

MINUTES
HOUSE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 21, 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 (Lohman), Zollinger, Chew (Gill), Rubel

**ABSENT/
EXCUSED:** Representative(s) Vander Woude

GUESTS: Kathie Garrett, ID Federation of Families on Children MH; Cameron Gilliland, Jamie Newton, Gary Moore, Joyce Broadsword, and Russ Barron, DHW; Mel Leviton, SILC; Ian Freeman, Citizen; Christine Pisani, DD Council; Kelly Keele, Transitions Inc; Kathy Griesmyer, ACLU; Jim Baugh, DRI; Sheriff Kieran Donahue, Idaho Sheriffs Assoc.

Chairman Wood called the meeting to order at 9:01 a.m.

MOTION: **Rep. Rubel** made a motion to approve the minutes of the February 6 and 20, 2017, meetings. **Motion carried by voice vote.**

H 187: **Cameron Gilliland**, Deputy Administrator, Division of Family and Community Services, Department of Health and Welfare (DHW), presented **H 187**. Giving the DHW the power to establish, operate, and maintain a secure treatment facility for individuals who pose a threat to themselves or others.

Serving dangerous clients without adequate security has led to Workers Compensation claims, assaults, and injuries. Since presenting the RS last week, there have been eighteen assaults at the center, property destruction, and six clients attempting to leave the building. If approved, locks, alarms, and cameras, can be installed immediately to address their current security need.

The cost for a new facility is estimated at \$1.7M. A remodel of an existing 1,500 square foot cinder-block gym located on the campus is estimated to cost \$350,000. Legislative approval and funding would be required to pursue either option.

Changes include visits with specified persons, ninety-day reviews, definition of treatment, parameters for restraint use, and oversight. Rules propagated for next year will also address the facility licensing change and requirements. This Legislation will protect the rights of the individuals served while protecting the other clients and public.

Answering questions, **Mr. Gilliland**, said entry to the facility begins with a court order and includes a determination of need by the Director of the DHW. Some court ordered clients require a less restrictive environment.

The right to communicate with family members or specified persons might be restricted when those persons are inciting the client to violence at the facility. Their process allows family interaction, unless the treatment team determines exclusion is needed. Their goal is to include families in conversations and the team. Federal regulations require a quick turnaround and response to any family questions.

They are addressing improved mental health treatment for clients and the physical requirements for their staff. They have instituted non-violent intervention staff training, resulting in a decline in restraint use. The secure facility is intended only for their extreme clients and a capacity of no more than four beds.

The facility has three buildings, each with two wings. They have one wing currently dedicated to house a dangerous client. Without other security measures, staff will, literally, step in front of clients intent on causing harm. This puts their staff in a position to receive strikes, bites, and injuries from weapons.

Although there are doors within the buildings, they are not locked, for fire protection. Their licensure as an intermediate care facility stipulates they cannot have a secure and intermediate care facility in the same building.

There are currently 25 clients, which is below their capacity. Because the capacity is low right now, one building wing is empty. They are using the wing temporarily to secure their one dangerous client.

Jamie Newton, Administrator, South West Idaho Treatment Center (SWITC), was invited to answer a question. She said during the day there are fourteen staff members for the twenty-five clients. During the night there are eleven staff members for the twenty-five clients. These numbers fluctuate with the number of clients.

Answering additional questions, **Mr. Gilliland** stated the clients have the right to be visited by their attorney or a state representative. Two-way access allows the advocacy organization and client to have contact. Rules will clarify the client's contact ability.

Invited to answer the question further, **Brent King**, Attorney General's Office, said the client can communicate by sealed mail or telephone to a person outside the facility. Changing the language could better clarify the client's right to communicate and have visitation.

To another question, **Ms. Newton** responded, attorneys or outside parties can visit privately with clients, away from cameras and other staff members. She noted they have not had anyone hurt in those situations.

Christine Pisani, Council of Development Disabilities, testified **in opposition** to **H 187**. She shared the Council's concern regarding the absence of a specific limit on the number of persons to be housed in the secure facility. They are also concerned the emergency clause would allow isolation and seclusion of a client before Rule approval. The Legislation also limits the client rights without procedural safeguards and due process. The staffing ratio and training requirements for working in a secure treatment facility are not clear. The Council wants to work with the Department to find a resolution for these issues.

Answering questions, **Ms. Pisani** stated the Council would prefer the Legislature address the issues of Dual Diagnosis, which would impact persons in this situation. Without the emergency clause stated in **H 187**, the Council would be able to work with the Department to craft meaningful Rules to support persons in the facility.

Kathy Griesmyer, Policy Director, American Civil Liberties Union, testified **in opposition** to **H 187**. The Legislation permits the DHW Director or designee to determine who would be admitted and when they would be allowed to leave the secure facility. This blurs the lines between the powers of the court and Director for placement, continuing authorization, readmission, and release. Without clarification, communication restriction will make it impossible for the individual to contact civil rights groups and attorneys.

Answering questions, **Ms. Griesmyer** said they believe the courts should have adequate supervision over who is admitted and released to provide a balance of powers. The court should be able to direct the Director to release a person. Due and transparency of process must be protected. Reference to a reasonably necessary length of time is too vague and removes contact without safeguards for the individual's rights.

Jim Baugh, Executive Director, Disability Rights of Idaho, testified **in opposition to H 187**. None of the persons in the statute are serving sentences for a crime. He expressed concern regarding some language not reflecting the actual Department's intent.

Communication restrictions are determined by the treatment team, who might be the object of abuse or neglect and the reason for a communication need. Administrative procedures available elsewhere are not available beyond the treatment team decision.

Sheriff Kieran Donahue, Canyon County Sheriff, Idaho Sheriff's Association, testified **in support of H 187**. He shared the story of the person who is the catalyst for this Legislation. This person belongs, not in the jail, but in a secure facility to prevent self-harm and injury to others. Determined by the experts to be incompetent to stand trial, this person will require lifelong care. With an additional seventeen charges for the injuries inflicted, this person, even if convicted, would never go to prison.

The concept of using staff to hold back patients is incomprehensible. Resultant injuries are severe and long lasting. The state needs to take steps to address the statewide mental health issues, and this is a starting place. These persons belong in the care of the DHW, who must have the tools to take care of them.

MOTION: **Rep. Hixon** made a motion to **HOLD H 187** for time certain, February 28, 2017.

Speaking to his motion, **Rep. Hixon** said the importance of this Legislation requires a delay to allow the parties to resolve their issues.

VOTE ON MOTION: **Chairman Wood** called for a vote on the motion to **HOLD H 187** for time certain, February 28, 2017. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:27 a.m.

Representative Wood
Chair

Irene Moore
Secretary