

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, April 07, 2021

TIME: 2:00 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator Zito

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 2:02 p.m.

Chairman Martin changed the order of the agenda to begin with **H 316**.

H 316 **Relating to Public Health Districts (continued from March 18, 2021).**

TESTIMONY: **Brian Whitlock**, Idaho Hospital Association, testified in opposition to **H 316**. **Mr. Whitlock** expressed concerns about the policy changes in the bill and resulting shift in costs to Idaho hospitals. He provided data on county indigent care (IS) expenses (see Attachment 1) and mentioned IS expenses are increasing despite Medicaid expansion.

DISCUSSION: **Chairman Martin** asked for an estimate of the cost shift to Idaho hospitals. **Mr. Whitlock** responded that the bill involves a significant policy shift, and there is insufficient data to understand the financial impact of the bill. He estimated the bill would result in \$30-\$38 million in additional costs to Idaho hospitals. **Mr. Whitlock** stated the bill is contrary to Idaho Code Chapter 35, Title 31.

Senator Agenbroad inquired how much additional reimbursement the hospitals received in 2020 as a result of Medicaid expansion. **Mr. Whitlock** responded that he couldn't answer that question because 2020 data will not be finalized until later this year. He added the Idaho hospitals benefited from Medicaid expansion but incurred additional costs due to the pandemic.

Senator Heider asked for clarification on Mr. Whitlock's statement that IS costs are increasing. **Mr. Whitlock** explained that hospitals submit fewer IS claims to Idaho counties because the cost of submitting claims often exceeds the benefit. He noted that Idaho hospitals consider themselves partners in indigent care and absorb some charges as bad debt or charity care. **Mr. Whitlock** reported that Idaho hospitals wrote off \$361 million Statewide in 2019.

Senator Stennett asked for confirmation on the amount of anticipated cost shift to Idaho hospitals. **Mr. Whitlock** replied the most recent number is \$38 million, which did not include the effects of the pandemic. **Senator Stennett** questioned why counties would choose to partner with public health districts if the bill passes. **Mr. Whitlock** answered that the effect of the legislation on the operation of public health districts is unknown.

Senator Wintrow inquired about the impacts of the pandemic and rapid population growth on IS. **Mr. Whitlock** responded that Idaho hospitals expect a 10-80 percent reduction in margins as a result of the pandemic. He said hospitals would be unable to absorb an unbudgeted cost shift if the bill passes with an emergency clause making the legislation effective upon the Governor's signature.

TESTIMONY: **David Lehman**, representing Bingham Memorial Hospital (BMH), testified in opposition to **H 316** because Idaho hospitals would suffer financially without IS for care of involuntary commitment and jail inmate patients. He reported that nine Bingham County jail inmates were treated at BMH for COVID-19, and BMH was responsible for their care. **Mr. Lehman** commented that the policy issues in the bill are important, but there has been insufficient Statewide discussion regarding responsibility for paying the cost of involuntary commitments and inmate care.

DISCUSSION: **Senator Lee** asked how many of the nine inmates were not eligible for Medicaid. **Mr. Lehman** responded that BMH covered the costs of inmate care with Coronavirus Aid, Relief, and Economic Security Act money. He added that one inmate died but did not apply for Medicaid prior to passing away. **Mr. Lehman** observed that a hospital cannot require a patient to apply for Medicaid.

Senator Stennett inquired whether the bill would result in an increased number of behavioral health patients presenting at emergency rooms. **Mr. Lehman** responded that behavioral health costs are increasing, and there is potential for more patients to go to critical care hospitals for treatment. **Senator Stennett** asked how long the hospitals would need to implement the changes in the bill. **Mr. Lehman** answered that the hospitals recognize the need to reduce State responsibility for indigent care and are willing to negotiate the implementation date, but he did not know the necessary time for a transition period.

TESTIMONY: **Micky Moyers**, CEO, Intermountain Hospital (IH), testified in opposition to the bill because of possible financial failure of health care facilities due to the unknown shift in costs. **Mr. Moyers** commented that the bill's emergency clause will not allow sufficient time for hospitals to prepare. **Mr. Moyers** added that IH treated 3,761 patients in 2020. He explained that some patients cannot provide information to apply for Medicaid due to their mental illness, and others cannot afford insurance. He said the bill will result in increased patient risk and burden on the criminal justice system.

DISCUSSION: **Senator Wintrow** asked for a description of the involuntary commitment process and how costs are paid. **Mr. Moyers** responded that medical or law enforcement personnel bring behavioral health patients to a hospital. The hospital ascertains whether the patient is covered by private insurance and assists him or her in applying for Medicaid if the patient is willing or able to cooperate, he said. **Mr. Moyers** reported that a patient on an involuntary mental health hold cannot be released from care until an examiner approves or a court orders the discharge.

Senator Lee inquired how many of the 3,761 individuals who IH treated in the past year applied for IS and how their care was paid. **Mr. Moyers** replied that care is typically paid by private insurance, Medicaid, IS, or charity, and IS paid approximately 7.5 percent in 2020. **Senator Lee** asked if an unwilling patient can be forced to apply for IS. **Mr. Moyers** answered that IH has a contract with the Idaho Department of Health and Welfare (DHW) that stipulates how IH will be reimbursed for patients on an involuntary hold.

Senator Martin asked if **H 316** would affect the relationship between IH and DHW. **Mr. Moyers** responded that the bill would likely nullify the contract.

TESTIMONY: **Kevan Finley**, CEO, Cottonwood Creek Behavioral Hospital (CCBH), testified in opposition to **H 316**. **Mr. Finley** stated the bill would negatively impact CCBH, other hospitals, crisis centers, and law enforcement operations. He provided a brief overview of his background and experience with behavioral health care. **Mr. Finley** advised that the bill would result in law enforcement transporting a patient to a critical care hospital or to jail. He reported that a 24-hour involuntary hold often lasts a minimum of 72 hours and the patient must wait to be released by an examiner, even if the patient is safe to be discharged sooner. He added that Idaho law pertaining to behavioral health should be updated prior to implementing **H 316**.

Rod Beck, Chair, Ada County Board of Commissioners, testified in opposition to **H 316** because the bill would remove a public health district (PHD) from county supervision while counties would pay almost all of a PHD budget. **Mr. Beck** added that the bill does not describe a process for hiring or terminating employees. He noted the bill limits the number of PHD trustees who can serve from the same county, which is unfair to a county that pays the majority of a PHD budget. **Mr. Beck** stated that county commissioners are not allowed by law to review property tax exemptions for hospitals, while other nonprofits requesting a property tax exemption must prove they provided charitable services equivalent to the exemption they seek. He suggested that counties should receive data from the hospitals on the amounts of their charitable services.

Senator Stennett asked about the financial impact of the bill on Ada County's budget. **Mr. Beck** referenced data reflecting that Ada County would save \$4.4 million from the passage of **H 316**. He mentioned that Ada County presently provides coroner services to multiple counties and American Indian tribes, and could easily manage operation of a PHD. **Senator Stennett** inquired why Ada County would need a separate PHD if it already pays 90 percent of a PHD budget. **Mr. Beck** responded that PHD services are necessary, especially in smaller counties, and it would be easy to develop a cooperative agreement with those counties.

Michael Rawdan, Senior Director, Revenue Cycles Department, St. Luke's Health Systems (SLHS), testified in opposition to **H 316**. **Mr. Rawdan** explained SLHS's involvement in managing charity services and health benefit programs, and helping patients explore benefit programs. He stated that IS is the last choice for reimbursement due to the time involved to submit an application and shepherd it through the process. **Mr. Rawdan** said that patients who neglect primary health care often use expensive emergency room services, which increases the burden on hospitals.

Senator Stennett asked how someone who does not qualify for Medicaid would be able to sign up for health insurance on Idaho's health insurance exchange, Your Health Idaho, if the bill went into effect immediately upon the Governor's signature. **Mr. Rawdan** noted that patients who cannot sign up for insurance outside the open enrollment period will impose the cost of medical emergencies on the hospitals.

The Committee received written testimony in opposition to **H 316** from Brittany Shipley, Executive Director, National Alliance on Mental Illness Wood River Valley, because of the bill's negative impacts on patients with mental health conditions who cannot afford to pay for their own treatment.

DISCUSSION: **Representative John Vander Woude**, District 22, addressed concerns raised in testimony. He commented that the Idaho hospitals provided budgetary data from a period prior to Medicaid expansion and the existence of the health insurance exchange. He added that the bill would not stop hospitals from collecting payments from patients, and hospitals will not be forced to write off all charges. **Representative Vander Woude** stated his willingness to amend the bill to delay its effective date to January 1, 2022. He noted that hospitals did not contact him to the discuss the bill at any time after it was heard in the House.

Chairman Martin suggested revisiting the proposed legislation in 2022 to allow for receipt of the 2020 data. **Representative Vander Woude** answered that he would be opposed to that approach.

Chairman Martin requested that Seth Grigg, Idaho Association of Counties (IAC), respond to a question from Senator Stennett.

Senator Stennett asked if the counties agreed to support **H 316**, and she also asked about the strength of their support. **Mr. Grigg** responded that the 15-member IAC Legislative Committee voted unanimously on behalf of IAC to support **H 316**, although representatives from some counties disagreed. He pointed out that the IAC holds weekly Zoom calls during the Legislative Session, and only four county representatives raised concerns about logistics of the PHD portion of the bill.

Senator Stennett inquired how the PHDs would function if counties decide to separate from PHD membership. **Mr. Grigg** replied that a statute change would be required for a county to separate.

Senator Wintrow expressed concern about unintended consequences of the legislation and inquired why some parts of the bill appear to be unrelated to each other. **Mr. Grigg** responded that the option presented in **H 316** is the best option for county involvement to pay for Medicaid expansion, and all components of the bill are connected and necessary. He mentioned that the IAC is not opposed to extending the implementation date, but other amendments to the bill could negatively impact taxpayers by requiring counties to pay additional PHD costs.

Chairman Martin recognized **Michael Kane**, representing the Idaho Association of District Boards of Health, to respond to Senator Wintrow's concerns.

Mr. Kane explained the language in the bill regarding PHDs is needed to unwind the relationship between the State and the PHDs, especially the State's current ability to delegate functions to the PHDs.

Senator Stennett mentioned the South Central Public Health District board's vote on **H 316** was divided, and she asked for clarification on the PHDs' positions on the bill. **Mr. Kane** responded that he represents all seven PHD boards of trustees, and all voted to support it.

MOTION: **Senator Lee** moved to send **H 316** to the 14th Order of Business for possible amendment. **Vice Chairman Riggs** seconded the motion.

DISCUSSION: **Senator Lee** noted that she voted to expand Medicaid and to establish crisis centers, but she will not vote for another IS program. She observed the IS program is flawed and must be fixed in a disruptive fashion. **Senator Lee** noted that sending the bill to the 14th Order of Business will force the parties to work together on a solution.

Senator Wintrow mentioned that she wants to help negotiate a solution. She added that it will be important to craft the correct amendments without rushing at the end of the Legislative Session.

Senator Lee stated that she had a conflict of interest pursuant to Rule 39(H) but intended to vote.

Senator Harris stated that he had a conflict of interest pursuant to Rule 39(H) but intended to vote.

VOICE VOTE: The motion to send **H 316** to the 14th Order of Business for possible amendment carried by **voice vote**. **Senator Stennett** requested that she be recorded as voting nay.

MINUTES APPROVAL: **Chairman Heider** moved to approve the Minutes of March 15, 2021. **Senator Agenbrood** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Martin** adjourned the meeting at 3:16 p.m.

Senator Martin
Chair

Jeanne Jackson-Heim
Secretary