

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, March 09, 2023

TIME: 2:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman VanOrden, Vice Chairman Zuiderveld, Senators Lee, Bjerke, Wintrow, and Taylor

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 VanOrden** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 3:05 p.m. She announced a change in the order of the agenda.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Dan Schmidt to the Board of Health and Welfare**, for a term commencing February 14, 2023 and expiring February 13, 2027. Mr. Schmidt gave an overview of his background as a current family physician, and had previously served in the Idaho State Senate for 6 years.

DISCUSSION: **Senator Wintrow** asked what were some of the biggest concerns that the Department of Health and Welfare would need to address in the upcoming years. **Mr. Schmidt** replied he found interest in the report from the Office of Performance Evaluations (OPE), and would like to review how Medicaid paid for those services, the trustees, and the benefit payments.

H 63 COUNSELORS AND THERAPISTS - Adds to existing law to provide that no counselor or therapist will be required to counsel or serve a client regarding goals, outcomes, or behaviors that conflict with the sincerely held principles of the counselor or therapist. Representative Julianne Young explained the bill provided conscience protections for Idaho counseling professionals, and ensured that counselors could be transparent about their values. The 2014 American Counseling Association (ACA) Code of Ethics contained a significant shift stipulating that counselors refrained from referring prospective and current clients based solely on the counselor's personally held values, attitudes, beliefs and behaviors. It required counselors to support client goals that are in direct conflict with the counselor.

DISCUSSION: **Senator Wintrow** inquired as to how a counselor would know if they were counseling someone whose outcomes or behaviors would be in conflict. **Representative Young** replied there would be some discussion about why they were seeking care, and whether they should move forward. **Senator Wintrow** inquired when counseling an individual and something came up, could the counselor ethically terminate that relationship and make a referral to another counselor. **Representative Young** replied it would work the same as the current referral process.

Senator Taylor asked if there was a recent change to the profession that justified a right of conscience on behalf of the therapist, as he did not see the verbiage referred to in the ACA Code of Ethics. **Representative Young** answered she did cover that change in her introduction when she referred to the ACA Code of Ethics in 2014.

TESTIMONY:

Chad Yates, Idaho Counseling Association, testified in opposition of **H 63**. He stated if this bill were passed, he believed it would violate their counseling code of ethics, as they had training to refer clients under necessary conditions, and to work effectively with clients who had different beliefs and value systems.

Monique Barber testified in opposition of **H 63**. She stated how to balance sincerely held principles with effective counseling was taught in accredited graduate programs and were required in ongoing education. She believed it promoted unethical and unprofessional behavior that had the potential to cause harm, promote discrimination, and had a disproportionately negative impact on rural Idahoans where there were fewer mental health practitioners.

Peggy McFarland testified in support of **H 63**. She explained that therapists who trained Medicaid children were required to assess them birth to age 18 for sexual orientation, gender identity and expression. Parents were not informed that these questions were being asked when a child's self-diagnosis and new gender identity therapists were required to use a critical race theory gender affirming model to help that child transition socially and medically. Parents who disagreed were labeled as oppressive and discriminatory.

Lianna Erickson-Trembath testified in opposition of **H 63** based on the 2014 ACA Code of Ethics, section 11, 'Values Within Termination and Referral. Counselors are to refrain from referring prospective and current clients based solely on the counselor's personally held values and attitudes, beliefs and behaviors'. She stated it was her ethical responsibility to work with all clients who requested services just as a doctor or nurse did not have the right to refuse service to patients who verbalize different beliefs, politics, religion, sexual orientation, or any other personal belief system.

Dr. Bethany Townsend, President, Idaho Association for Counselor Education and Supervision, testified in opposition of **H 63**. She stated that not only did this violate the ACA Code of Ethics, it would effect the healing of the client if the counselor were to terminate that relationship because of something they didn't agree with.

DISCUSSION:

Senator Bjerke asked when the ACA code of Ethics was last updated. **Dr. Townsend** replied in 2014.

TESTIMONY:

Amanda Arnold testifies in opposition to **H 63**. She stated not only did this legislation pose significant risks to client welfare, but it was also unnecessary. Counselors already had the ability to ethically refer clients to another provider if they did not believe they had the necessary skills or training to work with that particular client.

Holly Humphreys testified in support of **H 63**. She stated it protected the therapist, the client, the families, evenly and equally, regardless of what they believed.

Cameron Baxter testified in support of **H 63**. He stated by forcing the counselor to provide services contrary to their core values impeded them from exercising their best judgment and ensuring best practices for protecting the interests and needs of their clients.

Brian Smith testified in opposition of **H 63**. He stated many of those clients were already at a significantly higher risk for self-harm and suicide. The lack of trust in the counseling profession, which would accompany passage of this bill, would only worsen their situation.

Joy Huffman testified in support of **H 63**. She stated because people seeking treatment deserve a transparent choice in their mental health care. She believed that forcing counselors to treat clients who had goals that conflict with their deeply held beliefs would be a deterrence in drawing counselors into the profession. We did not need another wave of health professionals who were hampered or driven from the profession because they were being forced to render treatment that went against their sincerely held beliefs during the pandemic.

DISCUSSION: **Senator Lee** asked if her code of ethics, as a nurse, required her to treat people who had behaviors that she were offended by or had a deeply held conscience against. **Ms. Huffman** replied that was different where counselors actually needed to be able to have goals in mind for their clients that they were treating so they could help them attain those goals to the very best of their ability.

TESTIMONY: **Heather McPhie** testified in support of **H 63**. She stated she had deliberately sought counselors and therapists who had sincerely held principles and professionals who were firmly converted to specific principles.

Mark Hand testified in support of **H 63**. He stated he needed protection from other professionals and systems that were becoming increasingly intolerant to any belief, ideal or conviction that would not align with the cookie cutter approach to practice.

DISCUSSION: **Senator Bjerke** asked what the impending issue was that he was worried about when breaking off that relationship and referring that claim. **Mr. Hand** stated he was not necessarily in fear of anything that had to do with his relationship with his client. What this bill enableh him to do was talk to other providers that he worked with and explain why it would benefit the client to refer them to another provider.

Senator Bjerke asked if it was about the possibility of not having the personal freedom of speech to express to another provider or a fellow clinician his thoughts on the clinical outcome or potential of that client. **Mr. Hand** replied yes. His experience at grad school showed it had become intolerant in some of those professions. He would want to speak freely without fear of losing his job or license.

Stephanie Alvarez registered in support of **H 63**. She found it difficult to be forced to operate in certain areas that were outside her scope of expertise, areas that were in contrast to her background and belief system.

Dena Garbett testified in support of **H 63**. She stated it not only posed a threat for professionals, but more importantly for parents who sought counseling for their children. Parents should have the highest clearance to information about the professionals their children have direct contact with.

MOTION: **Vice Chairman Zuiderveld** motioned to send **H 63** to the floor with a **do pass** recommendation. **Senator Bjerke** seconded the motion.

ROLL CALL VOTE: **Chairman VanOrden** could not discern the voice vote, she called for a roll call vote. **Chairman VanOrden**, **Vice Chairman Zuiderveld**, and **Senator Bjerke** voted aye. **Senators Lee**, **Wintrow**, and **Taylor** voted Nay. **Senator Harris** was excused. The motion failed.

H 192

PUBLIC ASSISTANCE - Adds to existing law to provide that changes in eligibility requirements for public assistance programs must be provided in statute. Representative Vander Woude explained in processing the bill and talking to the Chairman and the Director of Health and Welfare, this bill needed to be sent to the amending order. It needed to strike out line 12, with eligibility criteria included, so the change had to be in financial eligibility criteria only.

MOTION:

Senator Lee moved to send **H 192** to the 14th order for possible amendments. **Senator Zuiderveld** seconded the motion. The motion carried by **voice vote**. **Senator Wintrow** asked to be recorded as voting nay.

ADJOURNED:

There being no further business at this time, **Chairman VanOrden** adjourned the meeting at 3:30 p.m.

Senator VanOrden
Chair

Michelle Tierney
Secretary