

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, January 12, 2017

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Souza, Senators Martin, Lee, Harris, Agenbroad, Foreman, and Jordan

**ABSENT/ EXCUSED:** Senators Anthon

**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 Health and Welfare Committee (Committee) to order at 3:00 p.m. Chairman Heider welcomed everyone to the first meeting of the Committee.

**PAGE WELCOME:** **Chairman Heider** introduced Page Tia Youts from Richfield as the Committee page for the first half of the 2017 Legislative Session.

**PASSED THE GAVEL:** Chairman Heider passed the gavel to Vice Chairman Souza to conduct the rules review.

**DOCKET NO. 27-0101-1601** **Rules of the Idaho Board of Pharmacy Relating to Legislative Conformance.** **Alex Adams**, Executive Director of the Idaho Board of Pharmacy, introduced himself and described how the Board obtained feedback on improving the rules and allowed additional time for public comment on the proposed rule changes. **Mr. Adams** explained several bills in the 2016 Idaho Legislature were passed that necessitate conforming changes in the Board rules. The rule updates will exempt investigational drugs from certain registration requirements; allow prescription medications such as epinephrine injectors to be labeled in the name of an authorized entity; enable delegate access to the Prescription Monitoring Program and update the reporting requirements to conform to current practice; allow regional behavioral health clinics to donate and receive donated medications to dispense to medically indigent patients; and expand the venues at which emergency medication kits can be housed to include specialty infusion clinics.

**Vice Chairman Souza** asked Committee members if they had any questions, and there were none.

**TESTIMONY:** **Vice Chairman Souza** invited testimony.

**Mark Johnston** introduced himself as the former Executive Director of the Idaho Board of Pharmacy and now representing CVS Health and others. **Mr. Johnston** stated he was appreciative of the work done by the Board and Mr. Adams to be a national leader in pharmacy. He is in support of the five rule dockets before the Committee.

**Pam Eaton** introduced herself on behalf of Idaho Retailers Association and Idaho State Pharmacy Association. **Ms. Eaton** said she also supports all five rule dockets and commended the Board of Pharmacy for working with stakeholders to develop the rules.

**MOTION:** There being no more testimony or questions, **Senator Harris** moved to approve **Docket No. 27-0101-1601**. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
27-0101-1602**

**Rules of the Idaho Board of Pharmacy Relating to Telepharmacy. Mr. Adams** explained telepharmacy involves a remote dispensing site that looks like a retail pharmacy, but there is no pharmacist physically on premises. Instead, the pharmacy is staffed by a pharmacy technician, and pharmacist oversight is provided by a pharmacist via live video feed so the pharmacist can verify orders, screen prescriptions, verify final products, and counsel the patient. The pending rule would: allow streamlined registration of remote dispensing sites to applicants who meet certain criteria; broaden the technology that may be used at a remote dispensing site beyond just an automated dispensing system; remove the requirement that a remote dispensing site be co-located with a medical care facility; remove the requirement that business contracts be filed with the Board; update limits on the oversight of multiple remote dispensing sites; and remove duplicative language from the telepharmacy rules that are already specified in other existing Board rules. Benefits of telepharmacy include expanded access to citizens in rural communities and enhanced ability to obtain prescriptions 24 hours a day, as well as more opportunities for business expansion.

**Senator Lee** commended Mr. Adams for his work. She knows the rule docket was a compromise and her previous concerns have been addressed. The change will allow for expanded access in a cost-effective manner. **Mr. Adams** responded the Board has grown increasingly comfortable with the concept of telepharmacy. In many ways, they perform better than the industry average.

**Chairman Heider** asked how long it takes to obtain a prescription when ordered through a telepharmacy, and how the prescription is delivered. **Mr. Adams** replied there is a pharmacy technician on site and it looks just like a regular pharmacy. The technician scans the prescription and the off-site pharmacy reviews it in real time. The prescription would be delivered in ten to 15 minutes just as in a retail pharmacy. **Chairman Heider** asked how the pharmacy knows what drugs will be needed. **Mr. Adams** answered that inventory management is handled like any retail pharmacy, and it involves trial and error for the products and volume. If a patient has a prescription not on the shelf, it can be ordered and received the next business day.

**MOTION:**

There being no more questions, **Senator Foreman** moved approval of **Docket No. 27-0101-1602**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
27-0101-1603**

**Rules of the Idaho Board of Pharmacy Relating to Technician Modernization. Mr. Adams** explained pharmacy technicians are support personnel who work under the supervision of a licensed pharmacist. Competency exams and criminal background checks are required. The pending rule updates and modernizes the Board's pharmacy technician rules given advancements in the education and training of technicians as well as advancements in the technology environment. Delegated activities have not been updated since the 1970s, and nearly one-half of a pharmacist's time in Idaho is now spent doing things that can be delegated to technicians in other states.

**Mr. Adams** explained after conducting research on practices in other states, the Board developed this docket, which would allow pharmacy technicians to conduct activities that don't require professional discretion. Pharmacists could delegate certain non-judgmental tasks to properly-trained, registered, and certified pharmacy technicians under their supervision. Such tasks include the ability to clarify missing elements on prescriptions, transfer prescriptions, administer medications, and take verbal prescriptions in certain circumstances. The docket also expands verification technician programs beyond acute care hospitals and enables remote data entry by certain pharmacy technicians. The State of Arizona took a similar approach and 500 new jobs were created for technicians, including people with disabilities or small children. Pharmacist supervision is defined as the pharmacist being physically present on the premises and immediately available to the technician to

respond to emergencies and questions. The docket is supported by the Idaho Society of Hospital Pharmacies and many others.

**Vice Chairman Souza** called for questions from the committee, and there were none. **Vice Chairman Souza** thanked Mr. Adams for promptly and thoroughly answering her questions when she contacted him about the docket.

**MOTION:** There being no more questions, **Senator Lee** moved approval of **Docket No. 0101-1603**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO. 27-0101-1604** **Rules of the Idaho Board of Pharmacy Relating to Pharmacy Practice.** **Mr. Adams** informed the Committee the Board of Pharmacy needs to update several rule sections given advancements in technology and changes in pharmacy practice. In addition, the board intends to clarify several rules based on recent inspections and Board administrative hearings. The pending updates would limit the number of times an applicant can take the law or competency exam to a maximum of five times. Additionally, the docket would allow pharmacists to synchronize prescriptions for chronic conditions so they are all due at the same time to simplify monitoring for the physician and make it easier for the patient to obtain refills. The docket also adds language specifically authorizing institutional pharmacies to collect unwanted medications for destruction; updates requirements for pharmacy building security; enables broader emergency room dispensing in conformance with a U.S. Supreme Court decision; clarifies prepackaged product labeling requirements; updates the list of required pharmacy references; and allows for controlled substances to be delivered directly to a provider if the product is intended for direct administration.

**Vice Chairman Souza** invited questions from the Committee.

**MOTION:** There being no questions, **Senator Agenbroad** moved approval of **Docket No. 27-0101-1604**. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO. 27-0101-1606** **Rules of the Idaho Board of Pharmacy Relating to Partial Fills of Schedule II Drugs.** **Mr. Adams** informed the Committee this docket did not go through negotiated rulemaking, as it relates to federal law changes signed late in 2016 and there was no time to go through the process. However, the Board provided time for public comment and e-mailed the docket to interested parties. The docket would allow a patient to receive fewer Schedule II controlled substance pills than written by a prescriber, while not forfeiting the balance if picked up within a certain time frame. The federal law change is intended to reduce the amount of Schedule II controlled substances dispensed, including opioids.

**Vice Chairman Souza** commented the change makes sense and she is glad to see it. **Vice Chairman Souza** invited questions from the Committee.

**MOTION:** There being no questions, **Senator Harris** moved approval of **Docket No. 27-0101-1606**. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
23-0101-1601**

**Rules of the Idaho Board of Nursing Relating to Fees for Emeritus Status Nurses.** **Sandra Evans** introduced herself as the Executive Director of the Board of Nursing. **Ms. Evans** informed the Committee that this docket accomplishes four objectives. Section 008 allows nurses to provide an electronic address in addition to a street address for purposes of receiving notifications and communications from the Board of Nursing and permits the Board to use e-mail communication in appropriate circumstances, including for service of process in contested cases. Section 060.04 and Section 900.04 deletes the requirement to biennially review an emeritus nursing license and the related fee. An emeritus license is issued to nurses choosing to retire from practice. It does not allow active nursing practice but allows the holder to continue to use the protected title Licensed Practical Nurse, Registered Nurse, or Advanced Practice Registered Nurse. This confers a benefit on the retired nurse who has maintained a license in good standing.

**Ms. Evans** explained Sections 132 and 133 contain updated language referencing substance use and mental health disorders and the current preferred language for these primary illnesses. Finally, Section 315 and Section 901 would delete the application fee for prescribing and dispensing authority for advanced practice registered nurses. Recent changes in course content requirements for accredited APRN programs have reduced the complexity of processing of prescribing and dispensing authority applications sufficiently to warrant elimination of the related application fee. **Ms. Evans** stated notice of the intent to promulgate rules and negotiated rulemaking was published on July 6, 2016. Comments received were limited in number and supportive, noting specifically that as proposed, the rules are in alignment with current trends and national standards. There is an estimated negative fiscal impact of less than \$10,000 annually to the Board's dedicated fund resulting from implementation of these rules. There is no fiscal impact to the State General Fund. The anticipated loss of revenue is supported by the Board's current fund balance and will not require an increase in license fees.

**Vice Chairman Souza** remarked she likes a fee reduction and invited questions from the Committee.

**MOTION:**

There being no questions, **Senator Jordan** moved approval of **Docket No. 23-0101-1601**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
23-0101-1602**

**Rules of the Idaho Board of Nursing Relating to Clinical Opportunities for APRN Students.** **Ms. Evans** informed the Committee that this rule amends Section 640.05 of Board Rules to allow licensed physicians and physician assistants, in addition to licensed Advanced Practice Registered Nurses (APRNs), to serve as clinical preceptors for APRN students. **Ms. Evans** explained clinical preceptors, which are critical to the education of APRN students prior to their transition to independent practice. However, clinical preceptors are limited in number and location under the current rules. This docket would allow licensed physicians and physician assistants, in addition to licensed APRNs, to serve as clinical preceptors, thus expanding their availability. **Ms. Evans** reported notice of the intent to promulgate rules and negotiated rulemaking was published on July 6, 2016. Comments received were limited in number and supportive, noting specifically that as proposed, the rules are in alignment with national standards for APRN educational programs. The change may serve to retain graduates of these programs who will choose to continue to practice in communities where their clinical preceptorship occurred. There is no fiscal impact resulting from implementation of the rules.

**Vice Chairman Souza** commented she was a clinical nursing instructor and knows the importance of this role.

**Senator Heider** asked for the definition of a clinical preceptor, and the required training level. **Ms. Evans** answered a preceptor provides direct oversight for patient care activities with an APRN student to get clinical experience. APRNs are nurses with a second advanced license. Preceptors serve in a voluntary capacity.

**MOTION:** There being no more questions, **Senator Foreman** moved approval of **Docket No. 23-0101-1602**. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

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

**RS 24911** **Relating to Compensation for Board of Nursing Members.** **Ms. Evans** informed the Committee that the RS would amend Idaho Code to make technical corrections and revise the compensation to members of the Board of Nursing for their service on the Board. The current honorarium is \$50 and the legislation provides for an upward adjustment to \$75 per day as provided in Idaho Code § 59-509(i). There is a negative fiscal impact of less than \$5,000 on the Board's dedicated fund and none to the General Fund. The Board's current fund balance supports this impact without having to raise license fees.

**Senator Martin** inquired if the amount of the honorarium was identified in the RS. **Ms. Evans** answered the reference in the Board of Nursing statutes does not specify a dollar amount but instead references the compensation schedule located in a separate section of Idaho Code.

**Senator Lee** commented she would prefer to see the schedule of honorarium fees with the RS, since the Statement of Purpose (SOP) does not reflect the specific dollar amount of the new honorarium. **Senator Lee** asked if the Statement of Purpose could be revised. **Chairman Heider** said any revision would require a new RS with a new Statement of Purpose.

**Senator Harris** asked how long the honorarium has been \$50. **Ms. Evans** responded it was in place since 1998.

**Chairman Heider** asked if the concern was great enough to justify referring the RS back to the sponsor for amendment. **Senator Foreman** remarked that the SOP would have been a little clearer if the \$75 figure was included, but he is satisfied with it as written because the amount is incorporated in Idaho Code, and it can be explained by the floor sponsor.

**MOTION:** There being no more questions, **Senator Foreman** moved to send **RS 24911** to print. **Vice Chairman Souza** seconded the motion. The motion carried by **voice vote**.

**RS 24913** **Relating to Renewal of Nursing Licenses on Emeritus Status.** **Ms. Evans** informed the Committee the legislation would eliminate the requirement in Idaho Code for a nurse on emeritus status to renew the nursing license and pay the renewal fee. There is an estimated negative fiscal impact of less than \$10,000 annually to the Board's dedicated fund resulting from the change, and there is no fiscal impact to the General Fund. The anticipated loss of revenue is supported by the Board's current fund balance and will not require an increase in license fees.

**MOTION:** There being no questions, **Senator Martin** moved to send **RS 24913** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business at this time, **Chairman Heider** adjourned the meeting at 3:56 p.m.

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Senator Heider  
Chair

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Jeanne Jackson-Heim  
Secretary