

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, March 01, 2017

TIME: 3:00 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senators Anthon and Agenbroad

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 3:01 p.m.

APPROVAL OF MINUTES: **Senator Martin** moved to approve the Minutes of the February 15, 2017 meeting. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

Senator Foreman moved to approve the Minutes of the February 16, 2017 meeting. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

H 115

Relating to Physicians and Surgeons. Anne Lawler, Executive Director of the Idaho State Board of Medicine (BOM), introduced herself to the Committee. **Ms. Lawler** informed the Committee **H 115** amends two licensure sections of the Medical Practice Act (MPA) relating to the Interstate Medical Licensure Compact (Compact).

Ms. Lawler explained Idaho became the third state to join, and there are now 18 states in the Compact. The Compact provides physicians a way to obtain an expedited license in any of the Compact states, once the home state clears the applicant. One of the steps to qualify an applicant for the Compact is to run a current fingerprint-based criminal background check. For example, if a hypothetical Dr. Souza was licensed in Idaho and wanted to be licensed in Utah, Wyoming, and Montana, Dr. Souza would submit an application in the home state of Idaho. The application would come to the BOM, and once the BOM has verified the doctor meets the requirements of the Compact, then the BOM would send a letter of qualification to the Compact. The Compact would notify Utah, Wyoming, and Montana that Dr. Souza is eligible for an immediate license, once she pays the fees to those states. The Compact reduces the time for licensure in each state, which can ordinarily range from six weeks to nine months.

Ms. Lawler stated the MPA specifically authorizes the BOM to conduct fingerprint background checks for all physician applicants for new licensure. However, the BOM has been advised by Compact leadership and the Federal Bureau of Investigation that it is advisable to add language to Idaho Code that authorizes background checks specifically for qualifying an existing physician for the Compact. **H 115** adds language to clarify this additional use of background checks.

Ms. Lawler advised there is no fiscal impact to the General Fund or the BOM dedicated fund. Fees for the background checks will be borne by the physicians who seek to be qualified for the Compact.

Vice Chairman Souza inquired whether existing physicians had a background check done for initial licensure but that background check was not part of the Compact. **Ms. Lawler** answered that is correct. The initial licensure background checks do not qualify for the Compact. A background check done for the Compact is good for one year. **Vice Chairman Souza** asked if there is an advantage to a doctor to be in the Compact if the doctor is not thinking of leaving the State, and if it is mandatory to be in the Compact. **Ms. Lawler** responded it is not mandatory to be part of the Compact. It is purely voluntary for physicians who may want to practice across state lines or who want to do telehealth. Some radiologists are licensed in 25 or 30 states because the nature of their practice is to work remotely. Many physicians in border towns want to practice in neighboring states. The Compact makes it much faster to get a license in the other state.

Senator Lee asked for clarification that the Compact is voluntary for physicians, and the number of physicians who take advantage of the Compact. **Ms. Lawler** replied the Compact is just starting up and it is unknown how many physicians are taking advantage of it. It is not required for any physician in any Compact state to be in the Compact. It is simply another opportunity to be quickly licensed in multiple states, and there are no background checks for existing licensees.

MOTION:

Vice Chairman Souza moved to send **H 115** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

H 129

Relating to Dietitians. **Ms. Lawler** introduced herself on behalf of the Dietetic Licensure Board (DLB), which is part of the BOM. The BOM regulates medical doctors, doctors of osteopathy, physician assistants, respiratory therapists, athletic trainers, and dietitians. **Ms. Lawler** said the purpose of the bill is to update and amend the Dietetic Practice Act (DPA). This bill represents the first substantive update since the DPA was passed in 1994. The changes in the bill result from changes in dietetic practice and new terminology adopted by the National and State Academy of Nutrition and Dietetics. **H 129** aligns the DPA with the MPA, but it does not add any regulation or create new licensure. There is no fiscal impact to the General Fund or the BOM's dedicated fund.

Ms. Lawler commented the original bill, **H 45**, had passed out of committee in the House when the BOM received feedback from numerous national nutritionist groups that opposed the legislation. These groups incorrectly believed the bill was intended to prevent nutritionists from practicing in Idaho. To address the groups' concerns, the BOM reworked some language and reviewed the changes with the national groups, to their satisfaction, and brought this new legislation.

Ms. Lawler provided history of development of **H 129**. In 2015, a work group was convened with members of the DLB, BOM staff, Idaho Academy of Nutrition and Dietetics (Academy) representatives, and practicing Registered Dietitians (RDs). The work group met monthly for 16 months to craft this legislation and reviewed other practice acts in neighboring states along with the Idaho Nurse Practice Act and Idaho hospital rules pertaining to dietetic practice. Also, the work group sought input from the Idaho Medical Association, Idaho Hospital Association, Board of Nursing, Idaho Association of Chiropractic Physicians, and Idaho Association of Naturopathic Physicians. The BOM has also been working with the National Association of Nutrition Professionals and the Board for Certification of Nutrition Specialists to address concerns from the original version of the bill.

Ms. Lawler explained the purpose of the bill is to reorganize and align the DPA with the MPA. The most significant changes to the DPA include:

- Definitions formerly under Powers and Duties of the DLB were updated and moved to the Definitions section;
- A new section that contains the scope of dietetic practice was updated to reflect advancements in the profession since 1994, especially pertaining to Certified Diabetic Educators;
- Protected titles were updated to reflect current national practice, and exemptions were added to clarify anyone who is otherwise licensed under Title 54, such as a physician or nurse, is not violating the statute by practicing dietetics within their own scope of practice;
- The option to "discipline" a license was added, affording more options for disciplinary action such as education;
- The requirements for licensure were updated to match the national certifying agency's requirements;
- Expedited licensure was reworded to "Licensure by Endorsement;"
- A two-year renewal option was added to the existing one-year renewal;
- Grounds for discipline were updated to add the milder option of restricting a license;
- A new Idaho Code § 54-3510A added sanctions for discipline imposed; and
- A section amended in **H 45** was reverted back to the original language of Idaho Code, with the exception that a code reference was deleted.

Ms. Lawler stated dietitians are health professionals with special skills to work with patients on a medical level to improve health outcomes. For example, dietitians who are certified diabetic educators are trained to adjust insulin doses. All dietitians are trained to work with patients on tube feed or intravenous feeding, which are highly medical interventions. Professional dietitians have been licensed for 23 years to ensure the public is protected. In 1994, there were fewer than 8 million Americans diagnosed with diabetes. Today, there are 22 million, and the numbers are growing. There are 89,000 RDs in the U.S., including 600 RDs in Idaho, who could be better utilized to fight this disease.

Senator Foreman asked about the language allowing discipline of licensees who are convicted of driving under the influence (DUI) or drug offenses. It concerns him that those offenses don't pertain to the practice of dietetics and the discipline would be layered on top of any sanctions levied by the State. He is also troubled by the fact that some of the sanctions added to the bill seem to be punitive rather than restorative. **Ms. Lawler** replied the authority of the BOM to discipline for driving under the influence or drug offenses was added to align with the MPA. The BOM has learned from the Professional Recovery Network (PRN) that helps rehabilitate physicians with addiction issues that a person who is arrested for a DUI has probably driven drunk between 200 to 500 times. The language does not mandate the BOM take action against someone with a DUI but allows the BOM to help the person seek recovery, education, and support. The goal is to help people get back to a place where they are practicing safely. A number of physicians sit on the PRN committee who have gone through the PRN program, and they are very thankful they did because it changed their lives. People who have had DUIs often start drinking more heavily, and many times the effects creep into their work. The bill gives the BOM authority to look into the matter if there is a concern because the BOM's mission is to protect the public.

Ms. Lawler stated the disciplinary sanctions are just options for the BOM and it does not mean they will all be imposed in each case. Education is foremost with the BOM in each case of discipline, but certain things happen where it's okay to take a punitive approach. The administrative fines imposed by the BOM almost always involve a case of intentional covering of the truth. If an applicant purposely fails to disclose something they are asked about, that is considered a lie, and in that instance an administrative fine might be imposed. For example, on a license renewal, a licensee is required to report any malpractice claims. If the licensee doesn't report and the BOM finds out about it, there might be a fine.

Vice Chairman Souza mentioned she appreciated the explanation about the penalties and inquired whether the language about conviction of a misdemeanor in Idaho Code § 54-3511 is standard language for other medical professions. **Ms. Lawler** replied the language is consistent with the MPA. The misdemeanor penalty is criminal, and that would be used when someone is holding himself out to be a dietician when unlicensed under the DPA; the County prosecutor would be the one to pursue that charge.

Senator Martin referred to page 5, lines 8 to 12 of the bill and commented it look like the requirement for DLB members to be dietitians is being deleted. **Ms. Lawler** answered that language refers to the initial DLB that was empaneled after the DPA was passed. The language is being deleted because it is no longer applicable. Idaho Code § 54-3504(2) specifies the DLB shall consist of four members: three dietitians and one public member.

TESTIMONY:

Dr. Henry R. Thompson introduced himself as a pediatric gastroenterologist working at St. Luke's to speak in support of **H 129**. He is the Medical Director for Pediatric Subspecialists and is the current Medical Director for the Pediatric Dietitians at St. Luke's Children's Gastroenterology where he supervises 12 dietitians. This bill will allow the dietitians to practice at the same level on both an inpatient and outpatient basis and fully utilize their skill set, which will greatly help meet the needs of people in Idaho. There are four pediatric gastrointestinal doctors who cover the entire State of Idaho. It is challenging to be everywhere to everybody, and if he can use his full team to work to their level of training, it improves access to care. On the inpatient side, dietitians use approved protocols to write orders related to total parenteral nutrition and medical intravenous nutrition. On the outpatient side, however, he needs to read and approve every single order for changing a tube feed to a patient, which does not make sense and is not an efficient use of anyone's time.

Senator Lee commented the bill was presented as not changing any scope of practice, and she asked what the bill will specifically do for Dr. Thompson's practice. **Dr. Thompson** replied the bill will allow dietitians to practice in the entire arena where they work. Sometimes, the law has not entirely kept up with the times. RDs are allowed to perform certain tasks in an inpatient setting but not an outpatient setting. The bill does not change what they do but it changes some of the downstream effects on other people's workflow.

TESTIMONY:

Megan Williams introduced herself as the President of the Academy, representing over 400 dietitians from across the State of Idaho in support of **H 129**. **Ms. Williams** said her training included four years in an accredited program, one year of internship, and sitting for a national credentialing exam. Dietitians work to improve the health of Idahoans across the State in varied settings, including health care, business and industry, community and public health systems, schools, colleges, military, government, research, food service management, teaching, consulting, media, writing, public speaking, and private practice.

Ms. Williams explained in 1994, the practice of dietetics was in its infancy. Now dietitians can receive specialty certifications to expand competency in many skills. She is a certified diabetes educator, and titrating insulin under the supervision of a medical provider is a small thing she can do to decrease a patient's risk of developing complications related to diabetes as well as decrease medical expenses. An inpatient dietitian or someone working in outpatient nutrition support can more effectively care for a patient requiring tube feeding or parenteral nutrition by ordering changes to these therapies or required labs under the direction of a medical provider. Insulin titration, feeding, and lab orders are just a few examples of how the language of the bill was updated to reflect the current practice of dietetics. The bill protects the title of dietitian and does not restrict those who provide nutrition services. The Academy appreciates the work of the BOM to reflect and update current practice.

Senator Lee asked in Ms. Williams's experience as President of the Academy whether it is widespread that individuals use the term "dietician" without being licensed. **Ms. Williams** responded she is unaware of an instance where the BOM has had to intervene. She more commonly sees the term "nutritionist" used freely. The Academy is always vigilant for misuse of the term because the educational standards for a dietitian are different than for a nutritionist.

MOTION: **Senator Martin** stated he had a conflict of interest pursuant to Senate Rule 39(H) but intended to vote. His granddaughter is in a dietitian program in Utah at this time. **Senator Martin** moved to send **H 129** to the floor with a **do pass** recommendation. **Senator Harris** seconded the motion. The motion carried by **voice vote**. **Senator Foreman** requested he be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Heider** adjourned the meeting at 3:38 p.m.

Senator Heider
Chair

Jeanne Jackson-Heim
Secretary