

MINUTES  
**HOUSE HEALTH & WELFARE COMMITTEE**

**DATE:** Friday, February 03, 2017

**TIME:** 9:00 A.M.

**PLACE:** Room EW20

**MEMBERS:** Chairman Wood, Vice Chairman Packer, Representatives Hixon, Perry, Vander Woude, Redman, Gibbs, Blanksma, Hanks, Kingsley, Zollinger, Chew, Rubel

**ABSENT/  
EXCUSED:** Representative(s) Chew

**GUESTS:** Chief Jeff Lavey, Meridian PD/ICOPA; Randy Young, Massage Envy; Leila McNeill, Idaho State Police; Rodney White, Dr. Jennifer Holman, Kris Ellis, and Dr. Randy Andregg, Idaho Optometric Physicians; Dr. Wayne Ellenbecker, Idaho State Board; Becky Olinger, American Massage Therapy Assoc., Idaho Chapter; Jack G. Zarybnisky, OD, Idaho Optometric; Debbie Karren and Linda Chatburn, Board of MAS; Steve Yerger, Citizen-Public

**Chairman Wood** called the meeting to order at 9:00 a.m.

**H 7:** **Mitch Toryanski**, Legal Counsel, Bureau of Occupational Licenses, on behalf of the Idaho Board of Massage Therapy, presented **H 7**. This Legislation renames a massage therapy establishment to a massage therapy school. It also authorizes the Board to review and approve the curriculum of massage therapy schools registered with the State Board of Education (SBOE). Massage therapy schools are proprietary schools and do not issue diplomas or degrees at graduation. The review authority is at the request of the SBOE.

Answering questions, **Mr. Toryanski** said curriculums not meeting the standards required for licensing would be noted for the SBOE follow up. Students are unable to become licensed and practice their profession when their training does not match licensing standards. The curriculum review is authorized, not mandated, formalizing the process for the two entities working together. Any school's application to the SBOE includes their curriculum, which would be sent to the Board of Massage Therapy to assure it meets the minimum licensing requirements.

**Linda Chatburn**, Licensed Massage Therapist, Member, Board of Massage Therapy, testified **in support** of **H 7**. The curriculum review covers licensure standards only. Schools can always add other classes beyond the minimum standards.

Answering a question, **Mr. Toryanski** confirmed the SBOE would retain their authority to register the school and are, by Rule, only able to do this if the proprietary school's curriculum meets the trade standards.

**Matt Freeman**, Executive Director, SBOE, testified **in support** of **H 7**. Their current practice of registering proprietary schools without curriculum review for trade requirements has posed a conundrum. The Board of Massage Therapy has expertise and curriculum standards for licensing beyond SBOE capabilities. This legislation allows the appropriate review and recommendations back to the SBOE. There is one full-time employee at the SBOE who registers dozens of schools.

**MOTION:** **Rep. Hixon** made a motion to send **H 7** to the floor with a **DO PASS** recommendation.

**ROLL CALL  
VOTE:**

**Rep. Hixon** requested a roll call vote on **H 7. Motion failed by a vote of 5 AYE and 5 NAY and 3 absent/excused. Voting in favor of the motion: Reps. Wood, Packer, Hixon, Redman, Rubel. Voting in opposition to the motion: Reps. Vander Woude, Blanksma, Hanks, Kingsley, Zollinger. Reps. Perry, Gibbs, Chew were absent/excused.**

**MOTION:**

**Vice Chairman Packer** made a motion to **HOLD H 7** for time certain, February 8, 2017, or at the call of the Chair. **Motion carried by voice vote.**

**H 8:**

**Mitch Toryanski**, Legal Counsel, Bureau of Occupational Licenses, on behalf of the Idaho Board of Massage Therapy, presented **H 8**, legislation to add, in the interest of public safety and protection, fingerprint-based background checks as an existing and new licensing requirement to increase accurate and verified criminal history information. The \$37 one-time fee would be passed through to the Idaho State Police.

Answering questions, **Mr. Toryanski** stated this is a one-time requirement for new and renewal licensees and will be completed by July 1, 2018. All licensee annual renewals are tied to their birth dates. The \$30,000 funding covers computer costs and one part-time person to help process the 2,179 current licensee background checks.

**Tana Cory**, Chief, Bureau of Occupational Licenses, and **Dawn Hall**, Administrative Support Manager, Bureau of Occupational Licenses, were invited to answer further committee questions.

**Ms. Cory** said licensees would be notified about the background check requirement and where it can be obtained. Existing staff should be sufficient to process new licensees. Some of the issues leading to this requirement have surrounded existing members.

**Ms. Hall**, responding to questions, stated the background checks cover any individual's activity of record. The Board has the review criteria to consider the nature of the crime, when it occurred, the individual's record since the incident, and any impact on their profession. The background check would also reveal information on individuals coming in from other states.

**Chief Jeff Lavey**, City of Meridian, representing the Idaho Chiefs of Police Association, testified **in support of H 8**. The City of Meridian used to do background checks for massage therapists because, although there were professionals, there were also therapists with checkered pasts or using massage therapy as a guise for other activities. When the state took over licensing, the city's background check ability was removed. Two thousand individuals have been licensed based on provided, not verified, information and some have not told the truth. The intimacy of the massage demands the customer have full faith in the person putting hands on them.

**Randy Young**, Licensed Massage Therapist, Regional Manager, Massage Envy, testified **in support of H 8**. Most larger businesses do pre-hire background checks. The majority of states require initial licensing background checks. He is aware of Idaho licensed individuals who did not state everything on their background information. Getting background checks for existing and new licensees helps maintain their professionalism.

**Becky Olinger**, Licensed Massage Therapist, Idaho and Washington, President, Idaho Chapter, Massage Therapy Association, testified **in support of H 8**. Massage Therapists have worked hard to uphold their professional legitimacy. Massage therapy is done in a variety of venues, so there is great client vulnerability. The background check will help vet out any non-legitimate massage therapists.

**Debbie Karren**, Public Representative, Board of Massage Therapy, testified in support of **H 8**. The Board expects the fingerprint background check will also address concerns regarding Idaho human trafficking.

**Steve Yerger**, Citizen, testified in support of **H 8**, stating persons victimized in a massage therapy setting thought they were safe because the therapist was licensed. Victims, afraid they will not be believed, keep silent. After sharing his wife's story, he said the perpetrator can reapply for licensure in five years, even after he's been convicted. He suggested background checks be done annually for better public safety.

For the record, no one else indicated their desire to testify.

**MOTION:** **Rep. Hixon** made a motion to send **H 8** to the floor with a **DO PASS** recommendation.

**Rep. Rubel**, although in support of **H 8**, expressed concern regarding this approach and its impact on rehabilitated persons with criminal records.

**Chairman Wood** commented in support of **H 8**, stating the ability to secure a new identify in 24 to 48 hours makes it imperative to verify applicant statements though fingerprint checks, especially given the intimacy of massage therapy.

**VOTE ON MOTION:** **Chairman Wood** called for a vote on the motion to send **H 8** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Zollinger** and **Hanks** requested to be recorded as voting **NAY.** **Rep. Rubel** will sponsor the bill on the floor.

**H 9:** **Mitch Toryanski**, Legal Counsel, Bureau of Occupational Licenses, on behalf of the Idaho Board of Massage Therapy, presented **H 9**, which raises the board member face-to-face meeting honorarium from \$50 per day to \$100 per day. If the five board members attend each of the six meetings in a given year, the annual cost would increase from \$1,500 to \$3,000 and impact the Bureau's dedicated fund. Answering a question, Mr. Toryanski said travel and lodging expenses are currently paid.

**MOTION:** **Rep. Hixon** made a motion to send **H 9** to the floor with a **DO PASS** recommendation.

**Linda Chatburn**, Licensed Massage Therapist, Member, Board of Massage Therapy, testified in support of **H 9**. Self-employed Board members spend eight hours each meeting day processing applications and handling other issues. This is a reasonable increase to attract new board members.

For the record, no one else indicated their desire to testify.

**Rep. Blanksma**, in opposition to **H 9**, stated she receives \$75 per day as a member of another board and is also self employed. This increase is out of line with what is consistently paid to board members.

**VOTE ON MOTION:** **Chairman Wood** called for a vote on the motion to send **H 9** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Hanks, Blanksma, Vander Woude,** and **Kingsley** requested to be recorded as voting **NAY.** **Rep. Zollinger** will sponsor the bill on the floor.

**H 11:** **Mitch Toryanski**, Legal Counsel, Bureau of Occupational Licenses, on behalf of the Board of Optometry, presented **H 11**. This legislation requires all licensed optometrists be qualified to use therapeutic pharmaceutical agents (TPA) to diagnose and treat ailments of the eye. Although most consumers assume their optometrist is qualified, only 97% are and 3% are not. After over ten years of encouragement, full qualification has not happened. Serious conditions and diseases will go undiagnosed and untreated unless all optometrists are trained to the same skill level to use pharmaceutical agents.

Answering committee questions, **Mr. Toryanski** said the legislation also removes the license conspicuous display requirement. If following the law, the untrained optometrists are not using TPA. The January 1, 2019 deadline, allows time to complete the required training. This impacts six licensed doctors without the diagnostic therapeutic ability, two of which practice in Idaho, along with eleven licensed doctors without therapeutic ability, five of which are active in Idaho.

**Dr. Wayne Ellenbecker**, Chairman, Board of Optometry, testified **in support of H 11**. The public expects the same standard of care from all practicing optometrists. The unqualified optometrists have had significant time and notification to address this issue and assure public safety. Other states will not allow license by reciprocity due to this issue. Answering a committee question, he said the license posting change addresses the posting practicality of multiple offices.

**Dr. Jennifer Holman**, Optometrist, Citizen, testified **in support of H 11**. Looking inside the eye helps determine underlying systemic issues for preventive health care. Patients are known to rely on computer searches to locate a convenient doctor without researching their care level.

The committee invited **Dr. Jack Zarybnisky**, Optometrist, to answer a question. He said he took additional classes beyond his initial training and licensing to provide this service.

**Kris Ellis**, on behalf of the Idaho Optometric Physicians Association, testified **in support of H 11**. Medicare requires patients have their eyes dilated. One Idaho insurer no longer allows doctors on their panel without this training.

**MOTION:** **Rep. Redman** made a motion to send **H 11** to the floor with a **DO PASS** recommendation.

**Dr. Joy Johnson**, Idaho Board of Optometry, was invited to respond to a question. She stated the profession allows persons to continue practicing into their seventies. There are doctors located outside of Idaho without the TPA and are still paying their annual Idaho fees.

For the record, no one else indicated their desire to testify.

**SUBSTITUTE MOTION:** **Rep. Hanks** made a substitute motion to send **H 11** to General Orders.

**Chairman Wood**, **in support** of the original motion, commented anyone in a profession understands standards of practice and care, especially for diagnosing the pathology of the eye.

**VOTE ON SUBSTITUTE MOTION:** **Chairman Wood** called for a vote on the substitute motion to send **H 11** to General Orders. **Motion failed by voice vote.** **Reps. Zollinger** and **Hanks** requested to be recorded as voting **AYE**.

**VOTE ON ORIGINAL MOTION:** **Chairman Wood** called for a vote on the original motion to send **H 11** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Zollinger** and **Hanks** requested to be recorded as voting **NAY**. **Rep. Blanksma** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 11:01 a.m.

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Representative Wood  
Chair

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Irene Moore  
Secretary