

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, January 14, 2019

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Martin, Vice Chairman Souza, Senators Heider, Lee, Harris, Burtenshaw, Bayer, Jordan, and Nelson

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 and Welfare Committee to order at 3:07 p.m.

PASSED THE GAVEL: Chairman Martin turned the meeting over to Vice Chairman Souza.

DOCKET NO. 16-0314-1801 **Tamara Prisock**, Administrator for Licensing and Certification, introduced **Docket No. 16-0314-1801**, Rules and Minimum Standards for Hospitals in Idaho. This rule addresses the use of restraints and seclusion of patients in behavioral health treatment settings. The review process began in the autumn of 2017 and input was invited from behavioral health professionals and other interested parties, including public comments, until September of 2018. **Ms. Prisock** explained that it addresses when to use restraints, who can order restraints, video monitoring, patient rights, and language. Some changes included: changing language from "shall" to "must", removing some definitions that are now obsolete, updating some language pertaining to restraint and seclusion, compliance; licensing, and some renumbering.

DISCUSSION: **Chairman Martin** asked for information on restraint use philosophy. **Dennis Kelly, Registered Nurse (R.N.)**, Supervisor, Non-Long Term Care, responded that this rule is to bring Idaho into compliance with federal regulations.

Senator Lee asked why fees for patient access to records are based on local library copying charges, versus following the Public Records Request standard or another standard rate that would apply across the state. **Ms. Kelly** replied that it was determined by each community and/or organization.

Senator Harris asked who trains staff in restraint use and **Ms. Kelly** explained that it varies by facility. In a follow-up question, **Senator Harris** asked if training is credentialed through hospitals and **Ms. Kelly** confirmed that it is, and it is up to the governing body to determine standards based on the type of facility.

Ms. Prisock continued: a number of issues are addressed in this docket, including requirement for a face-to-face visit with a medical doctor (M.D.) in order to implement restraints; training requirements; medical staff authority to admit and restrain; monitoring intervals for violent versus nonviolent patients; other health conditions, and documentation for all patients under restraint.

Senator Nelson asked if there was statute addressing security of the video-stream, specifically concerning transmission of the record, and **Ms. Kelly** responded there is no requirement for it; it is part of the medical record and depends on the location within a facility and the activity being monitored.

TESTIMONY: **Mr. James Baugh**, Executive Director, Disabilities Rights Idaho, commended Ms. Prisock for this rule development process.

MOTION: **Chairman Martin** moved to approve Docket 16-0314-1801. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 16-0315-1801 **Tamara Prisock**, Administrator for Licensing and Certification, introduced **Docket No. 16-0315-1801**, Secure Treatment Facility for People with Intellectual Disabilities. H 222 (2017) approved four facilities for adults with primary disabilities and mental illness who have been committed by a court following commitment of a crime, or for safety risk. This rule covers facility safety and compliance and survey tools. A number of stakeholders were involved in negotiated rulemaking along with a public comment period. Language was modified after the April bulletin was published. The Department of Health and Welfare requested to extend the rule through the 2020 Legislative Session to allow ongoing monitoring of this new program.

DISCUSSION: **Vice Chairman Souza** asked how large sections of new content might be somehow flagged or highlighted. **Brad Hunt**, Administrative Rules Specialist, explained that agencies are not at liberty to alter the format or content. Discussion ensued about how it might be addressed before the next legislative session.

Ms. Prisock then outlined in detail all aspects covering standard operating procedures for these new facilities including licensing requirements, inspections, personnel management, records management, perimeter control, best practices, and definitions. Ms. Prisock spoke specifically to managing patients who demonstrate chronic refusal to participate in treatment. **Vice Chairman Souza** asked if that management differed from other health care facilities. **Ms. Prisock** replied that these facilities allowed more practitioner leeway and less patient rights to refuse, citing that it was a different provider/client relationship.

Senators Heider and Lee had questions about outside visitors, court notification, and smoking. **Ms. Prisock** responded that visits were held in certain areas and determined on a case-by-case basis, emphasizing that safety was paramount; communication with the court system was ongoing; and that smoking was prohibited.

Ms. Prisock then covered policies to manage behaviors, including emergency interventions, suicide precautions, use of medications and restraints, dietetics, coordinating health care services, and facilities management including fire safety standards and emergency plans.

TESTIMONY: **Mr. James Baugh**, Executive Director, Disabilities Rights Idaho, testified that the negotiated rulemaking process was inclusive, thorough, and competent. **Senator Lee** asked Mr. Baugh if he thought that this temporary rule was sufficient and he responded that he could not predict the future.

MOTION: **Senator Harris** moved to approve **Docket No. 16-0315-1801**. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 16-0506-1801 **Vice Chairman Souza** welcomed **Fernando Castro**, Program Supervisor for the Criminal History Unit, who presented two dockets covering Criminal History and Background Checks.

Docket No. 16-0506-1801 is a pending rule, to go into effect July 1, 2019. Changes include adding back substance abuse and recovery support staff, to reinstate that staffing after their inadvertent removal. There are changes in licensing requirements for first responders; the current time and cost are prohibitive in our rural communities staffed by volunteers. Child Protection Registry was added to existing text and represents no additional costs.

Senator Lee asked why Substance Abuse Disorder Providers were removed by the Legislature and are again included. **Mr. Castro** explained that it was rescinded inadvertently in 2016 as an oversight and assumption about the promulgated rules requirements. In response to a question by **Senator Nelson** about language on page 220, **Mr. Castro** explained that, during the negotiated rulemaking process, initial feedback was to only cover minor children client interactions. There are now eleven classes of staff that must undergo enhanced checks.

MOTION: **Senator Harris** moved to approve **Docket No. 16-0506-1801**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 16-0506-1901 **Mr. Castro**, Program Supervisor for the Criminal History Unit, presented **Docket No. 16-0506-1901**, the temporary rule covering Criminal History and Background Checks. Legislative Session 2018 created citizen review panels that require background checks for Public Health District volunteer members. The Public Health Districts anticipate fifty volunteers. No negotiated rulemaking was conducted due to the lack of time, but there was positive stakeholder feedback and there is no fiscal impact to the General Fund. **Senator Lee** asked who covered the fee. **Mirin Unsworth**, Administrator, Division of Family and Community Services, stated that the division previously paid the fee and while she was not certain how it is now funded, she is certain that it is not being paid by the volunteers.

MOTION: **Senator Lee** moved to approve **Docket No. 16-0506-1901**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 16-0102-1801 **Mr. Wayne Denny**, Bureau Chief for Emergency Services and Preparedness, presented **Docket No. 16-0102-1801**, EMS Rule Definitions. **Mr. Denny** reported that there are four levels of emergency medical services staff in Idaho and 60 percent are Emergency Medical Technician (EMT) level. The ambulance staffing requirement is for two staff (one an EMT) since the 1970s. All four levels have evolved in scope and training over time. Currently, lack of education is an impediment. S 1310 (2017) began a conversation about recruitment efforts for volunteers. Many emergency medical responders (EMRs) are now functioning as EMTs. Additional certification will provide a stair-step for EMRs to EMTs (and full emergency medical services), but it will not be a requirement. Negotiated rulemaking was not conducted, but there was significant outreach for this temporary rule since the summer of 2018, with only positive feedback. Public hearings were held in July of 2018, with no attendance. There is no impact to the General Fund.

Senator Harris inquired about the time requirement for successful completion of training for an EMR to become an EMT. **Mr. Denny** replied that it requires forty to fifty hours of education using the national competency-based education approach; it is not based on mandatory seat time.

Chairman Martin asked Mr. Denny if the next two dockets, **Docket No. 16-0103-1801**, and **Docket No. 16-0107-1801**, were essentially the same and **Mr. Denny** replied in the affirmative.

MOTION: **Chairman Martin** moved to approve **Docket Nos. 16-0102-1801, 16-0103-1801, and 16-0107-1801**. **Senator Nelson** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Vice Chairman Souza** adjourned the meeting at 5:00 p.m.

Senator Martin
Chair

Margaret Major
Secretary