

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Tuesday, January 30, 2018

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Souza, Senators Martin, Lee, Harris, Agenbroad, Foreman, Potts, and Jordan

**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 Heider** called the meeting of the Health and Welfare Committee (Committee) to order at 3:00 p.m.

**RS 25880** **Wireless Phone Service Transfers.** **Chairman Heider** stated that the legislative intent of **RS 25880** is to allow divorcees and domestic violence victims to transfer their wireless telephone number to a different account. **Chairman Heider** explained that a cell phone can be a lifeline to community resources; as such, it is important that domestic violence victims can retain their cell phone number. After the phone number is transferred to a different account, the requesting party will assume financial responsibility for all costs associated with their cell phone.

**MOTION:** There being no more questions, **Senator Martin** moved to send **RS 25880** to print. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**PASSED THE GAVEL:** Chairman Heider passed the gavel to Vice Chairman Souza.

**DOCKET NO. 16-0601-1701** **Rules Relating to Child and Family Services.** **Sabrina Brown** introduced herself as the Foster Care Recruitment and Retention Program Specialist assigned to the Child Welfare Policy Unit within the Idaho Department of Health and Welfare (DHW). **Ms. Brown** explained that this docket increases foster care reimbursement rates by 20 percent. The 2017 Legislature approved this appropriation for the 2018 fiscal year (FY). The reimbursement increase is intended to alleviate the financial burden placed on Idaho's foster and adoptive parents. **Ms. Brown** stated that Idaho's foster care reimbursement rates were at least 35-50 percent less than estimated expenditures for children. The expenditure estimate came from the 2013 United States Department of Agriculture Expenditures on Children by Families Report. **Ms. Brown** noted that an adequate level of support for foster families is critical to the success of the foster care system.

Negotiated rulemaking was not conducted, and no public comments were received. The updated monthly reimbursement rate for each foster care age group is as follows: \$395 for children ages 0-5; \$439 for ages 6-12; and \$584 for ages 13-18.

**Senator Agenbroad** asked when the rates were last changed. **Ms. Brown** responded that the rates were last updated in 2013.

**Senator Lee** asked what the rates were in 2013. She stated that the 20 percent increase in this docket is one of the largest increases she has seen. **Ms. Brown** stated that she did not know the rate percent increase from 2013, but she estimated that it was 20 percent. **Vice Chairman Souza** noted that the rates were listed in the

docket. For children ages 0-5, the rate increased from \$329 to \$395; for children ages 6-12, the rate increased from \$366 to \$439; and for children ages 13-18, the rate increased from \$487 to \$584. **Ms. Brown** stated that her previous statement regarding the 2013 rate increases had been incorrect; the rates increased by ten percent in 2013.

**Senator Jordan** noted that Ms. Brown stated Idaho's reimbursement rates were 35-50 percent below the national average. **Senator Jordan** asked how Idaho's rates will compare with the national average once they have increased. **Ms. Brown** explained that Idaho's rates were not 35-50 percent below the national average; the rates were 35-50 percent below the estimated cost of raising a child in the northwestern region of the United States. **Ms. Brown** mentioned that DHW analyzes reimbursement rates each year.

**Senator Potts** asked Ms. Brown to define "northwestern region." **Ms. Brown** stated that the region spans from Arizona to Alaska. **Senator Potts** asked if the foster care program considers the cost of living in Idaho when calculating reimbursement rates. He noted that other states in the region have higher costs of living than Idaho. **Ms. Brown** clarified that reimbursement rate analyses take into account the cost of living. She stated that analysts also compare Idaho's reimbursement rates to those of neighboring states with similar populations.

**Senator Lee** commended DHW for requesting the necessary reimbursement rate increase. She noted that Idaho needs to continue examining its foster care reimbursement rates. She cited a report from the Office of Performance Evaluation which highlighted the need for increased foster care reimbursement.

**Vice Chairman Souza** noted that Senator Heider calculated that the reimbursement rates increased by 20 percent.

**MOTION:** There being no more testimony or questions, **Senator Lee** moved to approve **Docket No. 16-0601-1701**. **Senator Agenbroad** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO. 24-0301-1701** **Rules of the Idaho State Board of Chiropractic Physicians. Tana Cory** introduced herself as the Bureau Chief of the Bureau of Occupational Licenses (Bureau). She explained that the Bureau provides administrative, fiscal, legal, and investigative services to 38 licensing boards. **Ms. Cory** noted that all board members are volunteers. She requested permission to defer the presentation of the Bureau's rule dockets as follows: **Docket No. 24-0301-1701** to Dr. Shannon Gaertner-Ewing; **Docket No. 24-0601-1701** to Kristin Guidry; **Docket No. 24-1201-1701** to Dr. Linda Hatzenbuehler; **Docket No. 24-2301-1701** to Dr. Gayle Chaney; and **Docket No. 24-2301-1702** to Ms. Lavona Andrew. **Vice Chairman Souza** granted Ms. Cory permission to defer the docket presentations.

**Dr. Shannon Gaertner-Ewing** introduced herself as a member of the Idaho State Board of Chiropractic Physicians (Chiropractic Board). She stated that this docket proposes to implement H 195, which passed in 2017. The Chiropractic Board changed the title of Section 020 to clarify that it applies to clinical nutrition practice by chiropractors who do not have a clinical nutrition certification. This docket also clarifies that Section 020 only applies to products that do not require a prescription. The Chiropractic Board also updated statute citations in Section 020.

The Chiropractic Board created Subsections 150.07 and 150.08, which set the fee for clinical nutrition certification. This docket also adds rules detailing the procedures and requirements for a chiropractor to obtain a clinical nutrition certification. The proposed rules explain the following aspects of the clinical

nutrition certification: the application process; education requirements; the annual renewal requirement; the renewal process once certification has expired; the renewal process if certification has not expired; and procedures for administering clinical nutrition drug products. This docket also lists the prescription clinical nutrition products which a chiropractor with a clinical nutrition certification may independently administer. These products must be administered and disposed of in accordance with the procedures in the proposed rules.

**Dr. Gaertner-Ewing** stated that the Chiropractic Board sent information regarding this docket to all current licensees and spoke with interested parties. The Chiropractic Board made changes to the docket based upon the comments received.

**Senator Foreman** asked if the fee for clinical nutrition certification is \$150, in addition to a \$150 application fee. **Dr. Gaertner-Ewing** responded in the affirmative. **Senator Foreman** commented that \$300 seemed to be an excessive sum for chiropractors who are already licensed. He noted that physicians would also have to pay for training to obtain the clinical nutrition certification. He asked why the certification fee is so high and whether the administration cost is \$300. **Dr. Gaertner-Ewing** explained that training programs for the clinical nutrition certification must be provided by a certified entity. Therefore, the Chiropractic Board must evaluate the training programs every year to ensure that they are certified. She also noted that the initial certification fee is a one-time fee. After initial certification, a chiropractor will only need to pay a renewal fee. **Dr. Gaertner-Ewing** asserted that it does cost \$300 to initially administer the certification. She mentioned that the Chiropractic Board can lower the fee in the future.

**Senator Harris** asked what classes are required to obtain a clinical nutrition license and where such classes are offered. **Dr. Gaertner-Ewing** stated that required courses include advanced nutrition, pharmacology, and introduction to clinical nutrition products. **Senator Harris** asked if these courses are offered at colleges. **Dr. Gaertner-Ewing** responded in the affirmative. She explained that Boise State University, University of Washington, University of Western States (UWS), and other universities offer the required courses. The only program currently undergoing a credential process for the introduction to clinical nutrition products course is UWS. **Vice Chairman Souza** asked where UWS is located. **Dr. Gaertner-Ewing** reported that it is located in Portland, Oregon.

**Chairman Heider** noted that the rule states that drugs may not be compounded, but then lists the ways in which drugs may be compounded. He sought more information regarding this issue. **Dr. Gaertner-Ewing** explained that licensees cannot compound drugs within the intravenous (IV) bag. Clinical nutrition products are introduced individually through an IV catheter. The products are delivered individually through the same IV bag, but the products cannot be mixed together and delivered together through the IV bag. **Chairman Heider** sought more information regarding drug compounding. **Dr. Gaertner-Ewing** referred the question to Maurice Ellsworth. **Mr. Ellsworth** introduced himself as General Counsel for the Bureau. He explained that the rule reflects language in Idaho Code § 54-716. The code prohibits chiropractors from compounding products. They may purchase compounded products, but the products must be compounded by a compounding pharmacy. **Chairman Heider** clarified that chiropractors may not compound drugs, but they can purchase compounded drugs. **Mr. Ellsworth** responded in the affirmative.

**Senator Martin** asked if the clinical nutrition certification fees are commensurate with the administrative cost of the certification. **Dr. Gaertner-Ewing** responded in

the affirmative. **Senator Martin** asked for the Chiropractic Board's cash balance. **Ms. Cory** stated that the Chiropractic Board is currently operating at a \$74,000 deficit. She noted that the Chiropractic Board spent a large sum of money on a disciplinary matter. She then explained that the Chiropractic Board tries to set their licensing fees equal to the administrative costs associated with licensing. **Senator Martin** inquired as to the history and projection of the Chiropractic Board's cash balance. **Ms. Cory** stated that the Chiropractic Board requested a fee increase in 2016 to cover the cost of the aforementioned disciplinary matter. At the end of 2016, the Chiropractic Board was operating at a \$67,905 deficit. The Chiropractic Board members hope the fee increase will help balance the budget.

**Senator Harris** asked if Dr. Gaertner-Ewing expected many chiropractors to obtain clinical nutrition certification, given the fee and the price of required training. **Dr. Gaertner-Ewing** noted that the functional medicine program at UWS is UWS's fastest-growing program. She indicated that recent chiropractic graduates in Idaho are very interested in pursuing a clinical nutrition certification. Many Idahoans must travel out-of-state for clinical nutrition treatments. **Dr. Gaertner-Ewing** asserted that clinical nutrition is an up-and-coming field.

**Senator Lee** asked if clinical nutrition classes are currently included in the curriculum at chiropractic schools. **Dr. Gaertner-Ewing** stated that advanced nutrition and pharmacology courses are now required as part of standard chiropractic education. However, courses regarding the administration of clinical nutrition products are not required for a standard chiropractic education.

**MOTION:** There being no more testimony or questions, **Chairman Heider** moved to approve **Docket No. 24-0301-1701**. **Senator Martin** seconded the motion. The motion carried by **voice vote**, with **Senator Foreman** voting **nay**.

**DOCKET NO. 24-0601-1701** **Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants.** **Kristin Guidry** introduced herself as the Chair and public member of the Idaho State Occupational Therapy Licensure Board (Occupational Therapy Board). She explained that this docket proposes the reduction of licensing fees as follows: occupational therapist initial licensing fee to be reduced from \$100 to \$80; occupational therapy assistant initial licensing fee to be reduced from \$75 to \$60; occupational therapist renewal fee to be reduced from \$55 to \$40; occupational therapy assistant renewal fee to be reduced from \$35 to \$30; and occupational therapist and occupational therapy assistant inactive license fee to be reduced from \$25 to \$20. It is suggested that licensing boards maintain a cash balance equal to 100-150 percent of their annual budget. The Occupational Therapy Board's cash balance meets this standard. The fee reduction will decrease the Occupational Therapy Board's income by approximately \$12,000 per year.

**MOTION:** There being no more testimony or questions, **Senator Martin** moved to approve **Docket No. 24-0601-1701**. **Senator Lee** seconded. The motion carried by **voice vote**.

**DOCKET NO. 24-1201-1701** **Rules of the Idaho State Board of Psychologist Examiners.** **Dr. Linda Hatzenbuehler** introduced herself as a member of the Idaho Board of Psychologist Examiners (Board of Psychologist Examiners). She stated that H 212, passed in 2017, granted prescription authority to psychologists who meet clinical experience and education requirements. This docket requires that temporary licensees hold a certification of prescriptive authority issued by the Board of Psychologist Examiners before writing prescriptions.

**Dr. Hatzenbuehler** stated that there are three categories of service extenders who work under psychologist supervision. This docket reduces the amount of face-to-face supervision time required for Category III Service Extenders, also

called psychometrists. Psychometrists conduct psychological testing on behalf of psychologists. The proposed rule would require only one hour of supervision per month for Category III Service Extenders. The existing rule requires a 1-to-20 ratio between service hours and supervision hours.

**Dr. Hatzenbuehler** indicated that the American Association of Retired Persons (AARP) expressed concern about informed consent in telepsychology. This docket proposes changes to the telepsychology rules in order to address AARP's concerns. The proposed changes clarify that telepsychologists only require informed consent upon initial contact with the service recipient.

**Chairman Heider** expressed his support for telepsychology. He asked if there is a cost difference between a telepsychology session and a face-to-face psychology session. **Dr. Hatzenbuehler** stated that she was not aware of a cost difference, as there is generally an hourly fee assessed for psychological services.

**Senator Martin** asked if there is a cost difference for patients between telepsychology sessions and face-to-face sessions. **Dr. Hatzenbuehler** stated that telepsychology patients save money because they do not have to travel to see a psychologist. She explained that the price of gas and travel time can be costly for patients.

**Senator Harris** asked if the implementation of telepsychology has been successful. **Dr. Hatzenbuehler** explained that telepsychiatry has been successful. She remarked that some psychological testing practices are not easily adaptable to the telepsychology format, but telepsychology is conducive to treatment and therapy.

**TESTIMONY:**

**Francoise Cleveland** introduced herself as AARP's Associate State Director of Advocacy. She stated that AARP previously had concerns regarding telepsychology rules; AARP felt that the rules placed undue burden on the practice of telepsychology. The Board of Psychologist Examiners proposed changes to the telepsychology rules to address AARP's concerns. **Ms. Cleveland** thanked the Board of Psychologist Examiners for changing the rules and stated that AARP supports **Docket No. 24-1201-1701**.

**MOTION:**

There being no more testimony or questions, **Senator Harris** moved to approve **Docket No. 24-1201-1701**. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
24-2301-1701**

**Rules of the Speech, Hearing, and Communication Services Licensure Board.** **Gayle Chaney** introduced herself as the Chair of the Idaho Speech, Hearing, and Communication Services Licensure Board (Board). She stated that the proposed changes in this docket clarify that an individual does not need to be an audiology assistant to use automated newborn screening equipment, nor does the use of the equipment constitute audiology. This docket also changes continuing education requirements for licensure. Previously, licensees were required to complete ten hours of continuing education each year. The proposed rule would allow licensees to complete a total of thirty hours within three years, thereby eliminating the annual requirement. **Dr. Chaney** stated that the Board did not receive any comments regarding this docket.

**Senator Jordan** asked if there are requirements that an individual must meet in order to operate automated newborn screening equipment. **Dr. Chaney** explained that most newborn screening is conducted by nurses or hospital personnel. She noted that hospitals may have their own requirements and training for operating automated newborn screening equipment.

**Senator Jordan** expressed concern regarding proper screening of newborns born

outside of a hospital. She asked how to ensure proper screening and accurate interpretation of the results. **Dr. Chaney** explained that individuals who purchase the screening equipment would receive training upon purchase.

**MOTION:** There being no more testimony or questions, **Senator Martin** moved to approve **Docket No. 24-2301-1701**. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO. 24-2301-1702** **Rules of the Speech, Hearing, and Communication Services Licensure Board.** **Lavana Andrew** introduced herself as a volunteer member of the Board and an American Sign Language interpreter. **Ms. Andrew** stated that this docket would implement H 46, which passed in 2017. During the 2017 Legislative Session, the Committee expressed concern that the licensure process for sign language interpreters was too restrictive and would impede entry to the profession. **Ms. Andrew** explained that this docket describes a variety of ways that an individual may obtain a sign language interpreter license.

The proposed rules incorporate by reference the National Association of the Deaf's Registry for Interpreters for the Deaf Code of Professional Conduct. The proposed rules also: clarify definitions; add standard language regarding applications; establish licensure fees; implement a \$10 registration fee for out-of-state licensees; add a reference to the reinstatement fee listed in Idaho Code § 67-2614; clarify that there is no fee for a dual license; outline the requirements for a sign language interpreter license; outline the registration requirements for out-of-state licensees; state that deaf interpreters who are not sign language interpreters can act in that role, given certain conditions; outline the examination options for obtaining a sign language interpreter license; list the approved credentials and certifications for obtaining a sign language interpreter license; outline the process for submitting information regarding a prior conviction; and provide details about provisional licensure.

**Ms. Andrew** stated that the Board notified all licensees and interested parties about this docket and made changes to this docket based upon the comments it received.

**Senator Harris** noted that this docket allows supervisors to terminate supervision of a permit holder by notifying the permit holder at least ten days prior to termination. He asked why supervisors are required to notify the permit holder ten days prior to the termination, as opposed to after the termination. **Ms. Andrew** explained that sign language interpreters must have a license; if someone decided to terminate supervision, and the sign language interpreter was unaware, the interpreter would be practicing without a valid license. Therefore, the interpreter would be violating the law. **Mr. Ellsworth** stated that a supervisor must provide notice to a permit holder ten days prior to termination of supervision so that the permit holder can find a new supervisor.

**Senator Potts** noted that there are many ways to obtain a sign language interpreter license. He expressed concern that the Board has too much discretion regarding licensure. He asked Ms. Andrew to explain the process of becoming a licensed sign language interpreter. **Ms. Andrew** explained that there are two primary ways to obtain a sign language interpreter license. An individual who has holds a valid, Board-approved credential or who has taken a valid, Board-approved examination can become a licensed sign language interpreter. The Board identified every psychometrically valid sign language interpretation test offered in the United States and included them in the rules. **Ms. Andrew** explained that the rules allows any additional credentials or exams approved by the Board in the future to also qualify for sign language interpreter licensure. She noted that this will allow the Board to accept new credentials and exams without waiting for them to be added to the

Board's rules.

**Senator Potts** asked if an individual who knows sign language, but has no academic degree, can become a sign language interpreter without submitting to a lengthy process. **Ms. Andrew** asserted that at least one-third of licensed sign language interpreters are in the situation that Senator Potts described. She explained that the only required education for sign language interpreters is a high school diploma or equivalent. **Ms. Andrew** noted that individuals can obtain a provisional license and renew it for up to three years while they undergo the process of earning an approved credential or taking an approved exam.

**Senator Potts** asked why sign language interpreters must be over 21 years old. **Ms. Andrew** announced that a bill will be presented to the Idaho House of Representatives during the 2018 Legislative Session which will lower the minimum age requirement to 18. She explained that statute currently requires licensed interpreters to be at least 21.

**Senator Potts** asked why the sign language interpreter licensing fee is \$100. **Ms. Andrew** stated that the Board requested and implemented a fee decrease in 2017. Prior to the decrease, the licensing fee was \$120. **Ms. Andrew** noted that the Board has calculated that \$100 per license is necessary in order to maintain a balanced budget.

**MOTION:** There being no more testimony or questions, **Chairman Heider** moved to approved **Docket 24-2301-1702**. **Senator Martin** seconded the motion. The motion carried by **voice vote**, with **Senator Foreman** voting **nay**.

**DOCKET NO. 24-2401-1701** **Rules of the Genetic Counselors Licensing Board.** **Ms. Cory** introduced Heather Hussey-Johnson as the Chair of the Genetic Counselors Licensing Board, Jennifer Eichmeyer as a member of the Genetic Counselors Licensing Board, and Dr. Jack Zarybnisky as the public member of the Genetic Counselors Licensing Board. **Ms. Cory** explained that this docket proposes lowering the genetic counselor licensing application fee, the initial licensing fee, the renewal fee, the provisional licensing fee, and the endorsement licensure fee from \$500 to \$200. **Ms. Cory** noted that the Genetic Counselors Licensing Board has collected more money in the last five years than it has spent. The fee decrease will reduce the Genetic Counselors Licensing Board's income by approximately \$16,000; the cash balance will still equal between 100 and 150 percent of the Genetic Counselors Licensing Board's annual budget.

**MOTION:** There being no more testimony or questions, **Senator Lee** moved to approve **Docket No. 24-2401-1701**. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

**PASSED THE GAVEL:** Vice Chairman Souza passed the gavel back to Chairman Heider.

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

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Senator Heider  
Chair

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Rachel Goodman  
Secretary