

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, January 21, 2015

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Martin, Senators Nuxoll, Hagedorn, Tippetts, Lee, Schmidt, and Lacey

**ABSENT/ EXCUSED:** Senator Johnson (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 3:00 p.m.

**PASSED THE GAVEL:** Chairman Heider passed the gavel to Vice Chairman Martin for the rules review.

**DOCKET NO. 15-0202-1401** **Greg Metsker, Commission for the Blind** , asked the Committee to reject this rule because changes in federal laws render this rule change null and void.

**Vice Chairman Martin** asked if the federal changes are wrong for Idaho.

**Mr. Metsker** replied that he did not have an answer to that question, but it was the opinion of the Vocational Rehabilitation Services to operate under the current rules until guidelines from the federal government are received.

**MOTION:** **Senator Hagedorn** moved to reject **Docket No. 15-0202-1401** . The **Senator Lacey** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO. 16-0317-1401** **Matt Wimmer**, Medicare Bureau Chief, Department of Health and Welfare (Department), took the podium to explain the rule changes for **Docket No. 16-0317-1401**, Medicare/Medicaid Coordinated Plan Benefits. He referred the Committee to pages 136-142 of the electronic rules review book. He said the rules in this docket are being amended to support a more comprehensive managed care approach for Medicaid participants who are also eligible for Medicare.

**Mr. Wimmer** explained that the change will allow Medicaid participants to opt in to a managed care program that covers all benefits rather than only outpatient benefits. This simplifies coverage and allows participants to choose either Medicaid managed care or the State administered Medicaid plan. The Department sought public input and received no comments.

**Mr. Wimmer** said the changes are cost-neutral; there is no anticipated fiscal impact to the General Fund.

**Mr. Wimmer** asked the Committee to adopt this pending rule and stood for questions.

**Senators Schmidt** and **Tippetts** asked questions related to specific Medicare services as a result of the changes. **Mr. Wimmer** answered the questions to the Committee's satisfaction.

**Vice Chairman Martin** asked if there were questions or comments from the audience; there were none.

**MOTION:** **Senator Schmidt** moved that the Committee adopt **Docket No. 16-0317-1401**. **Senator Tippetts** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
16-0310-1401**

**Mr. Wimmer** next presented **Docket No. 16-0310-1401**, relating to Medicaid Enhanced Plan Benefits, and referred the Committee to pages 81-106 in the Pending Rules book. He said this rule change has two purposes: (1) It defines the parameters for dental benefits for Medicaid enhanced plan participants in accordance with HB 395; and (2) it defines conditions for coverage of community supported employment benefits for developmentally disabled participants in accordance HB 476, 2014.

**Mr. Wimmer** explained that the change restores access to dental services that reflect evidence-based practices for adult participants with disabilities or special health needs. The new rules also create an exception review process allowing budget modifications for community supported employment for developmentally disabled individuals

The rules were drafted under negotiated rulemaking through a workgroup consisting of representatives from Medicaid, the Idaho Council on Developmental Disabilities, Disability Rights of Idaho, the Employment First Consortium, Vocational Rehabilitation, and other stakeholders.

Public hearings resulted in just one brief comment in support of the rules; no other comments were received during the comment period.

Fiscal impact to the General Fund is estimated at \$1.4 million for the dental benefits and \$235,000 for the community supported employment benefits. The costs for the dental benefits are expected to be fully offset by reductions in utilization of hospital and emergency room benefits related to dental care needs.

**Mr. Wimmer** asked the Committee to approve the rule changes and stood for questions.

**Mr. Wimmer** answered the questions posed by the Committee, which primarily concerned the reinstatement of benefits that had been cut during the recession.

**MOTION:**

**Senator Hagedorn** moved that the Committee adopt **Docket No. 16-0310-1401**. The motion was seconded by **Chairman Heider**. The motion carried by **voice vote**.

**Vice Chairman Martin** recognized Debby Ransom, Chief for the Department of Health and Welfare's Bureau of Facility Standards in the Division of Licensing and Certification.

**DOCKET NO.  
16-0311-1402**

**Ms. Ransom** introduced herself and presented **Docket No. 16-0311-1402**, relating to Intermediate Care Facilities for People with Intellectual Disabilities. She referred the Committee to page 109 in the Pending Rules Review book and explained the docket is a rewrite of the chapter of rules governing Intermediate Care Facilities for individuals with Intellectual Disabilities (ICFs/ID). The rule in this chapter deals with State licensure of ICFs/ID.

**Ms. Ransom** said these rules had not been updated since the 1980s and many sections are no longer relevant. This alignment results in a streamlined set of requirements for this type of facility for both State licensure and for federal Medicaid certification. She said public hearings were held on the changes and no comments were received during the comment period. The rule docket was presented to the Board of Health and Welfare and passed with unanimous support.

**Ms. Ransom** said aligning State licensing requirements with federal certification requirements resulted primarily in updating terminology and references and reorganizing the chapter with a few more substantive changes. These changes include (1) administrators must have experience with the ICF/ID program before managing this type of facility, and (2) the use of painful or noxious stimuli or enclosures to manage client behavior is prohibited). The rule change also incorporates by reference the National Fire Protection Association's Life Safety Code as well as IDAPA 07.03.01, Rules of Building Safety.

**Ms. Ransom** asked the Committee to approve **Docket No. 16-0311-1402** and stood for questions.

**Senator Nuxoll** asked what are the major changes between 1980 and this one, other than technical? **Ms. Ransom** stated the 1980 version is outdated and not consistent with best practice needed to serve individuals with disabilities. This will bring it current, align providers with one set of requirements, and bring them up to current best standards. **Senator Nuxoll** followed up, asking which best practices will be better. **Ms. Ransom** stated the best practices center around managing and working with individuals to become as independent as possible. Additionally learning to manage behaviors without drugs or restrictive programs.

**Chairman Heider** asked about the housing standards; were there any that needed to come into compliance, did any of them have to close or if we had to build new ones. **Ms. Ransom** stated no, this provider population is an example of what providers should be doing. We have already been working with, and meeting the Federal requirements, so we have had no closures. **Chairman Heider** thanked Ms. Ransom and stated it was important to have on record that we have updated the standards, but that we were already up to standard. **Ms. Ransom** stated this group is exceeding it and she is pleased to be here with these rules.

**Vice Chairman Martin** asked if there were any costs to have, or meet these current standards. **Ms. Ransom** replied no there is not.

**Senator Hagedorn** recommended that a date be used for better clarification when referencing CFRs or other materials.

**Senator Tippets** posed a number of questions for Ms. Ransom, including size of a facility and resident limitations. **Ms. Ransom** said the federal government had determined that housing residents in a large institution-like facility is not the best practice because it is not a normal environment for an individual.

**Senator Tippets** asked about the alignment of State and federal codes; electrical inspection practices; meaning of "outside services"; bathroom placement; and if the Department has authority to revoke a license whether or not it potentially endangers safety. He commented that he was not comfortable in drafting a rule that is more broad than its intention.

**Vice Chairman Martin** asked about meeting State code restrictions. **Ms. Ransom** said local jurisdictions implement the codes and the Department works closely with the State in meeting those code restrictions. **Senator Hagedorn** asked about the hearing process and incorporation of suggestions. **Ms. Ransom** outlined the process, which includes quarterly conference calls and in-person meetings to incorporate suggestions. She also explained why an update to the sprinkler systems were required when a change in ownership of a facility occurs.

**Vice Chairman Martin** asked if there questions from the audience. There being none, he called for a motion.

**MOTION:**

**Chairman Heider** moved that the Committee adopt **Docket No. 16-0311-1402**. The motion was seconded by **Senator Hagedorn**. The motion carried by **voice vote**.

**DOCKET NO.  
16-0311-1401**

**Ms. Ransom** referred the Committee to page 107 in the Pending Rules Review book. She explained that Rule **Docket No. 16-0311-1401** is a repeal of the chapter of rules governing intermediate care facilities for individuals with intellectual Disabilities.

**Ms. Ransom** said a public hearing was held and no comments were received during the comment period. She asked the Committee to adopt **Docket No. 16-0311-1401** and stood for questions. The Committee had no questions.

**MOTION:**

**Senator Tippetts** moved that the Committee adopt **Docket No. 16-0311-1401**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
19-0101-1401**

**Susan Miller**, Board of Dentistry, took the podium to present **Docket No. 19-0101-1401**, Rules of the Idaho State Board of Dentistry. The proposed rule clarifies the requirements for administering sedatives to patients in order to be consistent with standards set by the American Dental Association. Additionally, the proposed rule provides clarification regarding facility requirements, records, and patient monitoring. The rule is consistent with the Board's authority under Idaho Code § 54-912. There is no negative impact to the General Fund. The Board of Dentistry conducted negotiated rulemaking.

**Ms. Miller** asked the Committee to approve adoption of the rule changes and stood for questions.

**Senator Schmidt** asked for elaboration on the pediatric life support course.

**Ms. Miller** replied that the course would be similar to a general pediatric dental course. Referring to sedation, **Senator Hagedorn** asked if pediatric dentists are allowed to performed surgery in the office. **Ms. Miller** said the rule doesn't change current practices; pediatric dentists are trained and qualified to provide sedation in the office.

**MOTION:**

**Senator Schmidt** moved that the Committee adopt **Docket No. 19-0101-1401**. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.

**PASSED THE  
GAVEL:**

Vice Chairman Martin returned the gavel to Chairman Heider.

**ADJOURNED:**

There being no further business, **Chairman Heider** thanked the presenters and Committee members and adjourned the meeting at 4:30 p.m.

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Senator Heider  
Chair

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Erin Denker  
Secretary

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Jeanne' Clayton  
Assistant