

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 13, 2019

TIME: 3:00 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator Harris

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 Martin** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 3:02 p.m.

GUBERNATORIAL REAPPOINTMENT HEARING: **Chairman Martin** welcomed Allan Schneider, under consideration for reappointment to the Commission for the Blind and Visually Impaired (Commission). **Mr. Schneider** shared that he was born and raised in South Dakota and went to college there. His career as an English teacher took him from South Dakota to Wyoming and the Canary Islands before moving to Idaho where has spent 25 years teaching in Emmett. He was very involved in the Emmett community, starting a community theater and other programs, before retiring to Boise. He hopes to continue to serve on the Commission because it changed his life so profoundly. There was a point in his life when he hesitated to go places because of his vision. With the training provided, he now has the confidence to participate in life fully and wants to give back to those people who have helped him so much.

Mr. Schneider outlined challenges that the Commission is currently facing: as Idaho's population ages, and grows, the Commission may not be able to serve everyone who needs assistance. To address this issue, the Commission recently defined policy for order of selection for services. The Workforce Innovation and Opportunities Act (Act) requires that 15 percent of program funding must be spent on transitioning students to the workplace so the Commission started counting schooling, driving students to college, time spent with counselors, etc., to meet that 15 percent goal.

DISCUSSION: **Senator Lee** asked Mr. Schneider what the Commission does that would make this Committee proud. **Mr. Schneider** shared that he is very proud of the staff. Their caseload keeps growing with Idaho's population growth, especially in the outlying regions which involves a lot of driving time. Their days are getting longer. They are very overworked, but just love their work and remain so enthusiastic.

RS 26867 **Senator Heider** introduced **RS 26867** and asked to send it to a privileged committee, stating it represents significant collaboration and rework of the previous legislation.

MOTION: **Chairman Martin** requested unanimous consent to send **RS 26867** to a privileged committee for printing. There were no objections.

REPORT: **Chairman Martin** instructed the Committee to review the status report on the Southwest Idaho Treatment Center (SWITC). The report outlines several steps: once the treatment model has been determined, the advisory board will recommend whether the Department of Health and Welfare (Department) is still the best agency to support this population. When decisions are made about who will be served and who will serve them, the Department would then determine what that facility should look like. Finally, a decision will be made about the property that the facility sits on. The lease agreement with the City of Nampa for the golf course expires in December of 2019.

DISCUSSION: **Senator Lee** expressed interest in bringing external expertise on board, given the history of unsuccessful internal plans.

Senator Jordan stated that the decision to possibly move SWITC from state management is a significant policy shift that should not be left to an advisory board.

Chairman Martin encouraged Committee members to collectively and individually provide input to Director Jeppesen and commended the Director's ability to quickly analyze and give direction to this issue.

H 8 **Roger Hales**, Administrative Attorney, Bureau of Occupational Licenses, presented **H 8**, relating to midwifery, on behalf of the Board of Midwifery (Board). This bill will clarify the Board's laws regarding medications that midwives can utilize and will simplify reporting requirements. The bill removes obsolete language from qualifications for licensure which are no longer applicable. There is an adjustment for tracking certain practice data. It further includes authorization to use anti-hemorrhagic agents (Oxytocin). The Board is also proposing one additional anti-bleeding medication, elimination of metered-dose epinephrine, and addresses Vitamin K administration. The bill requires that a licensed midwife facilitate immediate transfer to the hospital for certain conditions, one of which necessitates the administration of more than two doses of an anti-hemorrhagic agents. The Board of Medicine and the Board of Pharmacy reviewed the bill and did not object to the proposed changes. There is no fiscal impact to the General Fund or to the Board's dedicated funds.

Chairman Martin questioned Mr. Hales regarding the epinephrine auto-injectors, stating the auto-injector contains a pre-determined dose and wondered how that dose would be determined if unmetered. **Mr. Hales** responded that practitioners would follow the instructions or guidelines on the drug packaging.

MOTION: **Senator Lee** moved to send **H 8** to the floor with a **do pass** recommendation. **Vice Chairman Souza** seconded the motion. The motion carried by **voice vote**.

H 18 **Kevin Bittner**, Administrative Services Manager, Idaho Commission on Aging (Commission), presented **H 18**, relating to adult protective services. **Mr. Bittner** explained that this legislation was brought to provide statutory authority to implement the most effective adult protective services program to prevent or diminish abuse, neglect, and exploitation of vulnerable adults. The proposed changes clarify and expand what entities are authorized to provide service. Language has been deleted or more broadly defined. Language was changed from adult "protection" to adult "protective services" to remove the connotation associated with child protection and encourage the interpretation that the adult still has control over choices. The Affordable Care Act (ACA) appropriated \$50,000 to research, test, and identify the best adult protective service model to meet the needs of aging and vulnerable Idahoans. The ACA appropriation required state matching funds and the Commission was able to secure a \$600,000 competitive grant, to fully answer questions through pilot and demonstration projects. Amending statute to allow for other providers,

in addition to the current mandated agencies, will position the Commission to quickly implement the protective service model that best matches Idaho's needs.

MOTION:

Senator Heider moved to send **H 18** to the floor with a **do pass** recommendation. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

H 37

Ross Edmunds, Administrator, Division of Behavioral Health, Department of Health and Welfare (Department), presented **H 37**, relating to children's mental health services. **Mr. Edmunds** stated that this bill is a fairly simple change to the definition of serious emotional disturbance. Serious emotional disturbance describes a set of conditions that together, determine the severity of mental illness and its impact on a child's daily functioning.

Mr. Edmunds reviewed the three main components in the current statute related to the definition: 1.) there is a diagnosis; 2.) there is functional impairment; and 3.) it requires sustained treatment interventions. Functional impairment is the measure of how mental illness affects the child's ability to function at school, at home, and in the community. **H 37** establishes that diagnoses will be made using the Diagnostic and Statistical Manual and implements a uniform instrument that would be used to measure functional impairment. Through the settlement agreement on the Jeff D lawsuit, the Department has worked with the Department of Juvenile Corrections, County Juvenile Justice, the public school system, private providers, and families, and all stakeholders agreed that a standardized instrument is necessary. The plaintiffs recommended an instrument, the Department evaluated that instrument, and it is the instrument that the Department will be using. It is called the Child and Adolescent Needs Assessment and is the industry standard.

DISCUSSION:

Chairman Martin inquired if this is something that Idaho should be doing because it is good policy, regardless of the Jeff D Lawsuit. **Mr. Edmunds** replied that it is not just good policy, it is excellent practice to use a standardized instrument. The Department often finds itself in conflict when working with the court system in describing a child's needs. This bill creates a platform for communication in which all parties recognize the needs in the same way and use the same language.

Vice Chairman Souza inquired if the Diagnostic and Statistical Manual (DSM) included Attention Deficit Disorder (ADD) and Attention Deficit Hyperactivity Disorder (ADHD) as serious emotional disturbance. **Mr. Edmunds** replied that the qualifying diagnosis of serious emotional disorder can include any one of the diagnoses that exclude substance use disorders that stand alone, or developmental disabilities and disorders that stand alone. ADD is now included under the single category, ADHD. **Vice Chairman Souza** inquired, regarding the Jeff D Lawsuit, what the requirement was for isolating the adolescent, under 18 population in treatment, from an adult population. **Mr. Edmunds** confirmed that there are specific requirements and federal code under the licensing structure. The Jeff D Lawsuit was an outcome of commingled adults and children at State Hospital South which resulted in abuse. It was the Department's recognition that children and adolescents are at risk if commingled with adults in a facility that led to this policy.

Chairman Martin asked for clarification on the Jeff D Lawsuit, wondering why federal courts were involved rather than the state court system. **Mr. Edmunds** reported that the Jeff D Lawsuit was a federal class action suit, therefore the lawsuit applied federal codes to Idaho's practice.

Senator Lee understood from meetings with the Department that ADD and ADHD would not be included in the definition of serious emotional disturbance, rather only those diagnoses that resulted in serious disability requiring sustained treatment interventions, and asked Mr. Edmunds for clarification. **Mr. Edmunds** explained that most children with ADHD will never reach the level of functional impairment as measured through a standardized instrument to meet the definition of serious emotional disturbance; it is a matter of how a diagnosis impacts their ability to function successfully. **H 37** tightens the definition, it does not broaden the definition.

Senator Nelson noted that DSM references do not specify the current DSM V edition, simply the DSM. **Mr. Edmunds** explained that the general category DFM was used to cover subsequent iterations of the DSM without having to come back through the Legislature.

Senator Jordan requested assurance that the diagnosis itself will come through the DSM, but it is the standardized instrument that evaluates the severity of the diagnosis. **Mr. Edmunds** affirmed that it is specifically how the symptoms of a diagnosis impact a child's ability to be successful in defined areas of life. Having the standardized instrument standardizes the methodology used to measure that impact on their life. **Senator Jordan** asked why the standardized instrument used is not specifically identified in the legislation. **Mr. Edmunds** explained that the Department did not want to restrict the State of Idaho to the use of a single instrument should a new instrument come along that is more effective.

Senator Lee expressed interest in seeing the instrument identified in administrative rule and go through the negotiated rulemaking process. **Mr. Edmunds** replied that the Department did not place it in administrative rule and would consider that if needed, but preferred to maintain flexibility in selecting another instrument without undue delay if industry standards changed.

MOTION: **Senator Jordan** moved to send **H 37** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Martin** adjourned the meeting at 3:50 p.m.

Senator Martin
Chair

Margaret Major
Secretary