

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 04, 2019

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Martin, Vice Chairman Souza, Senators Heider, Lee, Harris, Burtenshaw, Bayer, Jordan, and Nelson.

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: **Vice Chairman Souza** convened the meeting of the Senate Health and Welfare Committee (Committee) at 3:09 p.m.

DOCKET NO. 16-0504-1801 **Nicole Fitzgerald**, Executive Director for the Idaho Council on Domestic Violence and Victim Assistance (Council), presented **Docket No. 16-0504-1801**. She spoke briefly about what her agency does and explained that this rule concerns revisions to the Council's standards manual, which was last updated in 2011. Their amendments to that manual will go into effect July 1, 2019. These revisions are important to ensure that professionals working in this specialty field are knowledgeable and using best practices when supervising and treating offenders. Negotiated rulemaking was not conducted because it was deemed unfeasible. This is because the Committee for Oversight of Domestic Violence (Oversight Committee), which is responsible for making changes to the standards manual, met in 2018. They reviewed the proposed changes with representatives from every offender program that they oversee, and unanimously agreed to them. A public comment period resulted in zero comments, and they are not aware of any stakeholder issues. There is no anticipated impact to the General Fund or any other funds related to programs affiliated with the Council. After a question from Vice Chairman Souza, **Ms. Fitzgerald** clarified that these rules are being incorporated by reference and pointed the Committee to that document in their packets.

Senator Lee noted that although there were approved providers present during the rules review meeting, there may have been unapproved providers who were not present. She discussed the importance of negotiated rulemaking and asked Ms. Fitzgerald how providers who are not approved go about making or requesting changes. **Ms. Fitzgerald** explained that the Oversight Committee meets quarterly, and before those meetings, providers can submit requests for changes. However, she plans on looking into the process concerning non-approved providers.

MOTION: **Senator Harris** moved to approve **Docket No. 16-0504-1801**. **Senator Heider** seconded the motion. The motion passed by **voice vote**.

PASSED THE GAVEL: Vice Chairman Souza passed the gavel to Chairman Martin.

RS 26698 **Chairman Martin** asked unanimous consent that **RS 26698** be held until Wednesday, February 6, per the request of the sponsor. There were no objections.

S 1033

Senator Heider presented **S 1033**, relating to anatomical gifts and to revise provisions regarding certain notification. He explained that this bill deals with notification in cases where a patrolman or a coroner finds someone who is deceased. As soon as reasonably possible, they must notify the local dispatch of the location where the deceased will be or has been transported to and include the deceased individual's name and date of birth, if known. Then, local dispatch must notify the Idaho State EMS communications center, which will in turn notify the appropriate donation agency. Notification to the appropriate donation agency is the overall purpose of this bill.

MOTION:

Vice Chairman Souza moved to send **S 1033** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion passed by **voice vote**.

PRESENTATION:

Rakesh Mohan, Director of the Office of Performance Evaluations (OPE), began the presentation on the Southwest Idaho Treatment Center (SWITC) and the recent OPE report. He explained the concerns that have been raised over the last several years about state institutions that house people with intellectual disabilities and mental or behavioral health issues. Concerns were brought to the attention of legislators and stakeholders, with various stories in the media about conditions at SWITC, including cases of abuse and neglect. This prompted legislators to request a study, which was supported by the Department of Health and Welfare (DHW) as well as staff at SWITC and stakeholders. The resulting report states that the current operational model being used at SWITC is no longer tenable, and urges a collaborative attempt, with DHW, legislators, and stakeholders, to find a long-term solution that will be sustainable for that vulnerable population (see Attachment 1). **Director Mohan** introduced Ryan Langrill, Senior Evaluator for OPE, to continue presenting the report.

Mr. Langrill explained how the study request came to OPE, after issues came to light at SWITC in 2017 concerning abuse and neglect with staff. An additional problem was that the Department of Licensing and Certification found non-compliance issues, which threatened SWITC getting federal matching funds. He explained the various surveys and evaluations done in 2017 and 2018. The intent of the OPE study was to identify the root causes of issues at SWITC. **Mr. Langrill** provided a history of SWITC, how it has changed, and the decrease in clients and staff over the years, as well as the increasing difficulty in caring for patients. He noted that the downsizing of SWITC was a result of neglect by the DHW, which resulted in gaps both in the organization and in the treatment of clients. In addition, he explained how the buildings and facilities were not designed for their current mission; they are overly institutional, causing dangerous conditions for staff and clients. Despite acknowledgement of these problems in 2015 by the DHW, attempts to rebuild or improve the facility failed because they were unable to sell the 600 acres of land on which SWITC is located. However, the problem remained that the DHW did not have the proper facilities or services to care for or treat those with developmental disabilities who were assigned to them by the courts. **Mr. Langrill** stated that their first recommendation to the Legislature is to provide policy guidance for a long-term vision for crisis care in Idaho, and then to direct the DHW to develop that vision and determine SWITC's place in it.

Mr. Langrill also noted another problem, which was a system-wide issue, concerning background checks for staff. This issue led to their second recommendation: that the Legislature consider steps to ensure accusations of abuse of vulnerable adults are investigated and perpetrators are excluded from employment with them.

Mr. Langrill discussed SWITC's urgent priorities that need to be addressed, including: staff trauma and injury; staff hiring and retention; focusing on direct care staff; urging the Legislature to extend early retirement to staff who are at high risk of injury; moving away from a reactive approach to treatment; addressing training gaps; and changing the discharge process. He noted their concerns with SWITC's management and leadership revolve around organizational trauma and a flawed approach to problem solving. Some recent steps they have taken to address those priorities include: implementation of a new employee orientation training; increased staff pay; a new program manager from out of state; the development of a career ladder for staff; an improved relationship with adult protective services; and a new advisory board developed by DHW, which is made up of representatives from the courts, law enforcement, legislators, and other stakeholders.

DISCUSSION: **Vice Chairman Souza** asked how many buildings the state owns on the property and how many DHW controls or manages. **Mr. Langrill** replied that most of the 600 plus acres are leased, including for two golf courses. Approximately 20 buildings are on the 80 acres that SWITC has not leased, including buildings that are no longer in use. **Vice Chairman Souza** then asked about the number of staff employed per client. **Mr. Langrill** replied that the ratio is approximately four to one and explained why. He confirmed that the annual cost for all clients is approximately \$11 million.

Senator Nelson asked Mr. Langrill to describe the educational or other qualifications of SWITC's direct care staff. He replied that a high school degree is required, and most have experience in the long-term care industry or other care-giving areas. **Mr. Langrill** and **Senator Harris** discussed the facilities and their maintenance issues, the zoning issues for the land, and attempts to sell the land.

Senator Lee asked him to address similarities between this report other institutional reports that have been released, that reflect an organizational or cultural problem which makes it difficult for these institutions to get the attention they need. **Mr. Langrill** discussed attempts, such as with child welfare, to create a culture of accountability. He believes that in order for SWITC to get out of its cycle of organizational trauma, the DHW needs to develop a strategic plan and a quality improvement process. **Director Rakesh** closed the presentation and said the Director of DHW would be able to address more questions.

Senator Burtenshaw expressed his shock at the report, and concern that more wasn't being done to address these problems. For instance, some of the land being leased was rented out for a fraction of its value. He reiterated the need for the Legislature to step up to the challenge. **Senator Jordan** shared her appreciation for Senator Burtenshaw's remarks and noted that she believes they need to focus on funding allocation and the land issue. **Chairman Martin** asked Dave Jeppesen, Director of the DHW, to come forward to talk about the future of SWITC.

Director Jeppesen acknowledged that SWITC and the contents of this report were a serious issue and high on his priority list. Facility management is a major concern, and they've made some progress but it isn't enough. He said that the report Mr. Langrill presented shows they're stable enough right now to continue operating, but still need to figure out the right solution in terms of funding, facility management, and treatment solutions. The new model for individuals with intellectual disabilities is community-based treatment and integration, not institutionalization. However, the small number of people who don't fit into that model fall into a treatment gap. The DHW and SWITC have been trying to fix that gap with the wrong treatment and facility solution. They need a facility that's built to handle that small population in a financially sustainable way. He said an advisory committee made up of mental health experts, disability experts, and various departments and councils throughout the state was formed and will have its first meeting soon to make progress on their goals. He noted he will soon be meeting with various people, including the City of Nampa and legislators, to work on solving the land issue and hopefully provide a

new source of funding. The DHW is also working to improve their problem-solving skills. **Director Jeppesen** asked Cameron Gilliland, Deputy Administrator for Family and Community Services with the Developmental Disabilities program within DHW, who also oversees SWITC, to come forward.

Mr. Gilliland acknowledged the challenges they face and explained that SWITC welcomed the OPE report. Preventing staff turnover and increasing staffs' ability to serve clients are key to addressing safety issues. He also discussed improvements and advances they have already made and addressed what still needs to be accomplished.

ADJOURNED: There being no further business at this time, **Chairman Martin** adjourned the meeting at 4:40 p.m.

Senator Martin

Chair

Margaret Major
Secretary

Jessica Goodwin
Asst. Clerk/Minutes Editor