

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 07, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, Ward-Engelking, and Burgoyne

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 Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Agenbroad.

RS 26711 **Relating to Insurance - Pharmacy Benefit Managers (PBMs).** **Chairman Patrick** reported PBMs are third-party administrators under contract by health plans, employers, and government entities to manage prescription drug programs for health plan recipients. PBMs decide which pharmacies are included in a prescription drug plan's network and how much the pharmacy will be paid for dispensing services. Idaho is one of five states that do not regulate or have any oversight over PBMs. This bill will require PBMs that operate in Idaho to register with the Idaho Department of Insurance (IDOI). It also gives pharmacists more flexibility in informing patients how they can pay less out-of-pocket for prescriptions. Today, PBMs prohibit pharmacies from discussing prescription cost options with their patients. Recently, legislation passed and was signed into law at the federal level prohibiting "gag clauses" on Medicare Part D and Advantage plans. State legislation is still needed for all other insurance. Most already have this type of law in effect. Lastly, the bill includes language that will save health plans money via reimbursement rates and deductibles when rebates, coupons, vouchers, discounts, and other direct payments are applied towards prescriptions.

Chairman Patrick indicated the amount of the fiscal impact is unknown, since it is projected to potentially have a significant cost savings to the State Employee Health Insurance Program and Medicaid.

MOTION: **Senator Lakey** moved to send **RS 26711** to print. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Agenbroad passed the gavel back to Chairman Patrick.

UNANIMOUS CONSENT: **Senator Burgoyne** asked for unanimous consent to send the following RS's to print: **RS 26753 ; RS 26738 ; RS 26638 ; RS 26638 ; RS 26779 ; and RS 26762** . There being no objections, the motion carried by **voice vote**.

S 1008 **Relating to Electrical Contractors and Journeymen.** **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), reported this legislation provides an additional path to licensing.

DISCUSSION: **Senator Burgoyne** asked if there was any negative feedback and **Mr. Wing** reported there was none.

TESTIMONY: **John Eaton**, Idaho Association of Commerce and Industry, testified in support of this bill.

MOTION: **Senator Lakey** moved to send **S 1008** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1026 **Relating to Plats and Vacations and Recording of Surveys.** **Tom Judge**, Deputy Director, Surveying, Idaho Professional Engineers and Land Surveyors (IPELS), testified that the purpose of the survey narrative is to offer a rational summary of the evidence accepted and rejected and to ensure evidence is not missed or misinterpreted. He remarked the survey narrative will serve to perpetuate a record of the evidence considered and the principles applied in performing the survey. This will aid the public and future surveyors by making the record more clear and complete.

DISCUSSION: **Senator Thayn** inquired if the narrative required much more work or if it was a burden on surveyors. **Mr. Judge** stated there would be a brief period of adjustment; however, there is no measurable time added to plats, vacations, and recording of surveys. This helps prevent mistakes.

TESTIMONY: **Darin Taylor**, Mayor, City of Middleton, testified in support of this legislation. He remarked good surveyors already perform this type of summary to ensure the evidence is not missed or misinterpreted.

Glenn Bennett, IPELS, testified in support of this legislation. He noted that by writing a narrative, that changes the way of thinking and processing. This has changed his opinion of what he is doing and is a valuable process.

MOTION: **Vice Chairman Agenbroad** moved to send **S 1026** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1028 **Relating to Workers' Compensation First Responders, Post-Traumatic Stress Disorder (PTSD).** **Senator Winder** noted this bill identifies PTSD, or PTSI, as an occupational injury that affects Idaho's first responders. Under current law, a mental injury must be accompanied by a physical injury. This changes current statute that if a first responder has "clear and convincing" evidence of a physiological injury, the treatment would be handled through workers' compensation. There is a sunset clause of July 1, 2023.

Senator Winder remarked first responders see some horrific things, something beyond the ordinary, which can have a huge impact, and result in PTSD or PTSI.

DISCUSSION: **Senator Souza** and **Senator Winder** discussed the possibility of the rising cost of workers' compensation rising and if surrounding states have had any increase in expenses. **Senator Winder** stated there was not a significant impact.

Senator Lakey stated he had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote. He stated he was a member of the Board of the State Insurance Fund. **Senator Lakey** and **Representative Erpelding** discussed using the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) as a tool to diagnose PTSD. They determined that it was very hard to predict whether there would an increase in workers' compensation costs.

PRESENTATION: **Representative Erpelding** pointed out there has to be clear and convincing evidence which indicates that the PTSI was caused by an event or events arising out of, and in the course of, the first responder's employment. He reported that if someone was hired who already had PTSD, the State has established a secondary injury fund (fund). The fund would take care of this issue. He stated the idea was to have those who suffer from PTSD be treated and remain at work. **Representative Erpelding** noted that the first responder is examined and subsequently diagnosed with PTSI by a psychologist, a psychiatrist duly licensed to practice in the jurisdiction where treatment is rendered, or a counselor trained in PTSI. He referred to the definition of a first responder in the bill on page 2, line 35 (4) (b), which is all predefined in code. This is a critically important bill.

DISCUSSION: **Senator Lakey** queried if first responders would have to use sick leave or personal time off during treatment. **Representative Erpelding** explained if a first responder uses sick leave or vacation time for PTSI, it is considered personal time off. However, the goal is to keep the first responder on the job as much as possible.

Senator Souza asked if there were counselors in firehouses now. She stated she supported the legislation, but there are difficult situations that occur; many first responders have buried emotions and concerns, which takes a serious emotional toll on families. She pointed out there was a need for counseling and debriefing on an ongoing basis. **Representative Erpelding** affirmed there are resources available.

Chairman Patrick stated he had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote. **Chairman Patrick** noted that he is an advisory member of the Idaho Industrial Commission (IIC).

Senator Thayn remarked this proposed bill does not cover all who may suffer from PTSD. **Representative Erpelding** indicated there is a population of first responders who see a preponderance of traumatic injury. There is a sunset clause in this bill that expires in four years. Any reference to PTSD was removed from law in 1990. He stated he hoped to make this bill applicable to all in the future. Now is the time to introduce that to this population and demonstrate it will not be costly.

Senator Guthrie referred to the letter from Mayor Darin Taylor, City of Middleton (Attachment 1) and wondered if the bill could have a negative effect in addressing increased liability for the employer after the employee comes back to work. He queried if this diagnosis follows the employee. **Representative Erpelding** said he would defer to Rob Shoplock, Executive Vice President of the Professional Firefighters of Idaho (PFI) and Battalion Chief of the Eagle Fire Department, to explain during testimony how those who are struggling are handled.

TESTIMONY:

Patrick McDonald, former Idaho State Representative, testified in support of the bill. He reported he was in law enforcement for 44 years. He taught stress management and remarked that if PTSD is not treated it becomes worse. He outlined the symptoms. He emphasized a horrific incident is a shock to the conscious mind and is tremendously debilitating. However, PTSD is treatable.

Mr. Shoplock, PFI, testified in support of this legislation. He cited a catalyst behind this legislation started with the alarming number of suicides nationwide. A recent survey published in the *Journal of Emergency Medical Services*, found first responders were ten times more likely to commit suicide. Last year, 103 firefighters and 140 police officers committed suicide, which is triple the number of officers that were shot in the line of duty. He stated the study also suggests that the numbers may actually be 60 percent higher due to the lack of reporting from agencies over the last year in Idaho.

Mr. Shoplock stated first responders are more likely to be exposed to highly stressful situations throughout the course of employment when compared to an average employee across all occupations. The State of Texas concluded that there was no significant fiscal impact on local government relating to workers' compensation for similar legislation.

Mr. Shoplock indicated if there is any avenue to obtain help for first responders for mental injuries on the job, it is the responsibility of the employer to make sure help and assistance is given.

Dennis Doan, Boise City Fire Department (department) Chief, testified in support of the bill. He reported he has been trying to get coverage under workers' compensation for first responders since 1994. PTSD should be covered. He said that after an event, his department has a stress debriefing team available to help.

Darrel Enderin testified in support of the bill. He said his son, Matthew, who was a police officer and suffered from PTSD, committed suicide at the age of 40 on September 22, 2018. He remarked that the stigma of PTSD needs to be removed. First responders are protected with the proper equipment, but their minds are not protected. He said his son did not have to die if he had received treatment.

Darin Taylor, Mayor, City of Middleton, referred to his letter (Attachment 1), and asked for guidance to employers of first responders in order to plan staffing and budgeting.

DISCUSSION:

Senator Burgoyne and **Mr. Taylor** discussed impairment of a first responder whether it was PTSD or a back or knee injury. **Senator Souza** remarked she did not agree with Senator Burgoyne and that PTSD is different than a back injury; it cannot be measured as easily. **Senator Souza** stated PTSD must be treated with ongoing counseling in firehouses and police stations to discuss issues and to convince those employees to make an appointment with a professional. That takes a very assertive person and one of the hardest things to do is to admit there is a problem. She asked Mayor Taylor if there was a process in place during the interview that evaluates the stability of the applicant. **Mr. Taylor** replied in the affirmative, but explained there are not routine evaluations of employees during the period of employment. **Senator Burgoyne** remarked this bill does not create the injury, but rather the work creates the injury. Employers cannot escape the responsibility of dealing with these injuries.

TESTIMONY: **Lisa Johnson**, M. A., Counselor, testified in support of this bill and stated she specializes in PTSD and works with first responders. PTSD is highly treatable and it is much better for an employee to stay at work and receive support from fellow workers. There is an entire population who is not covered under workers' compensation for this disorder.

DISCUSSION: **Senator Lakey** and **Ms. Johnson** discussed whether it was harmful for PTSD sufferers to stay at work, the treatment involved, and whether the condition is curable. **Ms. Johnson** indicated it is possible to have a rapid remission of symptoms with the proper therapy. She uses cognitive behavioral therapy along with other methods. A PTSD employee needs more than one session, due to the challenge of continually being exposed to scenarios beyond the ordinary.

TESTIMONY: **Jeff Fanter**, Chief Deputy Coroner, Ada County Coroners and State Association of Coroners, testified in support of the bill and asked that coroners be added to this legislation due to the nature of their jobs.

Darby Weston, West Ada County Paramedics, testified in support of the bill. He related a story about a paramedic who responded to a car accident where the victim died. He realized the victim was the three-year old he met growing up who lived just over the fence. He was so traumatized that he left the Emergency Medical Services (EMS) and committed suicide within the year. He remarked if personnel are being exposed to these types of incidents on a continual basis, they need to be treated. Any time there is an event, a follow-up with a counselor is required. There is a peer support team who has been trained to help PTSD sufferers get help and remove the stigma.

MOTION: **Senator Thayne** moved to send **S 1028** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**. **Senator Ward-Engelking** remarked the legislators may want to add coroners in the future.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:50 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary