

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, January 28, 2015

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

**PLACE:** Room WW54

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

**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 Health and Welfare Committee (Committee) to order at 3:00 p.m. He welcomed family medicine residents from the Family Medicine Residency of Idaho who were in the audience.

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

**Vice Chairman Martin** welcomed Mark Johnston to the podium for rules review.

**DOCKET NO. 27-0101-1402** **Mr. Mark Johnston**, Executive Director, Board of Pharmacy (Board), introduced himself, along with pharmacy student Diane Butterfield, who was in the audience. He then addressed **Docket No. 27-0101-1402**, relating to the 2013 federal Compounding Quality Act.

**Mr. Johnston** said the Compounding Quality Act created a new drug outlet type, the outsourcing facility. These facilities compound drug product and distribute the product to practitioners for in-office administration. Because Idaho had no such registration category, a temporary rule was promulgated.

**Mr. Johnston** said currently about 100 outsourcing facilities are federally registered at \$15,000 per registration. None are located in Idaho, but they distribute into Idaho. Fees were established at the statutory maximum of \$500 for initial registration and \$250 for renewals. Registration application requirements include (1) being federally registered, (2) the identity of an Idaho registered or licensed pharmacist in charge, and (3) a qualified inspection report. He said the Board received no public comment and there was no expressed opposition. **Mr. Johnston** asked the Committee to approve **Docket No. 27-0101-1402** and stood for questions.

**Senator Tippetts** asked if costs are greater for nonresident students. **Mr. Johnston** said the fees are statutorily mandated maximum fees and would not necessarily be greater for nonresident students.

**MOTION:** **Senator Schmidt** moved to approve **Docket No. 27-0101-1402**. **Senator Tippetts** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO. 27-0101-1403** **Mr. Johnston** addressed **Docket No. 27-0101-1403**, which regulates non-sterile compounding for the first time. The rule also pertains to sterile compounding, which is further regulated by Rule 240, Idaho Code. Rule 239 addresses compounding, which includes the combining, mixing, and altering of ingredients to create a medication tailored to meet the needs of an individual patient. He outlined details set forth in the rule changes, including labeling, compounding, and record-keeping requirements.

**Mr. Johnston** said the rule has been negotiated over two years. All public comments were considered, and the Department is not aware of any opposition. He asked for the Committee's approval of **Docket No. 27-0101-1403** and stood for questions.

**MOTION:** **Chairman Heider** moved to approve **Docket No. 27-0101-1403**. **Senator Nuxoll** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO. 27-0101-1404** **Mr. Johnston** addressed **Docket No. 27-0101-1404**. He said this docket provides various forms of clarification and harmony with the 2014 statutory changes and addresses the situation whereby a patient cannot use their dispensed drugs when being admitted to an institutional facility. The rules were publicly negotiated.

The docket clarifies that a foreign graduate is required to obtain 1,500 student pharmacist hours; clarifies that a technician-in-training may only renew two times; harmonizes the standard drug labeling rule with 2014 statutory changes; creates a new limited pharmacy repackaging rule; clarifies when a controlled substance inventory is to be taken; allows pharmacist immunizers to utilize all forms of injectible epinephrine; clarifies that the statutory requirements of nonresident registered pharmacists also pertain to nonresident licensed pharmacists; clarifies pharmacy security requirements; combines various pharmacy security requirements; combines various pharmacy authorized entry rules into one rule; and updates remote dispensing site security and training requirements.

**Mr. Johnston** reviewed each rule in this docket and brought the Committee's attention to the Board's work with Idaho State University (ISU) College of Pharmacy on a new project to bring retail telepharmacy services to Idaho. He asked the Committee to approve **Docket No. 27-0101-1404** and stood for questions.

**Vice Chairman Martin** commended the Board and ISU for their cooperative work. **Senator Tippetts** questioned language relating to: agency accreditation, drug dispensing, and technician staffing. **Mr. Johnston** clarified reasons for the language in each instance. **Senator Nuxoll** asked about credits required for graduation (required credits are 1,500) and consent for audio surveillance. **Mr. Johnston** said the subject of audio surveillance was never discussed, but he will bring it to the attention of the Attorney General.

**MOTION:** **Chairman Heider** moved to approve **Docket No. 27-0101-1404**. **Senator Hagedorn** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO. 27-0101-1405** **Mr. Johnston** addressed **Docket No. 27-0101-1405**. As of January 2, 2015, the federal Drug Quality and Security Act preempts states from tracking prescription drug product through the distribution system, which creates the need to strike Idaho Code Rule 809 to eliminate confusion. He said legislation will be coming to the Senate from the House with several statutory changes that were initiated because of this federal act.

**Mr. Johnston** reviewed each change in detail. He said the Board consulted with the Healthcare Distribution Management Association (HDMA) in developing this rule. He is not aware of opposition. **Mr. Johnston** asked the Committee to approve **Docket No. 27-0101-1405** and stood for questions.

**Senator Schmidt** asked about exceptions for veterinary distribution. **Mr. Johnston** said there is no clear exception for veterinary distribution, but the topic will be considered next year.

**MOTION:** **Senator Tippetts** moved to approve **Docket No. 27-0101-1405**. **Senator Schmidt** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.  
16-0102-1401**

**Mr. Bruce Cheeseman**, Emergency Medical Services (EMS) Section Manager, Bureau of EMS in Preparedness, Department of Health and Welfare (Department), addressed **Docket No. 16-0102-1401**, EMS Rules Definition. He said the change brings the rules into agreement with Idaho Code. The 2014 Legislature adopted S 1328, which amended Idaho Code § 57-1012, as to the definition of Emergency Medical Services or EMS. The rule aligns this chapter of rule definitions for all EMS chapters of rules with statute that became effective on July 1, 2014.

**Mr. Cheeseman** asked the Committee to approve this docket and stood for questions. **Senator Nuxoll** asked if the language precludes anyone from offering help at a roadside if they are not EMS personnel. **Mr. Cheeseman** said that it does not.

**MOTION:**

**Senator Schmidt** moved to approve **Docket No. 16-0102-1401**. **Senator Nuxoll** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.  
16-0107-1501**

**Mr. Cheeseman** addressed **Docket No. 16-0107-1501**, Emergency Medical Services (EMS) Personnel Licensing Requirements. The rules are being amended to provide flexibility in the continuing education (CE) requirements needed for EMS personnel to renew their licenses. The rules amend the number of CE venues required during each licensure cycle and provide for CE that is taken after an early submission of application to count toward the next licensure period.

**Mr. Cheeseman** said feedback from EMS personnel across Idaho has been positive. He asked the Committee to approve **Docket No. 16-0107-1501**.

**MOTION:**

**Senator Nuxoll** moved to approve **Docket No. 16-0107-1501**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

**Vice Chairman Martin** recognized Tana Cory for the presentation of the next dockets.

**Tana Cory**, Chief, Bureau of Occupational Licenses (Bureau), described the function of the Bureau, which provides administrative, fiscal, legal, and investigative services to 29 self-governing, self-supporting boards and commissions. She said the Bureau is a dedicated fund agency and does not receive money from either the State General Fund nor any other department or agency.

**DOCKET NO.  
24-1901-1401**

**Ms. Cory** introduced Heidi Bruff Nye from Nampa, Chair of the Board, and addressed **Docket No. 24-1901-1401**, Rules of the Board of Examiners of Residential Care Facility Administrators (Board). She said this anticipated rule change will result in an annual increase of approximately \$24,050 in the Board's Dedicated Fund. The increase is needed because complaints and resulting costs have increased. She said most complaints deal with resident abuse, neglect, or substandard quality of care.

**DOCKET NO.  
24-1401-1401**

**Ms. Cory** next addressed **Docket No. 24-1401-1401**, Rules of the Board of Social Work Examiners. It is anticipated this change will result in an annual increase of approximately \$77,080 in the Board's Dedicated Fund. The Board has also seen an increase in complaints, and investigative costs have doubled from 2010 to 2014.

**DOCKET NO.  
24-0901-1401**

**Ms. Cory** addressed **Docket No. 24-0901-1401**, Rules of the Board of Examiners of Nursing Home Administrators (Board). She introduced a member of the Board, Mr. Keith Holloway from Boise. **Ms. Cory** said it is anticipated this rule change will result in an annual increase of approximately \$8,625 in the Board's Dedicated Fund. The Board has seen its balance declining due to an increase in complaints, investigations, and prosecutions. Most have been relative to resident abuse, neglect, or substandard quality of care.

**DOCKET NO.  
24-0601-1401**

**Ms. Cory** addressed **Docket No. 24-0601-1401**, Rules of the Licensure of Occupational Therapists and Occupational Therapy Assistants. She introduced Kristin Guidry from Meridian, who is a member of the Board. **Ms. Cory** said the Board is decreasing its fees, which will reduce the fees collected annually by approximately \$11,700. She explained that the fees are being lowered to offset the Board's monetary balance, which has increased due to fewer complaints over the last several years. There has also been a decrease in the number of licensees.

**DOCKET NO.  
24-1101-1401**

**Ms. Cory** addressed **Docket No. 24-1101-1401**, Rules of the State Board of Podiatry (Board). She said this rule change is in response to H 356, which passed the House in the 2014 Legislative Session. H 365 allowed the Board to create an inactive status for licensure. Rule 300.05, Idaho Code, establishes the fee for an inactive license, and Rule 425 establishes the inactive status.

**DOCKET NO.  
24-1701-1401**

**Ms. Cory** addressed **Docket No. 24-1701-1401**, Rules of the State Board of Acupuncture. This Board is also reducing its fees. The decrease is anticipated to reduce the amount collected by the Board by \$7,850 annually. She said the Board has not had any complaints in the past three and a half fiscal years. The reduction is intended to lower its overall monetary balance.

**Ms. Cory** reminded Committee members that she had provided them with a list of the balances for the boards and some history of fee increases and decreases over the last several years. She said these rule changes will ensure the self-sufficiency of each board. She asked the Committee for approval of the six dockets and stood for questions.

**Senator Hagedorn** asked about the root cause of the increase in investigations.

**Ms. Cory** called on Heidi Bruff Nye. **Ms. Bruff Nye** explained that hospitals are discharging patients earlier, some of whom are still needing care. They are then admitted into nursing homes, which results in an increase in staff and in complexity of care. There is greater opportunity for errors and complaints.

**Senator Hagedorn** asked if better training for staff would help, and what the long-term solution would be if complaints continue to rise. **Ms. Cory** said that good education is key, and the Bureau is fiscally responsible and will work hard to minimize complaints.

**MOTION:**

**Senator Hagedorn** moved to approve **Dockets Nos. 24-1901-1401; 24-1401-1401; 24-0901-1401; 24-0601-1401; 24-1101-1401; and 24-1701-1401.** **Senator Nuxoll** seconded the motion. The motion passed by **voice vote**.

**PASSED THE  
GAVEL:**

Vice Chairman Martin passed the gavel back to Chairman Heider.

**ADJOURNED:**

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

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Senator Heider  
Chair

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Erin Denker  
Secretary

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Jeanne' Clayton  
Assistant