

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, March 05, 2018

TIME: 3:00 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: None

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 to order at 3:04 p.m.

APPROVAL OF MINUTES: **Senator Foreman** moved to approve the Minutes of February 13, 2018. **Vice Chairman Souza** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Potts** moved to hear **H 0577** in Committee on March 6, March 7, or March 8. **Senator Foreman** seconded the motion.

DISCUSSION: **Senator Potts** emphasized the importance of **H 0577**, which relates to the use of cannabidiol (CBD) oil.

Chairman Heider instructed the Committee to go at ease. An executive session of the Committee convened in Chairman Heider's office. **Senator Jordan** remained in the Committee meeting room and did not attend the executive session. **Senator Lee** was not yet present at the Committee meeting and did not attend the executive session either.

SUBSTITUTE MOTION: **Vice Chairman Souza** moved to hold **H 0577** in Committee. **Senator Martin** seconded the motion.

DISCUSSION: **Senator Potts** voiced concern about the substitute motion.

Senator Jordan noted Senate Rule 20 states the decision of the Committee Chair is final. She asserted the Committee does not have the capacity to call for a Committee hearing for a bill that the Chair has chosen to hold.

VOICE VOTE: The substitute motion carried by **voice vote**. **Senator Foreman** and **Senator Potts** voted **nay**.

H 0546 **Anatomical Gifts, Age of Donation.** **Representative Monks** being absent from the meeting, **H 0546** was not heard.

H 0601 **Good Samaritans.** **Representative Toone** stated this bill would update Idaho's 1965 Good Samaritan statute. The current statute protects citizens from civil damages if they offer aid for an accident. **Representative Toone** noted the term "accident" is limiting, as it not clear whether certain incidents constitute an accident. Most states have updated their Good Samaritan statute to say "emergency," as opposed to "accident." An emergency is defined as "an unforeseen combination of circumstances or the resulting state that calls for immediate action." The Idaho Attorney General's Office drafted this bill.

DISCUSSION: **Vice Chairman Souza** asked if the Attorney General defined emergency and whether the definition was included in this bill. **Representative Toone** explained most jurisdictions, including the United States Court of Appeals for the Ninth Circuit uses the aforementioned definition of emergency.

MOTION: **Vice Chairman Souza** moved to send **H 0601** to the floor with a **do pass** recommendation. **Senator Jordan** seconded the motion.

DISCUSSION: **Senator Potts** asked if changing the term "accident" to the term "emergency" will make citizens liable in situations that are accidents, but are not emergencies (e.g. a child scraping his or her knee). **Representative Toone** explained the term "emergency" encompasses accidents because an emergency is an unforeseen combination of circumstances.

VOICE VOTE: The motion carried by **voice vote**.

H 0505

Physical Therapy, Dry Needling. **Emily Patchin** spoke on behalf of the Idaho Physical Therapy Association (IPTA). She stated the purpose of this bill is to include dry needling to the Idaho Physical Therapy Practice Act. Dry needling uses small solid needles in targeted areas to effect change in muscles. This bill would allow physical therapists to practice dry needling once they successfully complete minimum education and training requirements. These requirements would be determined by the Idaho State Board of Physical Therapy (PT Board) and included in the Idaho Administrative Code. The bill would require training courses to be approved by the Federation of State Boards of Physical Therapy or another nationally-recognized accrediting body.

Ms. Patchin noted the Idaho Acupuncture Association would prefer physical therapists become licensed in acupuncture in order to perform dry needling; however, physical therapists would like to keep dry needling under the purview of their licensing board. **Ms. Patchin** commented physical therapists are highly-educated and possess extensive knowledge of the musculoskeletal system. The amount of training necessary to practice dry needling would be determined by the PT Board, but the IPTA suggests requiring 54 hours of training. Thirty-four states currently allow dry needling.

Dr. Derek Gerber, P.T., D.P.T., O.C.S., introduced himself as the President of the IPTA. He explained the history of dry needling. Other states allow physical therapists to practice dry needling, but Idaho does not. **Dr. Gerber** asserted this drives physical therapists away from Idaho. He explained the differences between dry needling and acupuncture. **Dr. Gerber** also noted physical therapists are musculoskeletal evaluation experts and stated it is effective and safe for physical therapists to use dry needling. He cited a study which found no significant adverse effects resulting from dry needling. **Dr. Gerber** commented dry needling can also be used to combat opioid addiction by serving as an alternative form of pain management.

DISCUSSION: **Senator Jordan** inquired as to the minimum education requirements for licensed physical therapists in Idaho. **Dr. Gerber** stated to become a licensed physical therapist in Idaho, one must graduate from an accredited physical therapy program; all accredited physical therapy programs are now doctorate-level programs. Physical therapists must also complete the National Board Examination, undergo three years of didactic practical experience, and participate in clinical rotations for 36 weeks. **Dr. Gerber** stated physical therapy curricula include courses regarding anatomy, physiology, kinesiology, and clinical procedures. **Senator Jordan** asked if dry needling is included in physical therapy program curricula. **Dr. Gerber** stated dry needling concepts are introduced in physical therapy programs, but students do not practice dry needling.

Vice Chairman Souza inquired as to the typical training requirements for dry needling in other states. She asked if 54 hours is the average requirement. **Dr. Gerber** stated the minimum training requirement is zero hours of training. The maximum is around 80. He asserted 54 hours is the typical requirement. **Vice Chairman Souza** asked if the training involves hands-on training and practice. **Dr. Gerber** stated the training involves didactic elements and clinical practice. Participants must complete a written and practical exam.

TESTIMONY: **Dr. Clayton Shaw** introduced himself as a physical therapist and spoke in support of this bill. He noted he used to practice dry needling in Colorado, but cannot do so in Idaho. **Dr. Shaw** emphasized the effectiveness of dry needling.

DISCUSSION: **Vice Chairman Souza** asked if this bill would allow dry needling certification reciprocity with other states. **Dr. Shaw** stated he was unsure, but he asserted he would gladly retake the necessary training to become certified to practice dry needling in Idaho.

TESTIMONY: **Kristen Burris** introduced herself as an acupuncturist and the owner of an acupuncture clinic. She spoke in opposition to this bill. She explained the differences between acupuncture and dry needling. Acupuncture uses oblique insertion of needles, whereas dry needling uses perpendicular insertion. Dry needling needles are thicker than acupuncture needles and are inserted more deeply. **Ms. Burris** asserted dry needling patients are at a higher risk of pneumothorax than acupuncture patients. She expressed concern that this bill does not require adequate training for the practice of dry needling.

Dr. Ben Kuznia, D.P.T., introduced himself as a physical therapist and spoke in support of this bill.

Dr. Alan Shaw, L.AC., introduced himself as a licensed oncology acupuncturist. He expressed concern that this bill does not require adequate training for the practice of dry needling. He expressed opposition to this bill.

Dr. Galen Danielson, D.P.T., introduced himself as a physical therapist and spoke in support of this bill. He asserted dry needling is not riskier than acupuncture.

DISCUSSION: **Senator Harris** asked how much training should be necessary for a physical therapist to practice dry needling. **Dr. Danielson** explained a typical training model requires a 27-hour basic course and 200 treatments before a physical therapist can move to the next course. Physical therapists must then document patient interactions and take a final exam. He noted many other states follow this training model.

Vice Chairman Souza asked if the IPTA met with stakeholders about this issue. **Dr. Danielson** stated the IPTA reached out to other professional associations. He asserted IPTA's conversation with the Idaho Acupuncture Association may have reached an impasse. **Dr. Gerber** stated the PT Board would reach out to stakeholders during negotiated rulemaking.

TESTIMONY: **Dee Childers** introduced herself as the owner of Life Changes Elder Care Consulting and spoke in opposition to this bill. She expressed concern that this bill does not require adequate training for the practice of dry needling.

Dr. Kevin Hulseley, D.P.T., introduced himself as a physical therapist and spoke in support of this bill. He noted the current Idaho Physical Therapy Practice Act already allows physical therapists to use needles for certain procedures.

Dr. Julia Thompson, P.T., introduced herself as a physical therapist and spoke in opposition to this bill. She stated she owns a private practice and employs physical therapists as well as acupuncturists. **Dr. Thompson** expressed concern that this bill does not require adequate training for the practice of dry needling. After Colorado granted physical therapists the ability to practice dry needling, physical therapists caused twice as many collapsed lungs in two years as acupuncturists did in 15 years.

Kris Ellis spoke on behalf of the Idaho Acupuncture Association. She asserted the language of the bill refers to a single training course, which is approximately 27 hours. This language will limit the PT Board's ability to conduct negotiated rulemaking. **Ms. Ellis** also noted the Federation of State Boards for Physical Therapy is not a nationally-accredited organization. She mentioned the Acupuncture Association is willing to collaborate with the IPTA to redesign this bill.

DISCUSSION: **Senator Martin** asked if the bill's reference to the Federation of State Boards of Physical Therapy was problematic. **Ms. Ellis** responded in the affirmative. She stated this issue could likely be resolved through collaborative efforts with the IPTA.

Senator Jordan asked if Ms. Ellis was concerned that this bill does not include a discussion of out-of-state certification reciprocity. **Ms. Ellis** stated she was not concerned about this issue. She noted this bill could be amended to include a section regarding reciprocity.

Ms. Patchin refuted the claim that the term "course" limits the capacity for negotiated rulemaking.

Senator Martin inquired as to why 54 hours is the suggested amount of training for the practice of dry needling. **Ms. Patchin** noted many states require 54 training hours for dry needling. She noted this requirement is not included in this bill because the IPTA wanted the requirements to be placed in the PT Board's administrative rules to ensure adaptability.

Senator Martin asked if this bill could be amended to remove the reference to "a course." **Ms. Patchin** stated she would prefer not to amend this bill. She asserted the removal of "a course" is unnecessary.

Vice Chairman Souza suggested this bill be amended to include a discussion of licensing reciprocity. **Ms. Patchin** asserted reciprocity for dry needling certification would likely follow the same standards as reciprocity for the practice of physical therapy. She noted this issue would likely not be included in administrative rules, but could be included in a future bill. **Ms. Patchin** commented she has not heard any concern from physical therapists regarding dry needling certification reciprocity.

Vice Chairman Souza asked for verification that the Federation of State Boards of Physical Therapy is not a nationally-accredited organization. **Ms. Patchin** noted that the Federation of State Boards of Physical Therapy provides the standardized test for physical therapists and approves dry needling courses. **Dr. Gerber** confirmed the Federation of State Boards of Physical Therapy approves

dry needling courses. He stated including it in this bill sets a standard that would facilitate licensing reciprocity.

MOTION: There being no more testimony or questions, **Senator Potts** moved to send **H 0505** to the floor with a **do pass** recommendation. **Senator Foreman** seconded the motion.

DISCUSSION: **Senator Lee** stated she would support the motion and expressed concern that time constraints would make it difficult to amend this bill. She encouraged a collaborative rulemaking process.

Senator Martin expressed confidence in the PT Board's ability to address training requirements in its administrative rules.

SUBSTITUTE MOTION: **Senator Jordan** moved to send **H 0505** to the **Fourteenth Order** for amendment. The motion failed for lack of a second.

VOICE VOTE: The original motion carried by **voice vote**. **Senator Jordan** voted **nay**. Vice Chairman Souza will carry the legislation on the floor.

APPROVAL OF MINUTES: **Senator Lee** moved to approve the Minutes of February 6, 2018. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Heider** adjourned the meeting at 4:45 p.m.

Senator Heider
Chair

Rachel Goodman
Secretary