

MINUTES  
**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**DATE:** Thursday, February 21, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

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

**ABSENT/ EXCUSED:** Senator Burgoyne

**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.

**MINUTES APPROVAL:** **Senator Guthrie** moved to approve the Minutes of February 12, 2019. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**Senator Lakey** moved to approve the Minutes of February 14, 2019. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

**S 1069**

**Relating to Insurance Dental Services. Elizabeth Criner**, Idaho State Dental Association, reported this legislation will clarify current language in Idaho Code regarding dental insurance contracts and the treatment of covered and non-covered services. **Ms. Criner** outlined the changes, which included coverage of services, such as waiting periods, deductibles, co-payments, and coinsurance. **Ms. Criner** stated the bill adds language to ensure that a dental plan contracting with a dentist cannot set the rate for a procedure that is not covered as a service in the dental plan. She explained the bill provides language to further define when a service or procedure that has been covered becomes a non-covered service. There are two parts: 1.) the dental plan is no longer liable to pay for all or part of that service; and 2.) a patient has received dental services and procedures that equal 100 percent of the capped benefit or twice the value of the capped benefit. At that time, a dentist may choose to continue to provide services according to a plan's fee schedule or the dentist may charge the patient the lowest rate that a non-insured patient would be charged.

**Ms. Criner** noted the bill ensures there is discussion and notice between a dentist and patient when the patient's services become non-covered services due to the patient exceeding the capped benefit of 100 percent. Additionally, the language in the bill is intended to provide a reasonable time period for dental plans to make these changes to their contracts and would apply to any dental plan or contract which is issued after December 31, 2019.

**Ms. Criner** stated dental plans have capped benefits and once the benefit is exhausted, the plan has no responsibility to ensure the dentist is paid. In addition, when a patient gets to the point of exceeding their benefit of 100 percent, the patient usually asks the dentist to allow monthly payments, which the dentist has to finance.

**DISCUSSION:** **Vice Chairman Agenbroad** inquired how many patients would exceed the capped benefit. **Ms. Criner** responded only 7 percent fall into that category. **Vice Chairman Agenbroad** queried when a good time would be to discuss fees with a dentist. **Ms. Criner** reported benefits are capped and patients do not have unlimited benefits. Dentists want to be reimbursed.

**Senator Thayn** inquired as to what happened when costs exceed 100 percent. **Ms. Criner** commented the dentist has to make a choice whether to stay with a fee schedule or give a discount.

**TESTIMONY:** **Dr. Steve Bruce**, Doctor of Dental Surgery (D.D.S.), Idaho State Dental Association, testified in support of the bill and addressed Vice Chairman Agenbroad's questions. He remarked more and more patients exceed their benefits. He outlined the process for finding out benefits, discounts, and exceeding capped benefits. **Dr. Bruce** stated there are contracts between dentists and dental insurance companies, which are different than medical insurance contracts. Once an insurance company has paid the cap, they are done for the calendar year. The dentist bears the risks and costs. Uninsured cash-paying patients are paying more than they should and those with dental plans pay less. This bill ensures the dentist will have the right to work with a patient without being dictated by a dental plan.

**DISCUSSION:** **Senator Guthrie** and **Dr. Bruce** discussed average normal fees and the maximum a non-insured patient is charged.

**Senator Lakey** and **Dr. Bruce** discussed negotiating a service split and having a conversation about costs with the insurance company.

**Senator Souza** remarked that Senator Burgoyne was in support of the bill and referenced his email (Attachment 1). She commented Senator Burgoyne had an interesting idea, which was a concern about having the negotiated insurance rate in place past the 200 percent rate of service. He was concerned that normal rates would have to be charged for someone who has no insurance, and who would ultimately pay more. **Dr. Bruce** stated that was cost shifting. The Preferred Provider Organization (PPO) discounted negotiated fees have not changed in ten years. That is not fair to those who do not have insurance.

**Chairman Patrick** queried if this bill will help remedy the situation. **Dr. Bruce** remarked this bill gives dentists the ability to discuss costs with patients more freely. Currently, he does not have the choice to negotiate his fee. This bill is fair and equitable.

**TESTIMONY:** **Dr. Whitney Bator**, D.D.S., Idaho State Dental Association, testified in support of the bill. She acknowledged she has no choice but to participate in insurance. This bill gives her the right to negotiate fees with a patient.

**Dr. John Hisel**, D.D.S., Idaho State Dental Association, testified in support of the bill. He reported the cost of doing business is substantially different and dental plans do not pay any more than they did 30 years ago. He stated it was fair that a dentist could provide services at a discounted rate, which he did not have to negotiate. Cost shifting does happen, which squeezes people out of the market. Only 50 percent of the population has dental coverage. This bill provides protection to both the patient and the dentist.

**DISCUSSION:** **Senator Guthrie** stated that once the \$1,000 cap is reached, it is up to the patient to pay. He inquired what percent was bad debt. **Dr. Hisel** indicated bad debt was not separated out, but he thought approximately 20 percent was written off, which included bad debt, as well as the discount through the insurance company.

**MOTION:** **Senator Souza** moved to send **S 1069** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion.

**DISCUSSION:** **Senator Martin** remarked he perceives this is a bill for the benefit of the dentist and queried how it was a benefit to customers. **Ms. Criner** explained this is a bill for the doctor/patient relationship. The patient may need care after benefits are exhausted, but they can pay over time. Dentists are hoping to reduce cost shifts for those who do not have insurance.

**Senator Thayn** stated his son is a dentist and declared a conflict of interest pursuant to Senate Rule 39(H), but intended to vote.

**VOICE VOTE:** The motion to send **S 1069** to the floor with a **do pass** recommendation carried by **voice vote**.

**S 1097** **Relating to Insurance - Clinical Trials.** **Caiti Bobbitt**, Kootenai Health, reported the purpose of this legislation is to ensure that routine medical care costs will be covered by a patient's insurance plan while a patient is enrolled in a clinical trial. Clinical research is an essential element in advancing health care, improving patient outcomes, and reducing the cost of health care. Some insurance companies will see that a patient is enrolled in a clinical trial and deny all of their coverage. That means the emergency visit, the scans leading up to the diagnosis, the surgery itself, and the hospital stay will all be left for the patient to pay out-of-pocket. That is typically very costly. Sponsors of clinical trials are required by federal law to cover all research-related costs in a clinical trial. This legislation ensures that health benefit plans cover the costs for the same standard of care a patient would receive if they were not in a clinical trial, while not being required to pay for the costs of the trial itself.

**Ms. Bobbitt** remarked the trial sponsor will pay for the cost of the trial and care following the procedure. If the clinical trial sponsor is asking for additional care which a patient would not normally receive, the sponsor of the trial will pay for it. Most insurance providers already abide by this practice, but it is not known up front whether or not a claim will be denied. Patients with certain insurance providers are often not approached to participate in trials for fear their claim will be denied.

**DISCUSSION:** **Senator Guthrie** queried if complications resulting from clinical trials were covered by insurance. **Ms. Bobbitt** stated the insurance provider would not be liable.

**TESTIMONY:** **Sandra Albritton**, Researcher, Kootenai Health, testified the insurance company would not be liable.

**MOTION:** **Senator Souza** moved to send **S 1097** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**H 27** **Relating to Insurance - Dollar Rounding.** **Dean Cameron**, Director, Idaho Department of Insurance (IDOI), reported that currently, insurance companies report and pay premium tax, including cents. Considerable time and effort is spent by staff for insurance companies and the IDOI to prepare and audit tax returns and other reports to the specific penny. These efforts are not commensurate with the value gained by this level of detail. This legislation would require premium tax returns from insurers to be rounded up or down to the nearest whole dollar. A similar change is made to require surplus lines brokers to report and pay tax rounded up or down to the nearest whole dollar. **Mr. Cameron** noted there is potential for a relatively small fiscal impact to the General Fund. A calculation for tax year 2017 with premium tax collections of \$89,396,602.45 show an additional \$22.68 in revenue using the nearest whole dollar (49/50) rounding. He remarked there is now an electronic version, which is being used by insurance companies to report and pay premium tax. This bill will save hours for the IDOI staff and the carrier's staff.

- DISCUSSION:** **Senator Thayn** and **Mr. Cameron** discussed premium tax returns from insurers being rounded up and down.
- MOTION:** **Senator Guthrie** moved to send **H 27** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.
- H 108** **Relating to the Idaho Building Act. Brody Aston**, Idaho Association of Building Officials, remarked the purpose of the proposed change to Idaho Code § 39-4108 is to allow a period of up to six months after being hired for a building inspector or plan examiner to obtain the International Code Council (ICC) certifications. This legislation provides for situations when a certified building inspector must review and approve adverse actions deemed necessary by the newly-hired unlicensed building inspector. There was no opposition from any stakeholders.
- DISCUSSION:** **Vice Chairman Agenbroad** inquired how long it would take to become certified. **Mr. Aston** reported most study for the test two months and that the six months allowed to take the test should be ample time.
- Senator Thayn** queried how much basic training had to occur to become certified. **Mr. Aston** commented a building contractor or architect could be certified and hired.
- MOTION:** **Senator Martin** moved to send **H 108** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.
- H 7** **Relating to the Age Requirement - Nursing Home Administrator Licensure. Roger Hales**, Legal Counsel, Idaho Bureau of Occupational Licensing (IBOL), indicated the Idaho Board of Examiners of Nursing Home Administrators (IBENHA) is proposing legislation to specify the timeframe of nursing home administrators-in-training programs and to reduce the age requirement for licensure from 21 to 18 years of age. These changes will clarify the requirements of the nursing home administrators-in-training program and reduce a barrier to employment. There was no opposition from stakeholders and no impact to the General Fund.
- DISCUSSION:** **Vice Chairman Agenbroad** discussed the age requirement with **Mr. Hales. Mr. Hales** explained the IBOL decided the age requirement of 21 years old was not necessary if other qualifications were met. They discussed extenuating circumstances and that an individual could submit a request to the IBOL.
- Senator Thayn** remarked it was interesting that an 18-year-old would meet the requirement of having a bachelor's degree and qualify for employment. **Mr. Hales** remarked that typically a degree would be required and it would be a rare individual who could graduate at the age of 18 or 20.
- MOTION:** **Senator Guthrie** moved to send **H 7** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.
- H 46** **Relating to Certified Shorthand Reporters. Rob McQuaid**, Legal Counsel, Idaho Bureau of Occupational Licensing (IBOL), stated the Idaho Certified Shorthand Reporters Board (ICSRB) is proposing legislation to add the Certified Realtime Captioner (CRC) exam to the list of ICSRB approved exams, to allow online exam testing, and to provide a pathway to licensure by endorsement for applicants that have passed a national exam and have been working for three of the past five years in another state. This legislation will provide more flexibility to applicants and licensees, provide additional pathways to licensure for out-of-state applicants, and enhance portability between Idaho and other states. There was no opposition from stakeholders. There is no impact to the General Fund.

**DISCUSSION:** **Senator Lakey** inquired as to the use of the word "may" instead of "shall" in the bill. **Mr. McQuade** said the IBOL Board has committed to acquiring more licensees and using "may" gives the IBOL Board the ability to stop and do some more investigating.

**Senator Martin** stated his daughter-in-law was a court reporter and he had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote.

**MOTION:** **Senator Martin** moved to send **H 46** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:31 p.m.

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Senator Patrick  
Chair

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Linda Kambeitz  
Secretary