

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 11, 2016

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Martin, Lee, Harris, Schmidt and Jordan

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 of the Senate Health and Welfare Committee (Committee) to order at 3:02 p.m.

RS 24072C1 **Relating to Epinephrine Auto-Injectors.** **Chairman Heider** presented this RS. **Chairman Heider** reviewed the history of bills relating to epinephrine auto-injectors. **Chairman Heider** stated that there is no mechanism in current statute for individuals to buy epinephrine auto-injectors without a doctor's prescription. This legislation would allow pharmacists to prescribe and sell epinephrine auto-injectors to those in need.

MOTION: There being no questions, **Vice Chairman Nuxoll** moved to send **RS 24072C1** to print. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

RS 24456 **Relating to Suicide Prevention.** **Senator Martin** presented this RS. **Senator Martin** recognized Senator Schmidt for his drafting assistance. This legislation proposes that suicide prevention services be added to statute as part of the mission of the Department of Health and Welfare (Department). **Chairman Heider** asked the Committee members if they had any questions. **Senator Schmidt** asked about the fiscal impact of the legislation. **Senator Martin** answered the Department is currently providing some suicide prevention services. He stated his hope for eventual appropriations from the State to expand suicide prevention services in Idaho.

MOTION: There being no further questions, **Senator Harris** moved to send **RS 24456** to print. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

S 1231 **Relating to Chiropractic Practice.** **Roger Hales**, Administrative Attorney for the Idaho Board of Chiropractic Physicians (Board) in the Bureau of Occupational Licenses, presented this bill.

Mr. Hales recognized in attendance: Dr. Mary Jo White, Chairman of the Board; Alex Adams, Executive Director of the Idaho Board of Pharmacy; and Berk Fraser, Deputy Executive Director of the Idaho Board of Pharmacy. First, **Mr. Hales** stated that this bill clarifies the prohibition against chiropractors' use of legend or prescriptive drugs in their practice. The bill set forth specific prohibited acts by chiropractors, including prescribing, dispensing, independently administering, distributing, directing or suggesting to patients the use of legend or prescriptive drugs. The language updates make clear which substances are legend or prescription drugs. Second, **Mr. Hales** stated that the bill adds "Rx only" to the labeling provisions used to identify legend or prescriptive drugs. Third, he stated that the statute is being amended to clarify that the prohibition applies to not only prescriptive products, but also prescriptive drugs and substances.

Mr. Hales noted that the Board held several open meetings to discuss the proposed changes. The current language of the bill was approved by the Board in July 2015. The Board sent a final letter in January 2016 to all licensees stating the Board's intention to propose this bill.

Chairman Heider asked the Committee members if they had any questions.

Senator Harris asked whether the Board received comments in opposition to these changes, and if so, what were the comments. **Mr. Hales** answered that chiropractors expressed concerns with this bill. He stated that the bill closes potential loopholes in the current statute regarding the use of legend or prescriptive drugs. **Mr. Hales** stated that there is a process for chiropractors to obtain rights to dispense legend or prescriptive drugs under the law. **Mr. Hales** reiterated that the intent of this bill is simply to eliminate confusion regarding chiropractors' use of legend or prescriptive drugs in their practice.

Senator Schmidt asked if the current language of the statute has resulted in the Board being unable to enforce the law. **Mr. Hales** replied that chiropractors have raised the issue of whether or not they have statutory authority to use legend or prescriptive drugs. There are several Attorney General opinions that indicate the statute does not support the use of legend or prescriptive drugs by chiropractors.

Senator Hagedorn asked if there is a formulary for chiropractors in Idaho Code. **Mr. Hales** responded that there is not a formulary under the current act. **Senator Hagedorn** asked if the Board intended to create a formulary for chiropractors in the future. **Mr. Hales** answered that the Board is charged with protecting the public, and currently does not have plans to create a chiropractic formulary. Typically, **Mr. Hales** stated that expansion of the scope of practice is usually left to professional associations.

TESTIMONY:

Chairman Heider invited testimony.

Dr. James Hollingsworth, chiropractic physician, testified in opposition to the proposed bill. He has been a practicing chiropractic physician for 34 years. Addressing the questions regarding a chiropractic formulary, **Dr. Hollingsworth** stated that there have been attempts in the past to establish such a formulary. **Dr. Hollingsworth** stated that chiropractors began using vitamin B12, folic acid and other substances in a variety of forms when they were not labeled "Rx only." And he discussed the change in federal law that redefined "Rx" to include the substances mentioned above. **Dr. Hollingsworth** informed the Committee that there is a clinic in Pocatello that sees hundreds of patients and administers these types of injections. There has never been a problem. **Dr. Hollingsworth** stated that this proposed bill would limit his ability to properly advise his patients. He indicated that within the last two years he has administered approximately 650 vitamin B12 injections. He commented that there has to be something better than this proposed bill.

Senator Lee asked if he believed the existing statutory language authorized chiropractors to direct and advise patients, as well as give certain injections. **Dr. Hollingsworth** answered by reading Idaho Code § 54-704(1). He commented that the phrase "clinical nutritional methods" is not limited to oral or topical medicines.

Senator Martin asked if the changes in the proposed bill meant that Dr. Hollingsworth would not be able to administer the injections he currently administers. **Dr. Hollingsworth** responded that changes in the federal statute resulted in questions about a chiropractor's authority.

Senator Schmidt read Idaho Code § 54-704(2)(b) and commented that he believes the language clearly prohibits chiropractors' use of legend or prescriptive drugs. **Senator Schmidt** stated his support for the bill.

Dr. Mary Jo White, Chairman of the Board, testified in favor of the proposed bill. **Dr. White** reviewed the legislative and rulemaking histories related to the prohibition against chiropractors' use of legend or prescriptive drugs. Referencing earlier testimony that there have never been complaints regarding chiropractors' use of injectables, **Dr. White** reported that the Board has received complaints. Also, questions arose whether or not chiropractors were authorized to buy injectables. Given the problems and questions surrounding this issue, the Board was compelled to clarify the chiropractor's scope of practice. She noted that many chiropractors do not support this change. She acknowledged that this was not an easy decision, but it is a good decision.

Senator Hagedorn commented that in the past, chiropractic training included some naturopathic training and now there are naturopathic physicians. He asked if current chiropractic training includes naturopathic training. **Dr. White** answered that in the core chiropractic education, which is standardized and accredited, there is no naturopathic training. She noted that this training is offered in advanced degrees.

Molly Steckel, Idaho Medical Association, testified in support of the proposed bill. She stated that complaints have been received by physicians whose patients have had problems with these types of treatments. **Ms. Steckel** stated that providers need clarification regarding this issue and this bill provides that clarification.

Ryan Fitzgerald, Idaho Association of Chiropractic Physicians (IACP), testified regarding the proposed bill. He stated that the Board should consider chiropractors' current practices when revising their scope of practice. Preventing chiropractors from doing what they have always done will restrict patient access. **Mr. Fitzgerald** expressed his disappointment that the companion bill to this piece of legislation will not be considered by the Senate. **Mr. Fitzgerald** reiterated his belief that this legislation will restrict patient choices and access and expressed his desire to continue working with the Board and the Legislature to find a solution to this issue.

Senator Schmidt asked if Mr. Fitzgerald opposed the proposed legislation. **Mr. Fitzgerald** responded that the question was impossible to answer because there are patients who will be negatively impacted by this bill, but he understands the need to regulate the practice.

CLOSING:

In conclusion, **Mr. Hales** stated that the Board is trying to clarify the statutory prohibition. He stated that this bill is not the right vehicle for addressing scope of practice changes.

Vice Chairman Nuxoll commented that the Affordable Care Act caused the current conflict. She noted that she voted to send this bill to print if the companion bill was also advanced. The Idaho House has decided not to hear the companion bill. She felt that this bill, by itself, restricted patient choice and patient access and is a restraint of trade. She noted that the Committee just passed a bill regarding epinephrine auto-injectors, but yet a bill that would allow chiropractors to give injections cannot pass. She indicated that she has a personal interest in this legislation because of her daughters' circumstances.

MOTION: There being no more questions, **Vice Chairman Nuxoll** moved to hold **S 1231** in Committee until the companion bill is advanced. **Senator Harris** seconded the motion.

SUBSTITUTE MOTION: **Senator Lee** moved to send **S 1231** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion.

Senator Hagedorn stated that the problem has existed for many years and this proposed bill is a first step in addressing this problem. He acknowledged that, in the future, the Legislature can revise the scope of practice and set training requirements for injectables. He does not believe this bill restricts patients' access because they can obtain these types of services from other physicians.

The substitute motion carried by **voice vote**. **Vice Chairman Nuxoll** and **Senator Harris** asked to be recorded as voting nay. No vote was taken on the original motion. Senator Lodge will carry the bill on the floor of the Senate.

PRESENTATION: **Idaho's Community Health Centers**. **Yvonne Ketchum**, Chief Executive Officer of the Idaho Primary Care Association, **Heidi Traylor**, Chief Executive Officer of Terry Reilly Health Services and **Mike Baker**, Chief Executive Officer of Heritage Health, made this presentation before the Committee (see attachments 1 and 2).

Ms. Ketchum presented an overview of Community Health Centers (CHCs) in Idaho. **Ms. Ketchum** discussed (i) the services provided by CHCs, (ii) the transformation of CHCs into patient-centered medical homes, (iii) the value of providing care to the uninsured in Idaho and (iv) the locations of CHCs across Idaho (see attachment 1).

Ms. Traylor continued the presentation. She provided the Committee with an overview of Terry Reilly Health Services (TRHS). **Ms. Traylor** discussed TRHS's (i) history, funding and certifications, (ii) strategic goals, (iii) patient demographics and (iv) behavioral health integration (see attachment 1).

Mr. Baker continued the presentation. He discussed CHCs in northern Idaho. **Mr. Baker** stated that CHCs are responsive to people that matter the most: the patients. He commented on Heritage Health's ability to work pro-actively to connect with patients. **Mr. Baker** recognized the Kroc Center in Coeur d'Alene and discussed the center's successes (see attachment 1).

Chairman Heider asked the Committee members if they had any questions.

Senator Martin asked Ms. Traylor to describe who Terry Reilly was as a person.

Ms. Traylor commented that he was the founder of the Terry Reilly health organization. He started a clinic in his home in Nampa. Mr. Reilly was the first to receive federal funding to start a CHC in Idaho. Mr. Reilly was a State Senator.

Senator Lodge asked what NCQA Level III recognition is. **Ms. Traylor** responded that NCQA is a national organization that accredits primary care practices as patient-centered medical homes. There are three levels of accreditation based on many standards, including patient access, patient-centeredness, complexity of services offered and the ability to track referrals. Level III is the highest level of accreditation.

Senator Schmidt asked if access to services is limited based on the insurance status of its patients. **Mr. Baker** answered that patients cannot be turned away, regardless of insurance status. He stated that the organization must operate under a viable model and that is why a balanced payer mix is important. **Senator Schmidt** asked how CHCs maintain a balanced mix of payers. **Mr. Baker** replied that the clinics need to provide really great services. He stated that the expansion of services has helped Heritage Health attract new patients.

Senator Hagedorn asked how well-coordinated the CHCs are across Idaho. He also asked if the services offered by CHCs are comparable throughout the state. **Ms. Ketchum** responded that the Idaho Primary Care Association is a membership organization. The Idaho Primary Care Association connects CHCs together to problem solve and share information. **Mr. Baker** stated that the relationships between the CHCs and the local hospitals is critical.

ADJOURNED: There being no further business, **Chairman Heider** adjourned the meeting at 4:31 p.m.

Senator Heider
Chair

Karen R. Westbrook
Secretary

Michael Jeppson
Assistant