

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, January 16, 2018

TIME: 3:00 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senators Agenbroad and Jordan

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 3:03 p.m.

INTERN INTRODUCTION: **Senator Lee** introduced Katie Swofford, her intern for the 2018 Legislative Session. **Ms. Swofford** is a senior at Boise State University. She will be assisting Senator Lee with various legislation.

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

DOCKET NO. 16-0104-1701 **Rules of the Department of Health and Welfare Relating to Emergency Medical Services (EMS) Account III Grants.** **John Cramer** introduced himself as the Program Manager in the Bureau of Emergency Medical Services and Preparedness (EMS Bureau). The EMS Bureau is part of the Division of Public Health within the Idaho Department of Health and Welfare Division of Public Health. **Mr. Cramer** noted that this docket includes an update of rules relating to EMS Dedicated Account III Grants and moves these rules to a new chapter. The changes reflect the retirement of certain scoring elements and the addition of other scoring elements to maintain an adequate number of possible points for optimal distribution of the grants.

The EMS Account III Grants are funded by \$1 from driver's license fees; the fund is managed by the EMS Bureau in consultation with the EMS Advisory Committee. The EMS Advisory Committee provides: recommendations on appropriateness of equipment and information needed on an application; recommendations on funding ratios for vehicles and equipment; and recommendations on price and award caps for vehicles, equipment, and agencies. The EMS Advisory Committee also conducts "Review of Need" evaluations and scores application narratives.

In addition to the movement to a new chapter, other updates to this rule include: adding definitions for "capital equipment" and "grant applicant"; modifying the grant cycle to more closely align with the EMS Advisory Committee meeting calendar; and modifying scoring criteria. **Mr. Cramer** stated that this docket retires scoring criteria for migrant and tourist populations because this element confused applicants and the data was unverifiable. This docket also retires scoring criteria based on the frequency of four-wheel drive use by an agency because this data was unverifiable. **Mr. Cramer** explained that history of vehicle awards and response type were added as new scoring criteria.

Senator Martin asked Mr. Cramer why the version of the rule in the Committee's

Pending Rule Book did not include the format of strikethroughs and additions normally found in rules. **Vice Chairman Souza** explained that this was because this docket is a new rule chapter meant to replace an old chapter. **Mr. Cramer** confirmed this.

Mr. Cramer explained that this docket modifies scoring criteria regarding fiscal resource base, local government endorsement, and narrative scoring. He noted that these rules had not been updated since 2000. Negotiated rulemaking took place in 2017, and a hearing was conducted in September 2017. There were no attendees, and the EMS Bureau received no written comments relating to this docket.

Vice Chairman Souza asked Mr. Cramer if this docket was a replacement chapter, and if the following docket would repeal the original rule chapter. **Mr. Cramer** responded in the affirmative.

Senator Potts felt that the changes in this docket were not properly represented. He stated that the format of **Docket No. 16-0104-1701** made it unclear that it shared some elements with the old rule chapter to be replaced. **Senator Potts** stated that it was unclear that **Docket No. 16-0104-1701**, the new chapter, was to be compared with **Docket No. 16-0204-1701**, the chapter to be replaced. He expressed concern that the Committee did not have the information needed to approve this docket. **Mr. Cramer** explained that the EMS Bureau did create the new chapter using a core set of rules from the original chapter.

Vice Chairman Souza asked Mr. Cramer to confirm that he had explained all substantive changes made to the rule chapter. **Mr. Cramer** responded in the affirmative. **Senator Lee** suggested that Mr. Cramer explain the substantive changes in this docket again to ensure that the Committee understood the modifications.

Chairman Heider asserted that the proposed new rule chapter and the original rule chapter did not need to be compared, as the old chapter would not be applicable if the Committee approved the new chapter. He emphasized that the Committee should be focusing on the new rules. **Vice Chairman Souza** voiced her agreement.

Mr. Cramer restated the substantive changes in this docket.

MOTION: There being no more testimony or questions, **Chairman Heider** moved to approve **Docket 16-0104-1701**. **Senator Lee** seconded the motion. The motion carried by **voice vote**, with **Senator Potts** voting **nay**.

DOCKET NO. 16-0204-1701 **Rules of the Department of Health and Welfare Governing Emergency Medical Services (EMS) Account III Grants**. **Mr. Cramer** stated that this docket involves the repeal of the entire rule section which is being replaced by the rules in **Docket No. 16-0104-1701**.

MOTION: There being no more testimony or questions, **Senator Martin** moved to approve **Docket 16-0204-1701**. **Senator Harris** seconded the motion. The motion carried by **voice vote**, with **Senator Potts** voting **nay**.

Rules of the Idaho Department of Health and Welfare Relating to Idaho Reportable Diseases. **Dr. Leslie Tengelsen** introduced herself as the Idaho State Public Health Veterinarian from the Idaho Department of Health and Welfare Bureau of Communicable Disease Prevention. She explained that the rule changes contained in this docket are intended to protect public health. The first change requires that all suspected or confirmed cases of arboviral disease—which are infections primarily transmitted by the bite of an insect—be reported to officials at the Idaho Department of Health and Welfare or local Health Districts, as described in this rule chapter.

There are approximately 130 identified arboviruses that can cause disease in humans. Tracking these viruses allows public health officials to recognize the burden of these diseases and determine when to employ public health interventions. The change, which required all cases of arboviral disease to be reported, was implemented as a temporary rule in 2017. Prior to the change, the only arboviral disease with a mandatory reporting requirement was West Nile virus.

This docket adds a new section to the rule chapter which describes the reporting requirements for arboviral diseases and important aspects of case investigation. The stand-alone section of the chapter pertaining to West Nile virus was removed. Additional changes to the rules include: update/addition of selected documents incorporated by reference; modification of definitions to align with updated documents; and modification of the section on rabies to align with updated documents. **Dr. Tengelsen** stated that this docket has no anticipated fiscal impact. The Idaho Department of Health and Welfare did not conduct negotiated rulemaking for this docket, but it did consult public Health District stakeholders.

Chairman Heider noted that this docket changes the phrase "quarantine of animals" to "management of animals." He requested further information regarding this change. **Dr. Tengelsen** explained that management is a larger concept than quarantine, and that quarantine is a part of the greater management process. Management involves quarantine, observation, and vaccination; therefore, the term "management" is more encompassing.

Senator Harris pointed out that the American Veterinary Medical Association, the Idaho State Department of Agriculture, and the Health Districts are mentioned throughout the docket. He asked if they were involved in the rulemaking process and if they expressed any concerns. **Dr. Tengelsen** stated that the Health Districts support the updated rules. She explained that the updated rabies section includes a joint rabies protocol that involves the Idaho State Department of Agriculture, the Health Districts, and veterinarians. The joint protocol is meant to ensure that management practices are consistent across all jurisdictions.

Senator Potts asked why the Idaho Department of Health and Welfare added the phrase "regardless of rabies vaccination status" to subparagraph 610.04(a)(ii) of the rule chapter. **Dr. Tengelsen** stated that prior to this change, if an animal had received only one rabies vaccine and that vaccine was not age appropriate, or the animal's vaccination status had expired, the animal was treated as unvaccinated and quarantined for six months. If an animal's vaccination status expired, but the animal was vaccinated again, it would be treated as a vaccinated animal and only quarantined for 45 days. **Dr. Tengelsen** explained that the new language in subparagraph 610.04(a)(ii) was an important management tool.

Senator Potts inquired whether the new language reduces the amount of time that an animal must be quarantined. **Dr. Tengelsen** responded in the affirmative.

Senator Potts asked how humans can contract rabies if they have not been bitten by a rabid animal. **Dr. Tengelsen** explained that bites and scratches are the most common form of rabies exposure. Humans may also be exposed to rabies by being in a bat cave or through exposure to mucus membranes. She noted that bats are the most common rabid animal in Idaho. Since bat teeth are relatively small, bite victims do not always notice that they have been bitten. As a result, the Idaho Department of Health and Welfare considers the presence of a bat to indicate potential exposure to rabies.

Senator Potts asked if humans could contract rabies after being licked in the face by a rabid dog. **Dr. Tengelsen** stated that there has never been a rabid dog in Idaho, and the risk of a dog in Idaho contracting rabies is quite low. She confirmed that saliva from a rabid animal can expose humans to rabies.

Senator Potts asked whether the rules' reference to rabies exposure not caused by a bite applies only to potential exposure from bats, not from domestic dogs, cats, or ferrets. **Dr. Tengelsen** stated that this was not true. She clarified that exposure to rabies through saliva can be from a dog, cat, ferret, or other animal. Scientific literature states that saliva can be a source of rabies. **Dr. Tengelsen** explained that the Idaho Department of Health and Welfare conducts thorough investigations of all suspected cases of rabies.

Senator Harris noted that the section regarding rabies also refers to rabies exposure from livestock. He asked if cow saliva can expose humans to rabies. **Dr. Tengelsen** stated that she has never seen any report of cow saliva carrying rabies, but she has seen reports that milk can carry rabies. She noted that exposure to rabies through milk or saliva is uncommon.

Senator Lee asked if every dog that bites a human must be quarantined for ten days, or if there must be evidence that the dog has rabies in order to conduct a quarantine. **Dr. Tengelsen** stated that, if a person has been bitten, health care providers ask about the vaccination status of the animal and if the animal has been acting abnormally. Based upon this rule, animals that bite a human should be observed for ten days. Officials monitor abnormal behavior in the animal or other symptoms of rabies.

Senator Lee asked for clarification that the rule requires all animals who bite a human to be observed for ten days. **Dr. Tengelsen** stated that the rule was expanded to include animals who did not bite a human, but may have exposed a human to rabies in another way.

Vice Chairman Souza clarified that, in the case of a bite, the owner of the animal would be asked questions about the animal to determine if there is a risk of rabies exposure. The animal would then be quarantined if the official deemed it necessary. **Dr. Tengelsen** confirmed Vice Chairman Souza's statement.

Senator Potts asked what the process would be if his dog is current on its rabies vaccine and bit a stranger. He asked who pays for the process. **Dr. Tengelsen** stated that the Idaho Department of Health and Welfare does not participate in the financial aspect of these issues. She explained that any financial considerations would be handled between the pet owner and the bite victim. She noted that if a dog has contracted rabies, it would die within ten days. If the dog is still alive after ten days, then it does not have rabies. **Dr. Tengelsen** stated that there is no test to determine if a living animal has rabies.

MOTION:

There being no more testimony or questions, **Senator Martin** moved to approve **Docket 16-0210-1701**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**, with **Senator Potts** and **Senator Harris** voting **nay**.

**DOCKET NO.
22-0113-1701**

Rules of the Idaho State Board of Medicine Relating to the Licensure of Dietitians. **Anne Lawler** introduced herself as a representative of the Idaho State Board of Medicine and the Dietetic Licensure Board. **Ms. Lawler** explained that the Idaho State Board of Medicine (the Board) is a self-governing agency which operates using dedicated funds from licensure fees. The Board has primary responsibility for licensure and regulation of dietitians.

This docket amends the existing rule regarding the licensure of dietitians; it aligns the rule with the Dietetic Practice Act that was updated in 2017. **Ms. Lawler** stated that this docket updates the accrediting boards' titles, as there have been a number of name changes. It also includes new terminology adopted by the Academy of Nutrition and Dietetics and adds expedited licensure and biennial renewal options. The Idaho Academy of Nutrition and Dietetics expressed support for this docket.

Several meetings were conducted with stakeholders and the draft rule was available on the Board's website for review and comment. The Board conducted a formal public hearing on this docket on November 1, 2017; no testimony was given. **Ms. Lawler** noted that this docket will have no fiscal impact on the General Fund or the agency's dedicated fund.

Senator Foreman expressed concern that the section of this docket regarding professional misconduct was overly restrictive. He emphasized that he supports the intent of the section, but feels it is too restrictive of dietitians. **Senator Foreman** asked Ms. Lawler if the rule prohibited dietitians from engaging in consensual sexual relationships with patients. **Ms. Lawler** responded in the affirmative. She stated that the Board added language from the Medical Practice Act to clarify the rule. She explained that the section now states that patient consent shall not be a defense for a dietitian who violates the rule prohibiting sexual acts with patients. The Board also added language which clarifies that the rule does not apply to sexual contact with a patient who is the dietitian's spouse or domestic partner.

Senator Foreman asked why consent of the patient is not a defense. **Ms. Lawler** explained that the Board wants all licensees to behave in the most ethical manner. Under the Medical Practice Act, practitioners are prohibited from engaging in sexual relationships with their patients. **Ms. Lawler** stated that this is why patient consent is not considered a legitimate defense.

Senator Foreman stated that he agrees with the intent of the section related to professional misconduct, but he felt that the rules were overly restrictive. Therefore, he stated that he could not support this docket. **Ms. Lawler** noted that the language in the rule reflects language from a statute which was approved by the Committee during the 2017 Legislative Session. She also explained that dietitians are in a position of authority relative to their patients, and the Board does not want practitioners to take advantage of that authority. Patients are in a vulnerable position; as such, sexual relationships between practitioners and patients are inappropriate.

Vice Chairman Souza stated that, as a former nurse, she agrees completely with the rule against provider-patient sexual relationships.

Senator Martin asked whether a relationship between a dietitian and a former patient would be permissible. **Ms. Lawler** explained that relationships with former patients may violate the rule if the dietitian exploits the former patient's trust. She

noted that the Board would have to decide whether the relationship was a violation of the rule.

MOTION: There being no more testimony or questions, **Senator Harris** moved to approve **Docket 22-0113-1701**. **Senator Lee** seconded the motion. The motion carried by **voice vote**, with **Senator Foreman** voting **nay**.

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

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

Senator Heider
Chair

Rachel Goodman
Secretary