

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, January 25, 2021

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Martin, Vice Chairman Riggs, Senators Heider, Lee, Harris, Agenbroad, Zito, Stennett, and Wintrow

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 Martin** called the meeting of the Senate Health & Welfare Committee (Committee) to order at 3:00 p.m.

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

DOCKET NO. 41-0101-2000 **Rules of Idaho Public Health District #1**, p. 74. **Joe Righello**, Division Administrator, Panhandle Health District (PHD), introduced himself to the Committee and introduced Lora Whalen to present opening remarks. **Lora Whalen** Director, PHD, introduced herself to the Committee. **Ms. Whalen** mentioned PHD Program Managers Erik Ketner and Mary Rehnberg were also present, along with representatives from the Idaho Department of Environmental Quality (DEQ). **Ms. Whalen** advised the omnibus docket is before the Committee because both houses of the Legislature failed to adopt a concurrent resolution to extend the rules in 2020 as required by Idaho Code § 39-416. She added both the Idaho House and Senate reviewed and separately approved the rules last year. **Ms. Whalen** advised PHD received multiple letters of support from various local stakeholders for both sections of the rule and listed the stakeholders for the Committee.

Mr. Righello explained the omnibus rule consists of one chapter that is unchanged from the 2020 rule. PHD reviewed the rule in 2019 and again in 2020 to eliminate outdated or unnecessary language. He highlighted the reduction in restrictive language and word count of the rule. **Mr. Righello** commented PHD exceeded the Governor's goals to reduce unnecessary regulatory burdens while maintaining a consistent level of environmental health protection of North Idaho's citizens.

Mr. Righello described two environmental issues unique to the PHD that are addressed in the docket. He explained the Bunker Hill Superfund Site Institutional Controls Program (ICP) is federally mandated to address contamination from past mining activity in the Silver Valley and Coeur d'Alene River Basin. **Mr. Righello** observed the PHD was selected to implement the program through a multi-year public engagement process, and the program is funded by settlement funds from mining companies. **Mr. Righello** listed the services provided by the ICP: 1.) monitoring and maintaining barriers installed over contaminants; 2.) operating a Lead Health Intervention Program; 3.) offering free environmental property disclosures; and 4.) providing free local disposal for contaminated waste materials.

Mr. Righello explained the second section of the docket pertains to the Rathdrum Prairie Aquifer (RPA) and was created to address groundwater degradation. He added the RPA is the sole source of drinking water for over 120,000 Idaho citizens and is susceptible to contamination due to its overlay of porous sands and gravel. **Mr. Righello** stated RPA is the only sole-source aquifer in Idaho not polluted by nitrates. He pointed out the services offered by PHD: 1.) providing education, technical assistance, and outreach to businesses on best practices for chemical handling and storage; and 2.) monitoring RPA water quality in partnership with DEQ. **Mr. Righello** noted both the ICP and RPA programs are locally managed and locally funded, and the RPA program is self-supported through local funding.

Chairman Martin asked if PHD conducted any public hearings on the docket or if PHD officials felt public hearings were unnecessary. **Mr. Righello** answered PHD went through the rulemaking process in 2019, including a public hearing, and there was no public comment. He added the process was not repeated this year because the rule is identical.

MOTION:

Senator Lee moved to approve **Docket No. 41-0101-2000**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
16-0000-2000F**

Department of Health and Welfare (Omnibus), p. 5. **Tamara Prisock**, Administrator, Division of Licensing and Certification, Idaho Department of Health and Welfare (DHW), introduced herself to the Committee. She said the docket adopts and republishes DHW's 17 existing fee rule chapters, which were not reauthorized in 2020. **Ms. Prisock** stated only Chapters 16-0309 and 16-0506 contain changes. She mentioned the Governor's Executive Order 2020-13 required agencies to review all temporarily waived rules to determine any that could be permanently waived. **Ms. Prisock** explained Section 116.02.a in Chapter 16-0309 eliminates the requirement that half of all annual training for Certified Family Home providers be interactive. She added Section 116.04 was also changed to align the rule with the change to Section 116.02.a. **Ms. Prisock** observed that relaxing the delivery method does not affect the content of acceptable training topics, which must be relevant to care, services, and supervision of residents, with at least half of the training specific to the needs of admitted residents in that home. She added it is difficult for many providers to access interactive training, and removing the requirement will give providers flexibility in obtaining the required eight hours of annual training without negatively impacting care. **Ms. Prisock** introduced Fernando Castro to present the changes to Chapter 16.0506.

Fernando Castro, Program Supervisor, Criminal History Unit, Bureau of Compliance, DHW, introduced himself to the Committee. He noted DHW engaged with stakeholders last year, and two changes to Chapter 16.506 are the result of their discussions. **Mr. Castro** stated Subsection 101.03.b adds the new State Hospital West to the list of facilities whose employees are required to receive a DHW clearance. He noted the change will prepare DHW to process employee background checks at DHW's newest psychiatric treatment facility when it opens. **Mr. Castro** reported the second change adds the crime of female genital mutilation, as defined in Idaho Code § 18-1506B, to the list of disqualifying offenses in Subsection 210.01.t. He commented victims of this crime are children under age 18 and the crime is a felony, with the penalty being life imprisonment. **Mr. Castro** observed DHW held negotiated rulemaking meetings with over 200 participant stakeholders regarding the addition of this disqualifying crime, and no one expressed opposition. He added there is no fiscal impact to the State General Fund or dedicated funds.

DISCUSSION:

Chairman Martin inquired of Ms. Prisock whether the interactive training requirement was waived due to COVID-19 or to make it easier for the providers or DHW. **Ms. Prisock** responded DHW temporarily waived certain rules at the outset of the pandemic, and during the time of the temporary waiver, DHW did not identify any concerns regarding training quality or resident safety. She commented DHW learned that the method of accessing training is less important than the training content. **Ms. Prisock** replied DHW's goal is to facilitate provider access to required training, and there is little impact on DHW. **Chairman Martin** asked for confirmation that the new training protocol does not cause any known safety concerns. **Ms. Prisock** answered DHW believes the change will result in no negative impact to care in certified family homes. She affirmed that training requirements must be related to the conditions of the residents served, and the method of accessing training does not impact training quality.

Senator Wintrow asked Mr. Castro how the list of disqualifying offenses is developed and mentioned some of them make sense to her. **Mr. Castro** explained the background check program has been in existence for nearly 16 years, and when it was first implemented, the federal government designated certain disqualifying crimes. He added that DHW does a strict review of Idaho Code after each Legislative Session to identify crimes affecting vulnerable populations, and DHW engages with the Idaho judiciary to learn the frequency of the crimes and the punishment adjudicated for convictions. **Mr. Castro** mentioned he hasn't seen any prosecutions for female genital mutilation. **Senator Wintrow** asked if misdemeanor vehicular manslaughter is a disqualifying crime. **Mr. Castro** answered yes and pointed out the crime appears as a five-year disqualifying offense on page 234 of the docket. **Senator Wintrow** stated she received questions about this particular disqualifying crime and asked the connection to someone performing nursing duties in a certified family home. **Mr. Castro** noted the program makes background checks portable, and a clearance for one purpose may be used for other DHW requirements. He commented it might have some significance for a nurse who wants to become a foster parent or first responder, for example. **Mr. Castro** added DHW has been thoughtful in determining disqualifying offenses and the length of disqualification. **Senator Wintrow** inquired whether an applicant can appeal a denial and request a review of the circumstances. **Mr. Castro** responded in the affirmative and added the DHW's appeal process is located on page 231 in Subsection 200.03.

Chairman Martin referred to page 234 and the reference to a sealed record in Subsection 210.02.d, and he asked whether DHW can unseal a record and look at it, or if the simple fact of a sealed record is a red flag. **Mr. Castro** replied DHW does not have blanket authority to look at every sealed case, but Idaho Court Administrative Rule 32 allows DHW to have access to sealed adult and juvenile criminal cases.

TESTIMONY:

Maggie Goff, representing herself, testified in opposition to the change removing the requirement for interactive training. She gave the example of a cardiopulmonary resuscitation class and stated it is very helpful to have in-person instruction.

MOTION:

Chairman Martin moved to approve **Docket 16-0000-2000F**. **Senator Heider** seconded the motion. The motion carried by **voice vote**. **Senator Zito** asked to be recorded as voting nay.

**DOCKET NO.
16-0307-2001**

Home Health Agencies, p. 4. **Ms. Prisock** described the functions of home health agencies and reported there are 86 licensed home health agencies in Idaho. She distinguished between home health agencies and personal care or home care agencies, which do not require Idaho licensure. **Ms. Prisock** explained DHW waived 107 rules during the COVID-19 pandemic, including the requirement that only physicians could order home health services and monitor treatment, thus allowing licensed independent practitioners to perform these functions. **Ms. Prisock** referred to the Governor's Executive Order 2020-13 and stated the changes in the docket will make the temporary waiver permanent and align State licensure requirements with federal regulations. She noted the rule adds a new definition of licensed independent practitioner on page 7 and pointed out the remaining changes in the docket replace the word "physician" with "licensed independent practitioner."

Chairman Martin inquired how long the temporary waivers have been in effect. **Ms. Prisock** stated the rule was first temporarily waived in May. **Chairman Martin** asked if the change has been working well since that time or if any problems have been identified, and if the change needs to be reviewed in the future. **Ms. Prisock** responded the home health industry is thrilled about the change because limiting treatment orders and service monitoring functions to physicians can create bottlenecks in care. She opined the change will result in greater availability of practitioners and expanded access to health services statewide.

MOTION: **Senator Lee** moved to approve **Docket No. 16-0307-2001**. **Senator Agenbroad** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:** Vice Chairman Riggs passed the gavel back to Chairman Martin.

RS 28159 **Relating to Public Assistance.** **Matt Wimmer**, Administrator, Division of Medicaid, DHW, introduced himself to the Committee. He explained the proposed legislation deletes references to obsolete programs in Idaho Code §§ 56-209m, 56-236, 56-241, and 56-242, including a time-limited weight management pilot program and a premium assistance program that predated the Idaho Health Insurance Exchange. **Mr. Wimmer** added there is no fiscal impact to any fund because the programs are no longer in operation.

MOTION: **Senator Heider** moved to send **RS 28159** to print. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL
REAPPOINTMENT:** **Committee Consideration of the Gubernatorial Reappointment of Sue Walker to the Commission for the Blind & Visually Impaired (Commission)**, of Boise, Idaho, to serve a term commencing July 1, 2019, and expiring July 1, 2022. **Ms. Walker** introduced herself to the Committee and gave a brief overview of her background and history of her service on the Commission. She provided an overview of the Commission's programs and commented she has learned a great deal about laws and regulations pertaining to the Commission. **Ms. Walker** stated she looked forward to continuing her service.

Senator Lee expressed her appreciation for Ms. Walker's service and commented it was interesting to hear the impact on those receiving services from the Commission. **Senator Lee** asked Ms. Walker to share an upcoming opportunity or challenge at the Commission. **Ms. Walker** replied she enjoys the work done with adolescents and younger students with visual impairments, some who begin to learn Braille as young as 4 years of age. She commented it is amazing to see how the Commission helps students develop self-confidence through difficult teenage years so they are ready to go to college.

Chairman Martin asked Ms. Walker to discuss her work with the Southern Poverty Law Center (SPLC). **Ms. Walker** described the work of the SPLC to assist underserved populations with unrecognized rights. **Chairman Martin** inquired how long Ms. Walker has served on the Commission. **Ms. Walker** responded her first term began in 2016. **Chairman Martin** thanked Ms. Walker for her willingness to serve and advised the Committee would vote on her reappointment at its next meeting. **Ms. Walker** stated it has been an honor to serve and hoped to be reappointed.

RECESSED: **Chairman Martin** advised the Committee that Dr. Timothy Rarick was not available until 4:00 p.m. and recessed the meeting at 3:49 p.m.

RECONVENED: **Chairman Martin** reconvened the meeting of the Committee at 4:00 p.m.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Dr. Timothy Rarick to the Board of Health and Welfare (Board)**, of Rexburg, Idaho, to serve a term commencing January 1, 2021, and expiring January 1, 2025. **Dr. Rarick** introduced himself to the Committee and provided a brief overview of his background and history of service on the Board. He mentioned his position as a professor at Brigham Young University-Idaho, where he teaches child development, and marriage and family studies.

Senator Lee asked Dr. Rarick to comment on an upcoming challenge or opportunity for the Board. **Dr. Rarick** replied 2020 was an obvious challenge, and DHW was a key department to advise the Governor on decisions related to COVID-19. He stated humans need social, emotional, and cognitive development in addition to healthy physical development. **Dr. Rarick** opined DHW has appropriately balanced these aspects while trying to minimize the effects of the virus.

Chairman Martin noted Dr. Rarick has given several lectures on the importance of fatherhood and asked him to speak to this issue. **Dr. Rarick** responded he has reviewed considerable research and spoken many times at the United Nations and in foreign countries on the importance of fatherhood. **Dr. Rarick** commented father-daughter relationships are important to promote gender equality and healthy development of women and girls. He added that fathers are critical for optimal child development, but policy decisions often ignore this fact. Children are struggling because of societal issues that temporarily or permanently separate them from their fathers, he said. **Dr. Rarick** affirmed families should be strengthened and not replaced. He observed fathers are too often viewed as optional, replaceable, and laughable, especially in the media.

Chairman Martin stated he is a non-voting member of the Board and expressed his appreciation for Dr. Rarick's work. He advised the Committee would vote on the reappointment at its next meeting.

ADJOURNED: There being no further business at this time, **Chairman Martin** adjourned the meeting at 4:10 p.m.

Senator Martin
Chair

Jeanne Jackson-Heim
Secretary