senator Guthrie** moved to send **H 356** to the floor with a **do pass** recommendation. **Senator Schmidt** seconded the motion. The motion passed by a majority of **voice vote.Senator Nuxoll** was noted as voting no. Senator Guthrie will carry the bill on the floor.

Senator Nuxoll said she was still concerned about the vagueness of the "having to comply with an order issued by the Board". It needs to be more concrete, so I will be voting no on this bill.

H 438 **Pertaining to Midwifery: Kris Ellis,** Idaho Midwifery Council, asked for support of **H 438** which comes after working with the midwifery statute for five years. During that time the Board of Midwifery (Board) at the Bureau of Occupational Licenses and the Idaho Midwifery Council (Council) have been keeping a tally of things that needed to be clarified, as well as some things that needed to be relaxed, to make it easier for the midwives as well as for those using midwifery services. She stated that these groups, along with the Idaho Medical Association, have worked to clarify the statute and to ensure that midwives can serve their moms and babies in the best ways possible.

Ms. Ellis explained that this bill:

1. Adds definitions for "estimated due date" and "licensed health care provider";
2. Adds Cytotec to the formulary for the midwives and clarifying that the medications in the formulary are only for the mother;
3. Adds a provision allowing midwives to care for mothers of twins while they are being cared for by a medical doctor;
4. Clarifies dates for safe delivery by a midwife;
5. Allows other health care professionals to care for clients being seen by a midwife but who have other health care needs;
6. Allows a midwife to refer a client to a medical doctor in a boarding town out of Idaho;
7. Clarifies that midwives have not abandoned care when they terminate services and refer a client to a medical doctor or the nearest hospital;
8. Adds opiate use that places the infant at risk to the category where a midwife is not allowed to provide care;
9. Provides for a 10 year sunset when we will return to report on how the collaboration between midwives and the medical community improves and the resultant cost effective and safe option for those who choose it.

Senator Schmidt asked why the term Cytotec was used instead of misoprostol, and if that isn't an off label use of Cytotec.

Ms. Ellis deferred that question to a midwife who was present.

Paula Wiens stated that Cytotec and misoprostol are the same medication and the choice of name has to do with the formulary. One is the name used by the chemist who developed the drug and the other is more of the trade name. I don't know how much they vary; a pharmacist would have to help with that question. She added that in the medical community it is commonly known as Cytotec or misoprostol and both are found in medical records.

Senator Schmidt asked if Cytotec is the trade name and misorostol is the generic name. He said that he did not understand why the generic name isn't used. If it is in statute, then you have to buy the Cytotec brand. He stated that he had a concern regarding the off label use of the drug.

Ms. Wiens stated that it is an off label use to control postpartum hemorrhage worldwide. She wasn't sure why it was still an off label use.

Senator Schmidt stated his concerns that this is a medical practice not approved by the FDA for this use but under this bill it is being put into statute.

Ms. Wiens replied that the Board of Pharmacy and the Idaho Medical Association were involved in this decision.

Senator Guthrie asked Ms. Ellis who makes the decision when to transfer unless imminent delivery is safer than transfer.

Ms. Ellis replied that it would be the midwife who makes that decision.

Senator Guthrie asked who made the decision in the past if this is language that was not there before.

Ms. Ellis responded that it was the midwife.

Senator Guthrie asked what prompted the decision to have it put into code if they were already doing that.

Ms. Ellis answered that everything that happens during the birthing process happens quite quickly, and often times you do not know there is a breach until you are in the process. The physicians commented that they assumed the midwife would do that anyway, so we put it in there just for clarification. Its inclusion is for clarification so if a midwife delivered a breach baby she would not be accused of being outside of the scope of practice when the delivery was the safer thing to do.

Ms. Ellis stated that she wished to go back and address Senator Schmidt's concern about the drug Cytotec. She pointed out that in the rules there is a whole chart on how the prescription drugs are to be allocated. In that list oxytocin is in the statute, but it also lists Pitocin in parenthesis so via the rule they had a mechanism to address your concerns.

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

TESTIMONY:

Pauls Wiens, a licensed midwife and a member of the State Board of Midwifery, came to speak in support of **H 438** wherein its few changes reflect improvements that have been agreed upon by all stakeholders. She stated that licensing of midwives has been beneficial for the profession and for midwifery consumers. The relationship between physicians and midwives has improved dramatically all over the State, a relationship that supports the safety of families choosing to have their babies outside of a hospital setting. **Ms. Wiens** requested that the Committee vote a do pass for **H 438**.

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

Katharine Rawlins, a consumer of midwifery care and a representative of Idaho Midwives, supports **H 438.** Ms. Rawlins shared her experiences as a consumer of midwifery and as a student midwife about to become a Certified Professional Midwife. The details of her testimony can be found in attachment 4.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 4).

Senator Lodge commended Ms. Rawlins on sharing her story and in supporting other women who would like to have a midwife attend the birth of their children.

MOTION: **Senator Nuxoll** moved that **H 438** be sent to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion passed unanimously by **voice vote.**

H 476 **Relating to Medicaid revising provisions relating to home-based and community-based services for persons with developmental disabilities: Representative Luke Malek,** explained that he is in support of this bill that establishes a way for Community Supportive Employment (CSE) services, a Medicaid service, to provide paid employment for persons for whom competitive employment at or above minimum wage is unlikely without supports. Most individuals with intellectual and developmental disabilities want to work in the community and this program allows them to get out in the community, to get off of some of the support systems, and allows them be a contributing part of the community. **Representative Malek** turned the time over to Jim Baugh.

Jim Baugh, Executive Director of Disability Rights Idaho (providing individual advocacy and legal services for Idahoans with disabilities, as well as commenting on public policy issues) explained the history of CSE and pointed out that during the 20th century people with developmental disabilities couldn't be employed in regular jobs at reasonable wages. Recently it has been shown that these people can be productive and valuable employees if they have specialized training and workplace supports. CSE services are intense one-to-one on the job training and workplace assistance that can create real employment opportunities. CSE is the only Medicaid funded service that promotes employment. **Mr. Baugh** gave detailed information regarding the following:

- Changes to Idaho Code from H 260 (2011) and **H 476**, dealing with home-based and community-based services which seriously limited the developmentally disabled in obtaining employment;
- Explanation of the fiscal impact of this bill;
- Real work opportunities for people who have no other way to have employment, and the benefits to them and to their employers.

Mr. Baugh concluded that the intent is to reverse an unintended effect from H 260 which was to restrict access to a Medicaid service that encourages and requires employment for the person to gain more independence.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 5).

TESTIMONY: **Tom Ball** spoke in support of **H 476**, stating that the CSE services provide a way for the developmentally disabled to gain independent skills and build self-confidence. Being able to work also proves to themselves and to the public that they, too, are worthwhile individuals.

David Decker, President, Idaho Self Advocate Leadership Network (SALN), pointed out that although people with developmental disabilities can get CSE services, once their annual budget for services is set, it cannot be changed to add these employment services. Changes can only be made for health and safety reasons. **Mr. Decker** encouraged the passage of this bill which would allow a change in the reasons for budget revision to include "to obtain or maintain employment." He also pointed out that the Consortium of Idahoans with Disabilities has determined the fiscal impact to the State General Fund would not exceed $235,000, and would likely be less.

Mr. Decker gave examples of individuals who had been offered work but had to turn it down because they could not revise their Medicaid budget to include job coaching. Another person had a chance for more hours and more responsibility, which would result in increased income, but had to turn it down because he could not get the added employment support necessary to learn the new job skills. **Mr. Decker** stated that people with disabilities want to work. He pointed out that opportunities to work cannot be predicted, and employers often change the duties of their employees requiring new job skills. He emphasized that people with developmental disabilities should be able to obtain or maintain employment through CSE services when needed.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 6).

Kristen stated her support for this bill in hopes that those with developmental disabilities would be able to work.

Sarah Lloyd, owner of a service coordination agency, stated that their agency receives budgets in order to encompass everyone's services. She related her experience with a client who appeared to be able to be unsupervised overnight, as this was the way he could maintain his employment. During the unsupervised time there was a series of events that led to him being put on 24-hour support in lieu of job coaching. As a result, he lost his job leading to more assistance being required from various agencies. **Ms. Lloyd** stated that having a job helps people feel that they are a productive member of society and gives their lives purpose and meaning.

Tracy Warren, Idaho Council for Developmental Disabilities (a body of 23 volunteer members appointed by the Governor whose responsibility is to engage in activities to improve the quality of life for Idahoans with developmental disabilities) stated that they encourage people to exercise self determination, to be independent and productive, and to be integrated into all aspects of community life. Employment is a very important part of community life. **Ms. Warren** went on to say that CSE services are provided by job coaches and explained their functions. The time that is provided varies and Medicaid pays for the services, including the job coaches' wages. The individual with the disability is paid by the employer or business owner. **Ms. Warren** stated that **H 476** enables those with developmental disabilities to request a budget modification to obtain or maintain employment.

Cassie Mills, President of Vocational Services of Idaho (VSI) and Employment Director for Community Partnerships of Idaho (CPI) (a private agency which assists adults with disabilities with obtaining and maintaining employment) testified on behalf of VSI. **Ms. Mills** shared stories of people who have become contributing members of society after having job coaching services. She also mentioned some cases where, since the elimination of CSE services, people have lost jobs. **Ms. Mills** concluded by urging the Committee to pass **H 476.**

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 7).

Katherine Hansen felt most things had been covered, so she left written testimony and declined to speak (see attachment 8).

Representative Malek concluded the presentation of the bill by stating that the amount of money to be used more than makes up for what the State will get back in terms of the value both to society and to these individuals. He pointed out that the bill passed the House without any no votes.

MOTION: **Senator Martin** moved to send **H 476** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion passed unanimously by **voice vote.** Senator Martin will carry the bill to the floor.

ADJOURNMENT: **Senator Heider** adjourned the meeting at 4:19 p.m.

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Senator Heider
Chair

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Linda Hamlet
Secretary

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Carol Cornwall
Assistant Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Thursday, February 27, 2014

SUBJECT	DESCRIPTION	PRESENTER
S 1260	Relating to Hazardous Waste Management: Amends Existing Law to Revise the Definition of "Restricted Hazardous Waste"	Roy Eiguren, Eiguren Fisher Public Policy Firm
S 1362	Relating to the Personnel System	Ross Edmunds, Administrator, Department of Health and Welfare
HCR 42	A Concurrent Resolution: Stating Findings of the Legislature and Rejecting a Certain Rule Docket of the Board of Pharmacy Relating to Rules of the Idaho State Board of Pharmacy	Representative Wood
Minutes Approval	Approval of the Minutes of the January 23, 2014 Meeting	Senator Martin, Senator Schmidt
Minutes Approval	Approval of the Minutes of the January 24, 2014 Meeting	Senator Hagedorn, Senator Martin
Minutes Approval	Approval of the Minutes of the January 30, 2014 Meeting	Senator Hagedorn, Senator Lakey
Minutes Approval	Approval of the Minutes of the February 10, 2014 Meeting	Senator Bock, Senator Martin
Minutes Approval	Approval of the Minutes of the February 11, 2014 Meeting	Senator Martin, Senator Nuxoll

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Thursday, February 27, 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 3:16 p.m.
S 1260	**Relating to Hazardous Waste Management: Amends Existing Law to Revise the Definition of "Restricted Hazardous Waste": Roy Eiguren**, Eiguren Fisher Public Policy Firm, representing US Ecology Corporation (Corporation), said that due to time constraints, the presentation would be shortened. He had brought two representatives from the Corporation to speak to the Committee and then would address any questions.
TESTIMONY:	**Terry Geis**, Vice President and General Manager, began the presentation by giving an overview of the Corporation, what they do, and how it relates to the legislation. **Joe Weismann**, Vice President for Radiological Programs, then proceeded to explain **S 1260**, which will adjust the Hazardous Waste Management Act to include the words "released from radiological control" to the list of exceptions to restricted hazardous waste. This will allow the Corporation to fix an unintended consequence of how the legislation was originally written back in 2001, and has been amended several times since then. The clarification will enable the Corporation to take low activity unregulated radioactive waste from all federal government agencies that would like to have access to their Corporation for disposal. The way the law and the Corporation's permit is written, is that it's been specially written to comply with the way the US Nuclear Regulatory Commission (NRC) does business. This is specifically under the context of the how the NRC licenses and exempts waste, and that is how the Idaho Department of Environmental Quality (IDEQ) regulates their corporation, and how other things are determined and allowed. The hope is that **S 1260** will allow the corporation to make small clarifications to how the application of waste not regulated under the Atomic Energy Act will apply to the Corporation. This legislation will not expand the Corporation's capabilities and their waste acceptance criteria will remain the same as well as other procedures in place. The only change will be that the Corporation can take materials that are equivalent (from a characteristic perspective), but carry a different tag on it from a different site, from what they're already taking. It will also help to improve the clarity in the regulations that have taken place through the years. It's also going to bring about an increase in competition in the marketplace, which if they are successful, will mean extra contributions to the Idaho General Fund. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 1).

Mr. Eiguren wanted to add that they had consulted with the IDEQ on the legislation, and received assistance in drafting the legislation from them. They had also conferred with the Governor's office, who had no objections to it, and had met with other groups around the State for input and support. There has been no negative reactions to the legislation.

DISCUSSION: **Senator Lakey** wanted to clarify that the purpose of the bill is to take the same type of unregulated waste that they are taking from one federal regulatory agency and now start taking from other agencies as well. **Mr. Eiguren** responded that was correct.

Senator Bock asked to confirm if there had been any opposition to the proposed legislation. **Mr. Eiguren** answered that there was none. There had been an out-of-state company that had initially voiced some concern, but they have been met with and there are now no objections.

Senator Guthrie was curious about the $5 a ton tipping fee and wanted to know why there has been no consideration for a higher fee since there is more risk and liability due to exposure. **Mr. Geis** stated that the fee is a little complicated, but is established as a tax structure based on the size of a project and the type of waste, and can vary from $2 to $30 a ton. **Senator Guthrie** needed clarification on the slide in the presentation regarding the on-site measurement of 10 versus the U.S. average natural background of over 300, and he wanted to know what exactly that meant and how it was figured. **Mr. Weismann** said that the 100 millirem is above background. The NRC regulates nuclear facilities so that they may operate with their effluence, and what they release to the public, to a limit of 100 millirems above natural background. Natural background will differ and depend on where you live (mountains, coast, etc.), so the NRC allows measurements of the 100 millirems above natural background to take those factors into consideration.

Chairman Heider wanted a definition of what "unregulated waste" is. **Mr. Weismann** responded that the nature of low-level radioactive waste in the U.S., in the way the Congress passed to regulate it, is based on the genesis of the material. If the material is licensed by the NRC, it is by definition low-level radioactive waste if it is below a certain threshold. In order for his Corporation to receive low-level radioactive waste, it cannot be regulated or licensed, so it has to undergo a release or an exemption from licensure.

MOTION: **Senator Martin** moved to send **S 1260** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**. Senator Lakey will carry **S 1260** to the floor.

S 1362 **Relating to the Personnel System: Ross Edmunds**, Administrator for the Division of Behavioral Health, Department of Health and Welfare (Department), started off by thanking the Committee for the first attempt at a prior bill **(S 1223)**, and also apologized that the bill wasn't strong enough to carry its own weight in passing. He felt that **S 1362** will clarify all of the concerns he had heard on the previous legislation from the Committee and others in the Senate.

Mr. Edmunds wanted to give an update on a few things that had changed when **S 1223** had been rejected and sent back. He had previously reported to the Committee that the income received by the physicians at the state hospitals, to pay off their student loans, would be taxable income. What has been learned since then, by going back to the Tax Commission and pointing out a particular piece of federal tax code to them, is that it has now been determined that this money will be considered a part of the person's gross income and is not taxable income. This will make a big difference for the providers who will benefit from this program. The legislation has gone through some re-wording, including some assurances that the provider who is receiving the loan repayment benefit has to provide to the hospital

every year, proof that the money is going toward their loan repayment and nothing else.

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

Senator Martin wanted to note that on page 2 of the legislation, it looked like the Department will be checking the payment after the fact and not keeping track as Mr. Edmunds had just noted. **Mr. Edmunds** responded that essentially that was correct, but they would be requesting receipt of the information to prove loan repayment as soon as possible. The problem of checking in advance is you would either have to send the payment directly to the lender (instead of giving it to the physician to send themselves), or you would have to do a two-party check that's provided to the institution and the provider.

Senator Bock noted one small wrinkle that he has noticed in all of this, and he gave an example of someone who had already been planning to make a $10,000 loan payment anyway. So, the provider makes the payment and then the hospital distributes to them their annual benefit of $10,000. So, in a sense, the money the hospital has given them has not gone to the loan repayment as it is intended to. **Mr. Edmunds** answered that there are a number of examples they could come up with that would point to a misuse of the funds and purpose of the program, but for the Department and their efforts, they are most interested in providing incentive to the provider to attract them to come and work at the state hospitals. The bottom line is that whatever payment amount they receive as an incentive will need to be shown as going towards the student loan, whether it was out of their own pocket at first or from the hospital program. No further distributions would be made until they have received evidence of loan repayment in that amount.

Senator Guthrie needed more clarification on the tax benefit that had been described earlier. His concern was if the provider is not using the actual incentive money for the loan repayment but has used their own funds, do they still get the tax benefit. **Mr. Edmunds** stated that as far as the taxes go, the provider would be breaking federal law if they were to claim that the money was used for the loan repayment when it actually wasn't. The provider will receive a 1099 form at the end of the year showing the money they have received for the loan repayment program and will be held accountable for that money to be declared, even though it is not taxable. The main purpose of the legislation is to attract quality and qualified healthcare providers for the state hospitals that are sorely in constant need.

Senator Hagedorn can understand what the Department is trying to do with this legislation and that the private sector also competes to attract these physicians with fewer restrictions given on any bonuses or incentives offered. With that said, he wanted to know how more restrictions on this legislation will impact the state hospital's ability to attract solid candidates for long-term employment. **Mr. Edmunds** said that more flexibility built into the bill instead of more restrictions will prove to be more attractive to those providers they are trying to recruit. He understands the concern by the Committee members and others that the money will be used for the intended purpose (paying off the student loans), and he confirmed that the physicians will be required to provide proof that they are using the money as agreed upon. He pointed out that this issue has already come up as a reason for psychiatrists not taking the job at the state hospitals due to no such incentive being in place.

Senator Schmidt pointed to page 2 of the legislation where it addresses the State Hospital Governing Board and asked if perhaps the physician being recruited could end up eventually being the hospital Chief of Staff and sitting on that board. **Mr. Edmunds** responded that if the proposed governing body were to included the physician at State Hospital North then yes, that would be a possibility, but not for State Hospital South since there are enough staff currently that the duties are spread out between them. He said that this is a situation they would need to watch so there is not a conflict of interest in the future.

Senator Bock mentioned that he was looking at the tax form 1040, and wanted to make sure they have accurate information. He wanted to confirm that Mr. Edmunds is saying this incentive is not earned income which would then be subject to all of the various taxes (Social Security, FICA, etc...), but would be included on other parts of the 1040 form as perhaps "other income". Before the bill goes to the Senate floor, he felt that this needs to be clarified so they are not misrepresenting anything when it is presented on the floor. **Mr. Edmunds** answered by reading the information gathered from the Deputy Attorney General's office, stating that since the payments are not taxable under federal law, they would also be considered non-taxable for state income purposes. **Senator Bock** declared that he understood the point more fully and had been confused by the fact that the money was being included as part of the gross income when it is not being taxed, so it really shouldn't be included as part of the gross income.

Senator Guthrie referenced page 2 of the legislation that speaks about the eligibility for the benefit at the end of one year, and he wanted to know even if they had only worked 200 hours in that calendar year, would they still benefit from the program. **Mr. Edmunds** specified that the requirement would be either one full year or 2080 hours to receive the benefit. He noted that some attain the 2080 hours before the year is up, and others take a little longer since they are more part-time. **Senator Guthrie** wanted a more definite answer to his question. If a person works 200, 400, 600 hours and the year goes by, are they eligible for the benefit? **Mr. Edmunds** stated that yes, they would be able to receive the benefit.

Senator Bock said that he was looking at the Internal Revenue Code Mr. Edmunds had referenced from the Deputy Attorney General's office and confirmed that the bonus would not be included as part of the gross income and would be exempt from taxes.

Senator Hagedorn reiterated that the state hospitals need to find better ways to compete with the private sector in getting good physicians, and currently that can't be done with the payment and funding situation as it is. He thought there may be too many restrictions attached to the benefit as it is and they would need to be careful so they don't restrict themselves right out of good candidates. But he would also make sure that whoever is getting the bonus is going to work hard for it, and not just 200 hours, but the full 2080.

Vice Chairman Nuxoll wanted to confirm that someone could be getting a large bonus for only working 200 hours. **Mr. Edmunds** confirmed that they would qualify for the program, but not for the maximum amount, it would be pro-rated based on the hours worked and the agreement determined when the candidate signed up for employment, especially since some will be designated as only part-time employees but will receive some benefit.

MOTION: **Senator Hagedorn** moved to send **S 1362** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**. Senator Hagedorn will carry **S 1362** to the floor.

HCR 42	**A Concurrent Resolution: Stating Findings of the Legislature and Rejecting a Certain Rule Docket of the Board of Pharmacy Relating to Rules of the Idaho State Board of Pharmacy: Representative Fred Wood**, reminded the Committee that both the House and Senate had rejected the rule from the Board of Pharmacy (at their request). This HCR is to show that the House has rejected the rule as agreed upon. He is before the Committee to ask them to concur and also reject the rule as requested by the Pharmacy Board.
MOTION:	**Senator Martin** moved to send **HCR 42** to the floor with a **do pass** recommendation. **Senator Bock** seconded the motion. The motion carried by **voice vote**.
MINUTES APPROVAL:	**Senator Martin** moved to approve the January 23, 2014 Minutes as written. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.
MINUTES APPROVAL:	**Senator Hagedorn** moved to approve the January 24, 2014 Minutes as written. **Senator Martin** seconded the motion. The motion carried by **voice vote**.
MINUTES APPROVAL:	**Senator Hagedorn** moved to approve the January 30, 2014 Minutes as written. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.
MINUTES APPROVAL:	**Senator Bock** moved to approve the February 10, 2014 Minutes as written. **Senator Martin** seconded the motion. The motion carried by **voice vote**.
MINUTES APPROVAL:	**Senator Martin** moved to approve the February 11, 2014 Minutes as written. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**.
ADJOURNED:	There being no further business before the Committee, **Chairman Heider** adjourned the meeting at 4:05 p.m.

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Senator Heider
Chair

_____

Linda Hamlet
Secretary

_____

Linda Harrison
Assistant Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Tuesday, March 04, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Welcome	Chairman Heider
PRESENTATION	Alzheimer's State Plan Update	Dr. Troy Rohn, Professor and Researcher, Boise State University; Mike Berlin, Idaho Alzheimer's Planning Group
PRESENTATION	Idaho's Statewide Healthcare Innovation Plan (SHIP)	Dr. Ted Epperly, Family Medicine Residency of Idaho
MINUTES APPROVAL	Approval of the Minutes of the February 17, 2014 Meeting	Senator Guthrie; Senator Lodge
MINUTES APPROVAL	Approval of the Minutes of the February 19, 2014 Meeting	Senator Bock; Senator Schmidt

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, March 04, 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 3:18 p.m. He informed all in attendance that the Senators must be back on the floor by 4:00 p.m., and that twenty minutes could be devoted to each of the two presentations today.

PRESENTATION: **Alzheimer's State Plan Update: Dr. Troy Rohn**, Professor and Researcher at Boise State University, stated that the Idaho Alzheimer's Planning Group (IAPG) is providing an update per the 2013 Health and Welfare Committee's request. The IAPG consists of clinicians, educators, researchers, local and national organizations, concerned caregivers and citizens. Alzheimer's Disease (AD) is an irreversible, progressive brain disease that slowly destroys memory and thinking skills. Another word for these symptoms is dementia.

He informed the Committee that not enough dollars are going to research. The current mortality rate from AD is on the rise, and it is an age-related disease. People at the age of 85 years and older have a 50 percent chance of getting AD, and it is the fastest growing malady in Idaho. Currently, there are 26,000 people in Idaho with AD. Idaho is projected to have the fifth highest increase with people with AD among all the states. Forty-one percent of Idahoans living in skilled nursing facilities have moderate to severe dementia.

IAPG created a plan after a year-long study that encompassed all of Idaho. Funding will be obtained through existing resources and public/private partnerships to minimize the fiscal impact to state government.

Dr. Rohn stated that IAPG has developed a relationship with the Idaho 2-1-1 CareLine. Governor Otter has been an important ally for IAPG.

He then introduced a health studies student who wished to include information for the presentation.

Catherine Dickson, a senior at Boise State University, stated that she had worked on an independent study project regarding the 2-1-1 CareLine calls during 2013. She stated that the highest call volume for information on AD occurred in the third quarter, generated by individuals responding to a flyer or brochure.

Joel Loiacono, Executive Director of the Inland Northwest Chapter of the Alzheimer's Association, serving northern Idaho, stated that efforts are made at the federal level to change the trajectory of AD. Alzheimer's costs the United States $203 billion a year, economically comparable each year to a Katrina catastrophe, not including the human toll that it takes. It is the most expensive disease in this country. Idaho will see a 100 percent increase in the number of cases of AD between the year 2000 and 2020. For every $100 spent on research, $27,000 is spent on care.

In 2010, Congress unanimously passed the National Alzheimer's Planning Act, in which the administration, National Institute of Health and a committee made up of professionals and caregivers were charged with developing a national Alzheimer's plan. The 2014 plan originally asked for $100 million, where $89 million of that is to be spent on research and $20 million for caregivers' support. The omnibus bill was passed in January, which contained $122 million for Alzheimer's research, education and support services. AD needs to have research dollars in order to retain researchers. Otherwise, those researchers will focus on other diseases. The Alzheimer's Breakthrough Act would amplify the federal government's commitment to combatting AD by making Alzheimer's research a priority at the National Institutes of Health. The HOPE (Health Outcomes, Planning, and Education) for Alzheimer's Act would provide Medicare reimbursement for services to increase the diagnosis of AD and other forms of dementia. It would provide access to information and support for newly diagnosed patients and their families. Physicians can now diagnose AD with 90-95 percent accuracy. **Mr. Loiacono** stated that when physicians do not do the proper diagnostic process, it costs taxpayers and the families of those with AD.

DISCUSSION: **Senator Bock** asked if there was a way to prevent AD.

Dr. Rohn said there is a general rule that states that what is good for your heart is good for your mind. Exercise and a healthy diet help. The more the mind is used, the stronger it becomes. All of those things will benefit people and stave off the disease.

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

PRESENTATION: **Idaho's Statewide Healthcare Innovation Plan (SHIP): Dr. Ted Epperly**, program director and CEO of Family Medicine Residency of Idaho, Inc., stated that SHIP is a statewide plan to redesign the healthcare delivery system, evolving from a volume-driven, fee for service system to an outcome-based system that achieves the triple aim of improved health, improved healthcare and lower costs for all Idahoans. Healthcare in the United States is $2.8 trillion; it is the largest economic sector of our country, and it is also the largest economic sector in Idaho. In March 2013, the Center for Medicare & Medicaid Innovation (CMMI) was awarded a six month planning grant to Idaho to develop SHIP.

The project goal is to promote multi-payer healthcare delivery and payment models with broad stakeholder engagement to achieve delivery system transformation. The SHIP planning grant is managed by the Department of Health and Welfare.

Dr. Epperly stated that if, through a relationship with providers in communities, people kept their hypertension, heart disease, behaviors, exercise and diet under control, the data is clear that those things influence health care outcomes. Governor Otter recently signed the executive order for the creation of the Idaho Health Care Coalition (IHCC). The grant, which lasts for 42 months, will help transform 60 practices a year for 3 years, or 180 practices statewide with apatient-centered medical home model to integrate and coordinate care in those communities. The IHCC will oversee this process, which will work out of the Department of Health and Welfare initially, but eventually will become a 501(c)(3) organization.

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

DISCUSSION: **Chairman Heider** asked Dr. Epperly to comment on his red, yellow and green patients.

Dr. Epperly stated that in his practice there are nearly 20,000 patients. He arrays those patients by the diseases that they have and by their status. Green would mean that those patients are doing well. Yellow is for patients who are running into problems. The patient is electronically inputting data on his or her own record for the purpose of monitoring. A nurse practitioner, practitioner's assistant medical assistant or nurse will call that patient if something does not look right and provide instruction on how to improve the situation. That patient does not need a doctor's office visit or hospital visit because of the proactive approach to their wellbeing. Red is for the patient that is having problems that require a doctor's office visit where the issue will be managed, and hopefully it will stop a visit to the emergency room or hospital. That is the vision for all Idahoans. They will have a usual source of care where data and electronic medical records are proactively used to help.

Chairman Heider asked about the basketball analogy.

Dr. Epperly replied that in this analogy, the United States has the five greatest basketball players (physicians) on the planet. As a healthcare system, we give each physician a basketball and tell them to dribble and shoot at will. The way the health care system works (fee for service) is that the players are paid for every shot they take. Imagine the five players hoisting balls as fast as they can, but only two percent of those shots make the basket. Regardless, every physician is paid for every shot they take. Then we play another team, such as France, and we are beaten. The reason we are beaten is because, despite our five best players, we do not pass the ball. We do not integrate or coordinate. Everything about health care in the United States is a free-for-all. There is minimal coordination. What this plan does is integrate and coordinate players, maximizes the passing of the ball and making the baskets. Part of the payment strategy is to pay for passes and to pay for baskets made. We are trying to establish how the delivery of health care differs and then sustain it by how the payment follows, so that the desired outcome is achieved. The SHIP grant will do that.

Senator Bock asked how can good habits that sustain better health be encouraged.

Dr. Epperly replied that there are two ways to achieve that. One is incentive. Patients should be given incentive for good behavior. If patients work, for example, on a weight loss program or smoking cessation program, then their health insurance premium could go down, they could have a lower deductible, or they could get money back at the end of a health care year. The missing link in good health care is to have the patients be accountable and to give patients incentive for good behaviors. The second way is a relationship with a usual source of care (a trusted physician). The relationship between doctor and patient is critical, not only with health care issues, but the prevention and behavioral health issues that go with that. So much of medicine is reactive instead of proactive. The SHIP schema is to work on behaviors. Emergency room visits and hospital volumes have to come down. Prevention, wellness and primary care should be the key approach.

Senator Hagedorn asked if there are enough family practice professionals to accommodate the patient centered medical home model throughout the State.

Dr. Epperly responded that the answer is no. Currently, Idaho ranks last in the nation for the number of primary care physicians. He stated that he helps to train family doctors (the program has doubled in the last six years) to try to meet the need, but there is a void. Nurse practitioners and physician assistants must be part of the solution. A team of care providers is preferable over an individual provider. Care can be amplified by a good health care team and the number of patients in the community can now be helped by the team. In the short term, there is a major problem. But with the model, it amplifies how teams can be used in ways that are salutary to better health.

Senator Hagedorn said that end of life medical costs are still going to exist, and inquired how those costs can be managed.

Dr. Epperly stated that 40 percent of a person's entire lifetime health care comes in the last two years of their life. That is an amazing statistic when $2.8 trillion dollars are being spent in the U.S. annually. There must be very effective end of life care. He furthered that as a family doctor, his relationship with his patient can really help at that patient's end of life. The desires and wishes of that patient and the family are collected. Most people do not want to be in an intensive care unit (ICU), on a ventilator, with intravenous tubes and alarm bells, while laying on a bed with strangers around them. To have a patient die at home in a warm and dry environment, surrounded by people who love them and to be as free from as much pain and anxiety as possible is what most people want. The way to start to effect that is by everyone having a usual source of care so they can have a relationship with the type of physician that can help them achieve that as an outcome. There will always be people who will have an auto accident, and those are the people that need to be in an ICU. There are better ways for terminal AD or cancer patients that don't involve the ICU, and that is the challenge in health care.

Chairman Heider thanked everyone for their presentations. He wanted to mention that Denise Chuckovich is from the Department of Health and Welfare and in charge of the SHIP program that Dr. Epperly spoke about.

Dr. Epperly wanted to say that Ms. Chuckovich and Paul Leary have been wonderful to work with on the SHIP program, and asked all the members of the Idaho State Healthcare Renovation Planning Grant to stand. There are over 20 people, including Senator Heider and Representative Wood, that have been behind moving this project forward for the good of the people of Idaho.

Chairman Heider commented that it has developed into a wonderful plan.

MINUTE APPROVAL: **Senator Schmidt** moved, seconded by **Senator Bock**, that the Minutes of February 19, 2014, be approved. The motion carried by **voice vote**.

MINUTE APPROVAL: **Senator Guthrie** moved, seconded by **Senator Lodge**, that the Minutes of February 17, 2014, be approved. The motion carried by **voice vote**.

ADJOURNED: **Chairman Heider** adjourned the meeting at 3:39 p.m.

Senator Heider
Chair

Linda Hamlet
Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Wednesday, March 05, 2014

SUBJECT	DESCRIPTION	PRESENTER
HCR 43	Relating to Oral Health	Representative Paul Romrell
HCR 49	Relating to Hospital Databases - Advisory Committee	Representative John Rusche
H 519	Relating to Mentally Ill - Transport	Representative John Rusche
H 535	Relating to Indigent Sick	Representative Janet Trujillo

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Wednesday, March 05, 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 welcomed everyone and called the meeting to order at 3:10 p.m.

HCR 43 **Relating to oral health: Representative Paul Romrell** presented the resolution which:

- recognizes the importance of oral health as part of overall health affecting speech, nutrition, growth, quality of life, etc.;
- supports the effort to improve the oral health of all Idahoans;
- promotes consistent state and local policies that consider the impact on oral health;
- promotes the use of available resources to monitor oral health and supports community health initiatives aimed to improve oral health outcomes;
- recognizes the importance of oral health for the well being of Idaho's children;
- recognizes that dental decay is the most common chronic disease among children;
- recognizes that untreated dental disease is linked to adverse health outcomes; and
- recognizes that students miss more than 51 million hours of school and adults lose more than 164 million hours of work each year due to dental disease or dental visits.

Representative Romrell explained that promoting more access to care will lead to higher utilization. Idaho has improved access for children enrolled in Idaho Smiles, Idaho's dental program for Medicaid children. The resolution generally supports the efforts towards improved oral health, promotes awareness of the benefits of oral health and recognizes the efforts made in Idaho. **HCR 43** would designate February as Oral Health Awareness Month. He stated that this resolution has no financial impact.

MOTION: **Senator Guthrie** moved that **HCR 43** be sent to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion passed unanimously by **voice vote.** Senator Guthrie will carry the bill.

HCR 49 **Relating to hospital databases and advisory committee: Representative John Rusche** explained that this resolution calls for the development of a plan for health data information. The request for a plan was brought by the Health Data Planning Commission (Commission) which was established in 2006 by the Legislature. The Commission was given the tasks of developing the electronic health information exchange and monitoring and reporting on issues of quality and safety. The Commission focused on issues of health care quality and patient safety. This Commission is the only entity in Idaho where those involved in health care meet to look at the systemic issues bridging the gaps between providers, insurers, employers and families. **Representative Rusche** said that the Commission has been hampered by the lack of data on health system performance, and as a result requests that an information source be developed. Other stakeholders have also requested more information. The State Health Innovation Plan (Plan) recognizes the role of the Commission and that accurate information will assist in developing the best clinical results.

Representative Rusche went on to state that there have been increasing calls for market transparency from hospitals and the medical industry. In order to create and present reports, the data needs to be collected, aggregated and reported. This resolution provides the basis for developing information that can be used for patients in selecting their care.

According to **Representative Rusche, HCR 49** calls on the Department of Health and Welfare (Department), along with stakeholders in the industry, to develop a plan for the creation of an Idaho health information capability. **Representative Rusche** pointed out that Idaho is one of two states that do not have a health data structure. Various ways to structure the capability include a state agency, a not for profit entity, or a hospital association contracted to deliver the service. It is important to make the data easy to submit and to understand. He went on to say the Plan will include estimates of costs and suggestions on how to cover those costs.

Senator Martin asked about the fiscal note which states that it is likely that there will be no fiscal impact, but then indicates that there will be and that the impact may be ongoing.

Representative Rusche replied that the estimated cost of convening the planning group is about $30,000. It is submitted as a portion of the State Health Innovation Plan Grant (Grant). If it is not funded by the Grant there are other grant sources to pursue. If no grant monies are received, then the cost will go to the State. The $30,000 will not cover the cost to run the full data capability, and that cost, depending on the structure, can range from $200,000 to as much as $2 million. That would be part of the Plan, to decide how much can be expended.

Senator Martin asked if this establishes the ongoing process or if it just sets up the panel.

Representative Rusche answered that it impanels a group of industry experts to build the Plan.

Chairman Heider asked if the Department has accepted this concept and if they are funding it initially.

Representative Rusche said it is part of the Plan, and they agree that it is a necessary component. He added that they did not agree to pay the initial $30,000.

Chairman Heider reminded the Committee members of Dr. Epperly's prior presentation on the State Health Innovation Plan.

Senator Nuxoll asked if this is part of the Plan.

Representative Rusche replied that health data acquisition, analysis and reports are part of the Plan. You can't build your grant request until you know what the plan is. You can't do the aggregation, analysis and reporting of data until you acquire the data.

Senator Nuxoll asked how this affects those who do not want their information in the data system.

Representative Rusche responded that the system does not individualize medical records, but rather aggregates public health data. It gives no identification but is about services and the cost of those services.

Senator Lakey asked for the Representative to remind him if the Plan comes back for approval after it is put together, and what kind of authority it has until it is approved.

Representative Rusche stated that there will be some statutory and/or some appropriation requirements. It is possible that the stakeholders will all agree that they will collect data in a not for profit way that is not governmental, but that is not likely. There is no intent on the part of the State to go forward unless a plan is brought back to the Legislature for approval and funding if necessary.

TESTIMONY:

Steve Thomas, representing the Idaho Association of Health Plans (IAHP), spoke in support of **HCR 49**. He stated that of particular interest to IAHP is the distributive approach to the collection of health data which allows the data to remain with IAHP (and other contributing organizations) where it is secure. The Plan establishes a query for the IAHP database. IAHP runs it through its database and returns the aggregated information to the Plan. This approach does not require building and housing an expensive new database so it is less costly and more efficient, and it minimizes privacy concerns. **Mr. Thomas** referred to a document provided by BlueCross BlueShield Association (see attachment 1) stating that the paper supports the proposals in **HCR 49**. He explained that the IAHP is not commenting on or committing to any funding issues as that is a separate matter.

Senator Schmidt asked if the people with the databases would need to agree that everybody responds in a like manner so it is a mutually shared agreement.

Mr. Thomas responded that it would come up as part of the Plan with a uniform query methodology so basically the same query goes out to all carriers enabling the data to come back in a meaningful way that would be compatible as it is reassembled.

Senator Hagedorn asked why the Department is required to do this. He asked why the private sector couldn't do it on its own.

Mr. Thomas said the IAHP doesn't have an objection to the private sector doing it on its own. As the legislation was presented, the Department would get it started, but the study group may come up with a plan that is privately generated.

Shad Priest, Regents Blue Shield of Idaho (Blue Shield), stated that Blue Shield is supportive of efforts to improve transparency in health care and supports the resolution as currently worded.

Molly Steckel, Idaho Medical Association (IMA), expressed agreement with Mr. Priest. IMA has had policy for several years for data collection.

Steve Millard, Idaho Hospital Association (IHA), stated that IHA is in support of **HCR 49** because of its deliberate process that will efficiently gather data. He stated that this type of project needs someone, in this case the Department, to bring the stakeholders together and build a plan which could then be transferred to the private sector.

Representative Rusche concluded by stating that this legislation is a first step toward getting the interested parties together to determine the needs for the Plan, resulting in a productive process going forward.

MOTION: **Senator Schmidt** moved that **HCR 49** be sent to the floor with a **do pass** recommendation. **Senator Bock** seconded the motion. The motion was passed by **voice vote**. **Senator Nuxoll** votied nay. Senator Schmidt will carry **HCR 49** to the floor.

H 519 **Relating to hospitalization and transportation of the mentally ill:**
Representative John Rushe gave the history behind **H 519** indicating that restraints had often been used unnecessarily during the transportation of mentally ill patients. There was some opposition to initial attempts to develop this bill, but after receiving input from interested parties and several revisions, **H 519** is the resulting legislation. **Representative Rushe** explained that under this bill if a mentally ill patient has orders that he/she be transported unrestrained, and should the transferring officer need to restrain the patient during transport, then he/she must put a note in the patient's chart. He stated that this is the standard used when restraints are needed in the hospital, that there must be a note so it can be taken into consideration with the treatment plan for the patient. The Fraternal Order of Police was initially opposed to the first draft, but they had no opposition to this final draft.

Senator Martin asked if a note needs to be placed in the medical record when a patient is being transported and is restrained against medical advice.

Representative Rusche explained that as the bill is written, it is "if against the medical advice". He went on to say that if there is an order that the patient be transported unrestrained and restraints become necessary, then the transporting officer needs to put a note in the chart. If there is no order that the patient be transported unrestrained, then the requirement on the transporting officer does not apply.

Senator Schmidt asked what the mechanism is for documenting such an event.

Representative Rusche replied that they could either write a note in the patient chart or they could have a form that the officer would fill out and put into the chart. This would give the reason for the restraints and would affect the therapeutic treatment.

TESTIMONY: **Jim Baugh**, represents Disability Rights Idaho (DRI), a private nonprofit organization providing advocacy and legal services to people with disabilities, including those with persistent mental illnesses. **Mr. Baugh** explained that DRI has attempted to find out from people with mental illness the most important thing that could be done to protect their rights. Most of the responses dealt with being handcuffed and put into police cars to be transported from local psychiatric hospitals to the state mental hospital. In Medicaid policy trauma informed care is required. Under trauma informed care restraints must never be used unless it is necessary for the person's safety. **Mr. Baugh** stated that people being transported to the state mental hospital all suffer from some type of serious mental or emotional disorder, but many of those people suffer from disorders that do not cause them to pose a threat to other people. He went on to say that they may have suicidal tendencies but they are not in danger in the back of a police car. **H 519** provides something we can do now to reduce the trauma, to protect the rights and dignity of people with mental illness, and eliminate behaviors that, in our attempts to treat people, actually make them worse.

Mike Kane, Sheriff's Association (Association), stated that the Association worked closely with Representative Rusche. He responded to Senator Schmidt's question by stating that the sheriffs would prefer to be relieved of this burden, and they do not feel that a mentally ill person should be transported in a police car under any circumstances. But many have been adjudicated by a court as being a danger to themselves and/or others, and in those cases where an officer deems it appropriate to handcuff them, we should make reports. **Mr. Kane** added that if those reports are not being made now, they should be to protect the patient's civil rights as well as having documentation for the protection of the sheriff making the decision. **Mr. Kane** explained that they would get the information to the physician's office by email in the form of a standard police report. The Association thinks this procedure is reasonable and they support the bill.

Senator Hagedorn asked if police officers are now restraining patients.

Mr. Kane replied that he could not give a percentage but that patients are being restrained.

Senator Hagedorn then asked if reports are currently being made.

Mr. Kane replied that again he could not give a percentage, but his conversations with the Fraternal Order of Police indicated that reports are not being made as much as they should be.

Kathie Garrett explained that she has worked within the California State Hospital system. In the early 1980s the hospital where she worked wanted to become accredited and had to do some work on how they restrained and secluded patients. It is occasionally necessary to use restraints or seclusion to prevent patients from harming themselves or others, but **Ms. Garrett** emphasized that the National Alliance on Mental Illness (NAMI) has stated in a position paper that there is no therapeutic use to seclusion and restraint; it is a safety issue. She explained that people who have had these procedures used stated that they increased their psychotic episodes, added to their low self-esteem, made them feel like they were criminals, and led to lingering negative memories of their illness and treatment. She added that parents of patients in these circumstances expressed the heartbreak they felt at seeing their loved ones treated in this manner. **Ms. Garrett** expressed her appreciation for law enforcement entities working toward better treatment of the mentally ill and in training their officers in crisis intervention for people in a psychotic state. She stated that **H 519** offers a reasoned approach to address the stated circumstance.

Representative Rusche summarized his presentation stating that if the transporting officer feels there's a need, even if there is an order against it, he can use restraints. He just has to tell people as that is important for the therapeutic path for the patient. It reinforces that mental health patients are not prisoners, but are people who are ill and seeking care.

MOTION: **Senator Guthrie** moved to send **H 519** to the floor with a **do pass** recommendation. **Senator Nuxoll** seconded the motion. The motion passed unanimously by **voice vote**. Senator Guthrie will carry **H 519** to the floor.

Senator Bock commented that he was very close to this situation. He has seen a family member in shackles.

H 535

Relating to Indigent Sick: Representative Janet Trujillo said this is a bill that will actually put money back into the General Fund, and it has the support of the Governor. She went on to provide a history and an overview of the State Catastrophic Health Care Cost Program (State Program), the County Medically Indigent Program (County Program), and COBRA, leading up to the federal Affordable Care Act (Act). **Representative Trujillo** shared a YouTube video explaining how insurance subsidies work under the Act and then applied those concepts to Idaho.

Representative Trujillo explained that under both the State Program and the Act individuals are required to purchase their own insurance. **H 535** would limit the responsibility of the State and County Programs to cover only those who are at 100 percent poverty level and below as calculated through the Act. Those who qualify for the State Program still must make application. This raises the question of whether the State and County Programs should be responsible to cover individuals when they have the option of purchasing their own insurance.

This bill, according to **Representative Trujillo**, would save the General Fund approximately $12 million a year, along with a savings of over $6 million to the counties. She then turned time over to Tony Panelli.

Tony Panelli, Idaho Association of Counties, said that with the State and County Programs as they are now, anybody within the State at any income level could apply based on the size of the medical bill. He then explained the application process.

Senator Bock pointed out that the hospitals are required to provide treatment. He asked if a hospital would have to absorb the expense if an accident victim does not have insurance and the amount is more than he/she can pay. He also asked why this needs to be done now since it will not go into effect for two years.

Representative Trujillo stated that the hospital would be responsible. She stated that individuals are being asked to become compliant with the federal mandate, and that every person has to purchase insurance. Because of the State Program, hospitals in Idaho have not had to suffer these losses. Hospitals have, in their business models, taken into account some of this loss. **Representative Trujillo** then presented the policy question of whether the tax payers should continue to be responsible for that loss or if it should be shifted to those that use the medical care.

Senator Hagedorn stated that currently the federal government does not have the funding required to pay for all of the subsidies and all of the Act, and that it is borrowing 40 percent of the money it does spend. He asked Representative Trujillo what expectations she has that the federal government will change in the next two years to have enough money to pay for these subsidies and make this program continue to work.

Representative Trujillo responded that it is federal law and we are mandated to be compliant, and she is confident the federal government will pay the subsidies. Our own state statutes has the policy that if an individual has the means to purchase insurance, he/she is encouraged to do so. This legislation encourages people to purchase insurance.

Senator Hagedorn stated that under current statute the State Program is the payer of last resort, so everyone should be buying insurance anyway. He asked why we should even change the language, and if we are changing it why we should wait until 2015.

Representative Trujillo replied that by allowing the two years to become compliant, we are providing some time to educate the public, prepare the hospitals, and allow for enrollment time.

Senator Hagedorn referred to Senator Bock's concern that if someone is not compliant and then has those bills, they will come to the State Program. He asked what the incentive is for people to purchase insurance two years from now if they do not have that incentive today.

Representative Trujillo repeated that they will get the education out and ensure that people are purchasing the insurance as mandated. She pointed out that through the Act there are options.

Chairman Heider directed a question to Mr. Pennelli asking what would be done with the mill levy.

Mr. Penelli replied that there is a bill in the House that, if these funds are no longer needed, will drop the mill levy down from a .10 to a .03 because there are still costs that would be covered by the county, such as involuntary mental health care and burial costs. The rest will be written as property tax relief because the levy will drop.

Senator Schmidt asked about the process of determining eligibility as it relates to the amount of insurance that an individual should have purchased.

Mr. Penelli responded that the process will be the same as it is now. The individual's income level will be determined by considering the income at the time of need and looking back six months. This will determine where the individual falls within the poverty guidelines. If the individual is below 100 percent poverty level, the responsibility will fall upon the County and State Programs. If it is over 100 percent the individual has the responsibility.

Senator Schmidt asked who determines the eligibility.

Mr. Penelli replied that it is the applicant's responsibility to fill out the paperwork, and the county will then investigate and make that decision.

Senator Schmidt asked how this would relate to Medicaid eligibility.

Mr. Penelli said that the process for Medicaid eligibility stays as it is now. If the individual is denied Medicaid eligibility, then the application is forwarded to the county.

Senator Schmidt asked if it would be possible that one county could determine that the individual is below the 100 percent level and another county make a different determination.

Mr. Penelli explained that if the federal poverty guidelines are used uniformly throughout the State, there should be no discrepancy.

Senator Lakey stated that he didn't understand that the 100 percent is automatic, but that individuals still have to establish that they do not have income or resources sufficient to pay their bills within five years.

Mr. Penelli replied that Senator Lakey is correct and that the individual still has to go through the indigent process. The county still has to do an investigation and make the determination.

Chairman Heider said that he did not believe that everyone who is above the poverty level will go out and buy insurance.

Mr. Penelli agreed with Chairman Heider. He stated that he felt the Legislature, within the next two years, would decide if continuing the procedure as it is now or if revamping the system would be the best approach to take regarding indigent health care. He suggested that this process would be part of that decision making.

Senator Hagedorn asked if there has been a decrease in cost to the Catastrophic Fund since the Act went into place.

Mr. Penelli replied that it is too soon to make that determination.

Senator Hagedorn asked if an individual applied for assistance from the Catastrophic Fund and an investigation ensued, would the individual's insurance be apparent.

Mr. Penelli responded that the county would see that there is insurance and they would suspend the case until they could ascertain how much the insurance would cover.

Senator Hagedorn asked why it is important to do this right now when we do not yet know the impact of the Act.

Representative Trujillo replied that it is important to do it right now in order to become compliant with the federal mandate, and to decide if the taxpayer should have to pay when insurance is available.

Senator Schmidt commented that county responsibility for indigent health care costs was established in the 1870s.

Representative Trujillo clarified that it was the Catastrophic Fund that was established in 1982. Indigent care is a separate identity. She pointed out that when indigent care was established it was to help nonprofit county hospitals. The State Program was set up to assist with the indigent care. But now it is being litigated by for profit hospitals and the taxpayers are paying for additional medical costs and for litigation costs.

Senator Schmidt asked if this legislation is to promote personal responsibility, why is the line drawn at the 100 percent of the federal poverty level; if it is a good idea to help the State, why we should wait until January of 2016?

Representative Trujillo responded that between 100 percent and 400 percent of the poverty level individuals qualify for the tax credits or the subsidies under the Act, making their insurance affordable. Those below 100 percent do not qualify for the tax credits or the subsidies under the Act. She commented that the time frame was set for two years so the hospitals could transition into this plan, and the people could be educated concerning the mandate.

Mr. Pennelli added that another reason is that things are continuing to change, and that change is uncertain. By waiting the two years, adjustments can made.

Chairman Heider stated that those uncertain changes are the very reason it seems odd to pass a bill that would go into effect in a couple of years, hoping that things become more idealistic in our State.

Senator Lodge asked Representative Trujillo to state how her philosophy has changed over this last year about the Act.

Representative Trujillo stated that her position on the Act has not changed. She said she does not like it, but it is the law. Because of that we have policy questions within Idaho that we have to answer, whether or not we like the Act.

Chairman Heider asked why we don't wait to pass this bill until we see the outcome regarding acceptance of the Act and the number of those who participate above federal poverty level.

Representative Trujillo replied that it is the law and we are mandated.

Senator Nuxoll stated that she understood the need for education and the help with the Catastrophic Fund.

MOTION: **Senator Nuxoll** moved that **H 535** be sent to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion.

SUBSTITUTE MOTION: **Senator Hagedorn** made a substitute motion that **H 535** be held in committee. **Senator Lodge** seconded the substitute motion.

Senator Lakey asked if there was anyone else to testify on the bill.

TESTIMONY: **Tammy Perkins** clarified that the Governor's office neither supports nor opposes **H 535**.

Jim Baugh, Disability Rights Idaho (DRI), spoke in opposition to the bill, although he understands the importance of the intent. DRI is concerned that, according to the Governor's Health Care Study, the population affected has a largely disproportionate number of people with chronic health care problems, mental illness, and significant disabilities. He stated that the hope is that all of these people will sign up for insurance and that they will not overwhelm the County or State Programs.

Mr. Baugh went on to say that the health care system is very complicated and that we need a comprehensive plan of which **H 535** is a component. He emphasized that a complete plan needs to be developed so there are not unintended consequences. He explained the situation involving the effects of adverse selection on insurance companies. **Mr. Baugh** suggested the Legislature review the private options in Arkansas and Iowa where this group of people move into a different category of health care; they are not just put into the insurance market on subsidized premiums.

Mr. Baugh reminded the Committee that in the evolution of health care two years is a long time, as things are very unpredictable. He suggested waiting to see how things develop before enacting a piece of the solution.

Toni Lawson, Vice President of the Idaho Hospital Association (IHA), stated that the IHA has not taken a position on this legislation. The IHA is concerned about the unknowns that exist with the development of the health care insurance plan. She presented questions in several specific areas that remain unanswered.

Ms. Lawson clarified that other states do have programs to reimburse hospitals for the costs of those who cannot pay, but they are not structured the same way as Idaho's programs.

Senator Hagedorn stated his appreciation for Representative Trujillo's intent on this bill. But there are too many unknowns to change the State Program now, and he is afraid needy people will not have their needs met. He would like to look at the situation again in a year or two when there is data on which to base decisions.

Senator Guthrie said that he likes the idea, but if we wait a year for data the January 1, 2016 date can still be met. He would support the substitute motion.

Senator Bock stated that nothing can change human behavior and not everyone is responsible. He would support the substitute motion.

Chairman Heider expressed that this is an optimistic bill and that he really doesn't think everyone above the 100 percent poverty level will comply with the mandate. He addressed Representative Trujillo, expressing the Committee's appreciation for her efforts on this bill. He thanked the other presenters.

SUBSTITUTE MOTION ROLL CALL VOTE: **Chairman Heider** called for a roll call vote. **Chairman Heider, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock** and **Schmidt** voted Aye. **Vice Chairman Nuxoll** voted nay. The motion carried. **H 535** will be held in Committee.

ADJOURNED: **Chairman Heider** adjourned the meeting at 4:57 p.m.

Senator Heider
Chair

Linda Hamlet
Secretary

Carol Cornwall
Assistant Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Room WW54
Monday, March 10, 2014

SUBJECT	DESCRIPTION	PRESENTER
H 561	Relating to Hospitals	Steven A. Millard, Idaho Hospital Association
HCR 46	Relating to Telehealth and Telemedicine	Representative John Rusche
PRESENTATION:	Idaho Behavioral Health Plan Update	Becky diVittorio, Executive Director, Optum Idaho
MINUTES APPROVAL	Approval of the Minutes of the February 5, 2014 Meeting	Senator Guthrie; Senator Lakey
MINUTES APPROVAL	Approval of the Minutes of the February 6, 2014 Meeting	Senator Guthrie; Senator Lodge
MINUTES APPROVAL	Approval of the Minutes of the February 13, 2014 Meeting	Senator Guthrie; Senator Hagedorn
MINUTES APPROVAL	Approval of the Minutes of the February 24, 2014 Meeting	Senator Martin; Senator Schmidt
MINUTES APPROVAL	Approval of the Minutes of the February 25, 2014 Meeting	Senator Hagedorn; Senator Nuxoll

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Monday, March 10, 2014
TIME:	3:00 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Heider, Senators Hagedorn, Guthrie, Martin, Lakey, and Schmidt
ABSENT/ EXCUSED:	Vice Chairman Nuxoll, Senators Lodge, 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: **Chairman Heider** called the meeting to order at 3:10 p.m.

H 561 **Relating to Hospitals: Steven A. Millard, Idaho Hospital Association**, began by saying this is a very simple bill but would require quite a bit of explanation. Historically, Idaho's Medicaid program has reimbursed hospitals significantly less than Medicare, and prior to the passage of the Hospital Assessment Act in 2008 there were significant cuts in place going back as far as Governor Kempthorne's administration. These cuts were from costs, not charges, and in 2008, hospitals with less than 40 beds were being reimbursed at 96.5 percent of their costs and those hospitals with over 40 beds were being reimbursed at 81.5 percent of their costs.

Mr. Millard went on to explain that the Idaho Hospital Assessment Act (H 443) was introduced in 2008, received federal approval under strict guidelines, unanimously passed both houses and was signed into law on March 14th, effective July 1. The law provided that private hospitals are assessed in the aggregate an amount equal to the "upper payment limit gap" to serve as the approximate 30 percent state match which is necessary to "draw down" additional federal Medicaid funds. In late 2009 and going into the 2010 legislative session, the State's financial situation, including Medicaid funding, continued to suffer due to the downturn in the economy and legislators were searching for financial solutions.

H 656 was introduced, passed and signed into law, effective July 1, 2010. The bill repealed and restated Chapter 14, Title 56, Idaho Code, granting separate authority for the Department of Health and Welfare to collect increased assessments from hospitals through June 30, 2012.

He concluded by saying that **H 561**, if passed, removes the limiting dates in the existing statue so that the assessments will be perpetual as was intended by the sunset of the language in H 656. Minor technical and clarifying amendments to make the language consistent throughout the Chapter are also made in **H 561**.

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

Senator Guthrie was curious as to how something so important was missed in the prior legislation. Since it had been missed, were there assessments made or funding returned that could be challenged. **Mr. Millard** responded that was a very good question and the primary reason this legislation is before the Committee.

Senator Guthrie wanted to clarify that the hospitals are assessed to make up the 30 percent that normally would be the State match to maximize the federal dollars coming into the state, and in exchange for that they get (based on different criteria) a rebate back that offsets the assessment to some degree. So with the assessments going out and certain rebates coming back, he wanted to know what the net to the hospitals and providers was. **Mr. Millard** apologized that he may have confused the Committee in his presentation, since the 50 million he had mentioned was only for Fiscal Year (FY) 2012. The other assessments are for the hospitals receiving supplemental payments and is based on the number of Medicaid days the hospitals have in a year, so it's prorated among the hospitals. The federal law requires the assessments to designate "winners" and "losers" and also that they be broad based. The net to the hospitals is getting them closer to covering their costs than they would be without the ability to take part in this, but still not quite there since Medicare pays more in other states than they do here.

Senator Hagedorn stated that he was assuming that with FY 2013 the hospitals were out of luck since the assessment ended in June of 2012. **Mr. Millard** answered that wasn't quite correct since the 2013 assessments were made, they just can't make the 2014 assessments without the legislation in place.

Senator Guthrie asked to confirm that the term "private" did not mean county owned but did mean for profit and not for profit. **Mr. Millard** stated that Senator Guthrie was correct.

MOTION: **Senator Schmidt** moved to send **H 561** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**. Senator Schmidt will carry **H 561** to the floor.

HCR 46 **Relating to Telehealth and Telemedicine: Representative John Rusche** began by describing telehealth as the use of telecommunications technologies to deliver health care and behavioral health services distant to the location of the practitioner. Some examples include sending radiologic images to distant radiologists, transmitting skin images to dermatologists, providing two way interaction for mental health patients, or distant monitoring of ICU, labor and delivery, or pharmacy. The use of telehealth services is growing rapidly. And with the advent of 4G services and wireless networks, the technology exists to rapidly expand through most of Idaho. Telehealth can be a force for good—expanding workforce availability, lowering the travel time and costs to patients, and introducing services into more rural areas. Even though it is a good tool and resource it brings up a lot of concerns and questions.

Representative Rusche went on to point out that there is a need for a collaborative council to get those involved in Telehealth together to discuss and reach consensus. This will support several ongoing projects such as Time Sensitive Emergency care, the Statewide Healthcare Innovation Plan (SHIP) and the Patient-Centered Medical Home Initiative. It will help prevent an expensive "Tower of Babel" of different standards (which will be inefficient and expensive for IT to support). It will promote greater availability and access to providers to our rural citizens. And it will help us get ready for the upcoming wireless revolution in services.

He concluded by stating that the council is made up of volunteers from various players in the industry and convened and facilitated by the Department of Health and Welfare (Department). The estimated cost (from the Department) is $30,000. This capability is part of the SHIP grant, but if the grant is not successful (or perhaps even if it is) there is additional grant money (up to $65,00) available through LinkIdaho for telehealth planning. This bill has the support of the Department, the IHA, the IMA, the Licensing Boards, and numerous players in the Idaho telemedicine arena. There was no opposition.

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

Chairman Heider wanted to know why a separate council is being developed for this when it already seems to fit into the SHIP that's been worked on over the past year. He recognized that the areas of telehealth and telemedicine are both an important part of the statewide plan concept, so why is it not being implemented there as opposed to a new council. **Representative Rusche** responded that there are a couple of reasons. Some of the issues around telehealth would involve people or groups outside of the SHIP group such as technical and IT people. The bigger issue is that, regardless of whether Idaho gets the SHIP grant or not, telehealth and telemedicine will expand in the State and there should be nothing to prevent pursuing funding and grants elsewhere.

Chairman Heider confirmed that they have looked into the possibility of grants and have opportunities to apply for those. He also noted that the State has spent a lot on broadband to go throughout the State for the education system and wanted to know if there was a way to tie into that for the telehealth and telemedicine needs. **Representative Rusche** answered that certainly that was an option to consider, and many of the hospitals already have the telecommunication equipment in place, but there is still the need to tie them all together to be supported. He also mentioned advances in the use of robotics in smaller hospitals and nursing homes.

Chairman Heider asked how the senior citizens in nursing homes liked being visited by a robot in place of a doctor or nurse. **Representative Rusche** stated that the majority of the patients were either bed bound or suffered from dementia, and this technology was more convenient for the setting that it served.

Senator Schmidt wanted to know if there has been consideration to whether the Health Quality Planning Commission would have a subcommittee on this issue or not. **Representative Rusche** said that no, there has not been a consideration for that since the planning commission is doing what they can with the limited staff they have right now. He said there is a workgroup that was pulled together outside of government that first met in spring of 2013 that has grown in its membership and group participation.

MOTION: **Senator Martin** moved to send **HCR 46** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Senator Martin will carry **HCR 46** to the floor.

PRESENTATION: **Idaho Behavioral Health Plan Update: Becky DiVittorio**, Executive Director, Optum Idaho, began by thanking the Committee for the opportunity to be in front of them again to discuss Optum's work. They appreciate the interest shown and are honored to continue to play a role in the transformation of Idaho's outpatient behavioral health program. She was before the Committee to share an update on the care management telephone line and the positive changes that have led to sustainable performance, and then she would highlight the current initiatives that are in place.

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

DISCUSSION: **Senator Martin** stated that no news is good news and he has not had any complaints since Optum presented before the Committee on January 30th. He purposely went out to question those who had complaints previously to get an update on how things have been going and reported they were much more positive. He did want to ask about the slide in the presentation that showed the amount of calls and their duration that had a dramatic spike and then went down again. He said this does not make sense and wondered what the explanation might be for that.

Ms. DiVittorio responded that the increase shown on the chart for January was a result of multiple factors which basically came down to more calls and more time needed on calls than had been anticipated to be able to handle them, but that problem was addressed as needed.

Senator Guthrie wanted to know if the efforts that have been put into place since their last meeting with Optum can be sustained in the long run without sacrificing the quality of service. **Ms. DiVittorio** answered that Optum is committed to meeting their contractual requirements for access to the care management line and they will sustain the effort that is needed to do that.

Senator Hagedorn asked since the phone call issue seems to have been taken care of since the last meeting with Optum, and the focus is now on educating and bringing all of the providers up to date, how is that progressing and what is the plan to make that effort better. **Ms. DiVittorio** stated that there is a system transformation ahead and it will require significant work. Optum is collaborating with providers to begin education efforts, they presented provider forums throughout the State, and will continue to build on these efforts. Through Optum's Care Coordination they do a lot of work in the communities that allows them to work with providers directly. Optum also has a quality process in place that allows them to perform audits and help support providers in their efforts to improve the quality of services they deliver.

Senator Hagedorn was curious if Optum had metrics in place and are they able to measure their success rates and where they should focus their training efforts. **Ms. DiVittorio** said this point had just been addressed earlier in the day. Optum uses a lot of the information they have to drive the priorities for provider training, based on what's going on in the system. In the end, she noted, the biggest measure they have is the wellness assessments, member reported outcome data. As they serve in Idaho longer, they will be able to gather more robust information about the outcomes of the services that are provided for the members in the State.

Senator Schmidt wanted a clearer picture of what a "peer support specialist" looks like; do they have credentials, are they paid, etc... **Ms. DiVittorio** responded that a "peer support specialist" is someone with a lived experience who is in recovery themselves. These people are certified and go through an intensive training program, then have to pass a test before being certified. Those peers are then hired by a provider who is credentialed in Optum's system, and then are able to provide service and support to members as determined by the provider.

Senator Schmidt was curious as to how and where the peer specialist is credentialed since he was not aware that we do that here in Idaho. **Ms. DiVittorio** answered that this is not a part of what is happening now in the State, there is a certification process and that is what the specialists go through at this time. The certification process is managed by the Office of Consumer and Family Affairs.

Senator Schmidt asked if the Office of Consumer and Family Affairs was a federal or state office. **Ms. DiVittorio** stated that it was her understanding it is a state office.

Chairman Heider wanted to know what the funding source was for the peer support specialists to be paid. **Ms. DiVittorio** said that the payment comes from Optum to the provider.

Senator Lakey wanted to confirm Optum's commitment to maintaining the recent positive course that's been going on. He wanted to pointed out that Optum has some confidence rebuilding to do and it will take a little longer to rebuild than the session will last. It was his hope that once the session ends, they won't begin to hear negative comments again regarding Optum's performance. He would hope the Committee could hear from Optum at the beginning of the next session to make sure they are staying the course.

Chairman Heider assured Ms. DiVittorio that he felt Optum was staying the course, but asked for confirmation. **Ms. DiVittorio** responded that they would be delighted to come back before the Committee. **Chairman Heider** thanked Ms. DiVittorio for being before the Committee and asked her not to be surprised or offended if the Committee members reach out to Optum over the summer with any questions or concerns as voiced by their constituents.

TESTIMONY: **Ross Edmunds**, Administrator, Department of Health and Welfare, wanted to comment on the issue of the certified peer support specialist. He said the training that is used in Idaho is based off of what's called the Ozark Model, which is the national best practice in terms of training these individuals. It was brought to the State through the Department of Health and Welfare and contracted through Mountain States Group, which is the office that houses the Office of Consumer and Family Affairs. They have been contracted to deliver and recruit people that have the needed lived experiences to train them and build the pool of certified peer specialists.

Chairman Heider commented that it seems like a good concept, but it would also be hard to find people who've had the experiences and then can turn around and counsel others. **Mr. Edmunds** responded that nationally it is the best practice available since it builds immediate credibility when the member has someone before them who has gone through their same experience.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the February 5, 2014 Minutes as written. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the February 6, 2014 Minutes as written. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the February 13, 2014 Minutes as written. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Schmidt** moved to approve the February 24, 2014 Minutes as written. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Hagedorn** moved to approve the February 25, 2014 Minutes as written. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business before the Committee, **Chairman Heider** adjourned the meeting at 4:12 p.m.

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Senator Heider
Chair

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Linda Hamlet
Secretary

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Linda Harrison
Assistant Secretary

AGENDA

SENATE HEALTH & WELFARE COMMITTEE

3:00 P.M.
Lincoln Auditorium
Wednesday, March 12, 2014

SUBJECT	DESCRIPTION	PRESENTER
H 565	Relating to Public Assistance	Representative Perry
PRESENTATION:	Idaho State University School of Pharmacy	Lindsey Hunt, Student Cory Nelson, Student Andrea Winterswyk, Student
Minutes Approval	Approval of the Minutes of the February 4, 2014 Meeting	Senators Hagedorn and Lakey
Minutes Approval	Approval of the Minutes of the February 26, 2014 Meeting	Senators Hagedorn and Guthrie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie
Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Wednesday, March 12, 2014
TIME:	3:00 P.M.
PLACE:	Lincoln Auditorium
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 3:05 p.m.

H 565 **Relating to Public Assistance: Representative Christy Perry**, began by stating this legislation is making changes to Title 56, Chapter 2, by instituting a policy change to direct the Department of Health and Welfare (Department) to stagger the Supplemental Nutrition Assistance Program (SNAP) benefits. The bill directs the Department to stagger these benefits so that they are issued over the course of ten days instead of just the one day as they are now. The legislation also allows the Department to use any SNAP performance bonus money that they may receive on the program itself as funds for the stagger issuance.

Representative Perry stated that the bonus money is not always guaranteed, however the Department has received bonus money for the past several years, including this past fiscal year. It is believed that the food stamp performance bonus program in the new farm bill will be more specific and require the bonus money to be used for SNAP expenses specifically. These expenses could include technological improvements, and administration costs, as well as the prevention efforts of fraud, waste and abuse, instead of just any purpose which has previously been the case. This legislation aligns very well with that intent.

If a performance bonus is not received from the U.S. Department of Agriculture then the Department will go through the usual Joint Finance-Appropriations Committee (JFAC) process. She stated that the administrative costs are split with half being from the State and the other half from the federal government. Finally, given the demands on the Department and in trying to balance the needs of the public as well, the bill allows for implementation to occur anytime between now and December 31, 2015 with the final date being June 30, 2016.

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

DISCUSSION: **Vice Chairman Nuxoll** wanted to know if this legislation would still allow for the 50/50 split between the State and federal, or would the bonus be issued and then it would be determined what is left and who would pay for it. **Representative Perry** responded that the administration portion of the food stamp program is what is paid 50/50, the actual benefit is paid entirely by the federal government. So how this would all work is that the State's portion is where the bonus money would be applied.

Vice Chairman Nuxoll asked if the Department is dedicated to making sure they use that money from the bonus for this program first since she is aware that $1.4 million of this money went to help the state healthcare exchange. **Representative Perry** answered that it was made very clear in their discussions with the Department, and also in the legislation, that the money is to be used first towards any implementation of the SNAP program.

Senator Lodge requested to hear from Richard Armstrong, Director of the Department of Health and Welfare to respond to questions. **Chairman Heider** answered that he would be addressing the Committee later in the meeting.

Senator Martin wanted to clarify the implementation date since she had mentioned it would be on or before June 2016 and wanted to know if that was correct. **Representative Perry** stated that was correct to her understanding, and the way that the legislation is written is that the Department has up until June 30, 2016 to implement the legislation, but it can be worked into their program earlier at their discretion if possible.

TESTIMONY:

Elizabeth Criner, representing Northwest Food Processors Association (Association), which is a tri-state trade association. She is an advocate and resource for the Association in an ongoing effort to enhance the competitive capabilities of member food processors in Idaho, Oregon and Washington. Processors who provide fresh product, especially products that require refrigeration were most impacted by Idaho's transition a few years ago to a single-day issuance for SNAP benefits. Production is working monthly to accommodate the significant increase in demand at the first of each month. In addition, temperature controlled storage is limited for many retailers.

She went on to say that in rural communities where distributors deliver weekly, they run short on many products in the weeks that include the first of the month. For more urban areas, it can result in more than daily deliveries of product to accommodate the peak in demand on the first of the month. These peaks in production and delivery often require overtime, which results in added costs. In the highly competitive food economy, these costs can impact a processor significantly. Idaho is the only state in our region that has a single-day issuance for SNAP benefits, adversely impacting local fresh product processors.

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

DISCUSSION:

Senator Lodge wanted to know if all of the people who are receiving food stamps and are now getting them on the first of the month, were working at a job and were all paid by their employer on the first of the month, how would that situation impact the food producers.

Ms. Criner responded that SNAP is a supplemental program and is not designed to last the recipient the full month. Many of the beneficiaries are employed and receive a paycheck but it is not enough to meet their needs. The hope is that eventually these people will be able to get better employment with higher paying jobs that would take them off of the SNAP benefit program. Since this is a supplemental program, it doesn't last very many of them to the end of the month so that by the time they do receive it on the first of the next month it has created a stronger demand.

Senator Lodge wanted to clarify, if these people are in fact working and this is a supplemental benefit, they should be able to spread the benefit over the course of the entire month. She then asked if they were all paid from their jobs on the first of the month and there was no SNAP program in place, how would this impact the food producers.

Ms. Criner stated this was a difficult hypothetical question since there are so many variables. What she could say though was that when the State did move from multiple day issuance down to just the one day, over time processors saw a significant increase in demand and started to utilize overtime for their employees increasing their costs.

TESTIMONY: **Jane Wittmeyer**, representing the Darigold Company, a marketing and processing subsidiary of the Northwest Dairy Association. Darigold is a producer that is cooperatively owned and has been around since the early 1900s. Because it's a cooperative, it's owned by dairy farmers who created the cooperative to jointly process milk and milk products. In Idaho, Darigold has 79-member owner families who employ an additional 308 employees and produce 2.06 billion pounds of milk with $2.2 million in annual sales here in the State. Darigold is in support of **H 565**, have reviewed the suggested amendment and are in full agreement with it.

She stated that since Darigold is a processing and production group, anything that causes large or small fluctuations in the distribution system creates difficulties for the company and its member processors. The distribution on a multi-day service for the SNAP program instead of the single day as it is presently would be much easier for the company to deal with.

TESTIMONY: **Jim Lowe**, representing the Food Producers of Idaho, which is made up of a broad base of Idaho agriculture businesses throughout the State. He said that the food producers he represents are in support of **H 565** and see the current system as a challenge to agriculture to meet such large demand at one time of the month. He understands that this legislation will not solve all of the problems involving the SNAP program, but it is seen as an improvement and a small step.

TESTIMONY: **Richard Armstrong**, Director of the Department of Health and Welfare (Department), began by addressing some of the concerns already voiced by the Committee, specifically, Senator Lodge. He said that on the House side with the original bill, he had testified against it for two different reasons. Those reasons were that it was unsustainable and the other reason was that it was an un-funded mandate. There was no funding allocated at the time, other than bonus money that might come through for high performance with the SNAP program, and that cannot always be counted upon.

He confirmed, as Vice Chairman Nuxoll had previously mentioned, that the Department had spent the bonus money on the improvements for the eligibility system over the last several years. They did not pay it to the healthcare exchange as Vice Chairman Nuxoll had stated, but it did go to help interface with that system to determine eligibility.

The Department has been successful in changing their performance quite dramatically. He went on to explain the improvements the Department has made since he took over in June of 2006. At that time Idaho was ranked 48th in the nation for its poor Department performance. On his first week on the job he had to take care of a letter from the federal government which was penalizing the State for $265,000. By 2009 things had turned around by the Department to such a degree that the federal government had awarded the State for being the most improved in the nation. He stated that since that time, Idaho has been ranking among the top ten states in the nation for performance and receiving bonuses to award the Department for its efforts.

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

DISCUSSION: **Vice Chairman Nuxoll** congratulated the Director and the Department on their improved effectiveness. She was curious about the bonus money as to whether the amount is increased if the number of people on food stamps goes up. **Mr. Armstrong** responded that the bonus is given as incentive for states to perform better in the handling of the business and has nothing to do with increasing the number of participants.

Senator Guthrie wanted to clarify regarding the money that is required in the process to screen for Medicaid eligibility, would it be the same whether it is for a state or a federal exchange system. **Mr. Armstrong** answered that he did not think it would be the same. By being efficient you can reduce the costs of operation, for example in the web services and applications being made more user friendly.

Senator Lodge complimented the Director on the improvements that have been made to the Department since he took over. She wanted to know if the Director thought the Department will be able to meet the June 2016 deadline as outlined in the legislation. Would that be enough time for them to be up and going? **Mr. Armstrong** stated that he didn't feel there was ever enough time for things, but in discussions with the other members involved in the Department they have assured him that they will be able to have the system in operation by that date. It may not be the final system but will be the first phase since things and systems are always changing and improving.

Senator Lodge commented that the biggest lesson she has learned in all of this is that we come up with good ideas, but we don't always think about all of the problems or implications as the idea is being put into place. She appreciated the education that the Director gives to the Committee to help them see how all of the ideas and projects have to interact with each other to be effective.

Chairman Heider added his appreciation from the Committee to the Department for all the help they give on a regular basis. He recognized (on behalf of the other Committee members) the effort the Department puts forth for the citizens of Idaho to make the programs run efficiently and effectively.

Mr. Armstrong thanked the Committee for the kind comments and confidence in him and the Department.

Representative Perry concluded by stating there has been a lot of research done by different individuals and groups regarding the legislation. Everyone understands that at one time Idaho had been on a staggered SNAP benefit issuance. The recession caused a lot of changes with adjustments needing to be made, and one of them was going to the single day issuance. Those changes had many unintended consequences that couldn't have been foreseen at the time. As the economy has improved some of those cutbacks have been adjusted, and processes have gone back to the way things were done before the recession, and that is the case with the SNAP benefits.

MOTIONS: **Senator Guthrie** moved that **H 565** be referred to the 14th Order for amendment. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Hagedorn** moved to approve the February 4, 2014 Minutes as written. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Hagedorn** moved to approve the February 26, 2014 Minutes as written. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

PAGE PRESENTATION: **Chairman Heider** asked Anne Young to approach the podium and introduced her as the Senate Health and Welfare Page for the second half of this Legislative Session. He commented that the Committee had been very appreciative of her fine work, she's done a wonderful job and has been there every day willing to help. The Committee had two letters of recommendation for her and invited her to address them on anything she had learned in her experience.

Ms. Young wanted to thank the Committee for the opportunity. She said she has had a lot of fun and has learned so much, especially about the healthcare issues the Committee is involved with.

ADJOURNED: Due to time constraints, **Chairman Heider** apologized to the three Idaho State University School of Pharmacy students who were to make a presentation before the Committee and asked them to return at another time. There being no further business before the Committee the meeting was adjourned at 3:55 p.m.

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Senator Heider
Chair

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Linda Hamlet
Secretary

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Linda Harrison
Assistant Secretary