MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, March 15, 2022

TIME: 8:30 A.M.

PLACE: Room EW20

MEMBERS: Chairman Wood, Vice Chairman Vander Woude, Representatives Gibbs, Blanksma, Kingsley, Christensen, Lickley, Erickson, Ferch, Mitchell, Chew, Rubel, Burns

ABSENT/ EXCUSED: None

GUESTS: The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

Chairman Wood called the meeting to order at 8:30 a.m.

S 1330aa: **Sen. Kelly Anthon**, District 27, presented **S 1330aa**, a voluntary professional licensure bill for naturopathic physicians and naturopaths. The historical lack of a license has become an issue for some practitioners for a variety of reasons. This legislation provides, but does not require, licensure. This legislation allows dual licensure for medical professionals. It requires a doctor's degree in naturopathy, passage of a national test, and/or a demonstrated minimum competency through an actual practice. A state board will be established for license issuance. He emphasized this will allow better access to naturopathic solutions and provide more freedom of care.

MOTION: **Rep. Gibbs** made a motion to send **S 1330aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Vander Woude** requested to be recorded as voting **NAY. Rep. Lickley** will sponsor the bill on the floor.

S 1285aa: **Pam Eaton**, President, CEO, Idaho Retailers Association, presented **S 1285aa** for retail sales of tobacco and electronic smoking devices. This legislation consolidates the requirements for licensing, sales, and marketing are in one location and provides uniformity. The Idaho retailers' compliance rate remains at or above an A or 94%. Uniformity helps with training and keeps the playing field level. A stipulation regarding no limiting or interfering with any local unit of government maintains planning and zoning freedom.

MOTION: **Rep. Blanksma** made a motion to send **S 1285aa** to the floor with a **DO PASS** recommendation.

Rep. Vander Woude declared Rule 80 stating a possible conflict of interest.

Erin Bennett, Government Relations Director, American Heart Association, testified **in opposition** to **S 1285aa**. The laws are not the same for these two product categories. This would not combine the products and it would not provide uniform consistent laws across the products.

Liz Hatter, American Cancer Society - Cancer Action Network, testified **in opposition** to **S 1285aa**. This legislation prevents local governments from addressing the unique needs of their communities. She asked the committee to hold **S 1285aa**. Answering a question, she said the local governments meet regularly and can address issues quickly.

Melinda Merrill, representing The Northwest Grocery Association, testified **in support** of **S 1285aa** for all of the reasons stipulated by **Ms. Eaton**.

VOTE ON MOTION: **Chairman Wood** called for a vote on the motion to send **S 1285aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Erickson** requested to be recorded as voting **NAY. Reps. Vander Woude** and **Blanksma** will sponsor the bill on the floor.

S 1350: **Juliet Charron**, Medicaid Administrator, Department of Health and Welfare (DHW), presented **S 1350**. This legislation provides funding for home and community based services (HCBS) provider increases by modifying the existing hospital assessment. Hospitals are assessed in order to draw down federal funds to support a supplemental payment in addition to regular Medicaid reimbursement.

The changes will offset the future General Fund Medicaid needs. This will be done through the modified UPL calculation methodology and assessment amount. A requirement for state and federal approval is included for the new assessment amount and calculation methodology.

Participating providers pay the difference between what Medicare would have paid and what Medicaid actually paid, which is called the upper payment limit (UPL) gap. This supports hospitals providing care to Medicaid-covered patients. Hospitals are currently assessed .42% of their net patient revenues. This legislation would increase the assessment closer to 2.8%. There is a federal limit of 6%.

As part of **H 351**, 2020, a change to the UPL calculation methodology must be made. The new calculation uses the Medicare per-diem rate as the benchmark for the Medicare payment. In this manner a larger UPL gap is available for supplemental payments to the hospitals. This change ensures the new amount will only be assessed if the UPL payment is greater than the total assessment. This change requires the approval from the Centers for Medicare and Medicaid Services (CMS).

Participating providers include private hospitals with an emergency department along with rehabilitation and psychiatric hospitals. A proposed addition will be long-term acute care hospitals.

This addresses the needs of HCBS providers, some of whom have not had rate increases since 1999. Support of these services helps our most vulnerable population while reducing the burden on the General Fund and taxpayers.

Responding to committee questions, **Ms. Charron** explained the UPL is an annual calculation based on net patient revenues and what was billed within the year. The net patient revenues include all lines of business for the hospital. The hospitals will continue to submit data to the DHW Medicaid Division. The long-time contracted auditing firm of Myers and Stauffer will continue to use the supplied data to determine the UPL payments and assessments. Absent the additional assessment, the hospitals will have the ability to seek the entire UPL payment. The supplemental payment, used in many states, is a way of acknowledging Medicaid's reimbursement is often much lower than Medicare payments.

Fred Birnbaum, Idaho Freedom Foundation, testified **in opposition** to **S 1350**. Idaho's Medicaid costs are exploding. This shifts funds to cover higher provider rate payments. However, over $2M of the provider rate increases use federal funds, which will eventually impact the General Fund. There is no cost containment. This is actually a cost shift to hospitals, which doesn't result in a cost savings.

Answering a question, **Mr. Birnbaum** said providers claim they cannot cover the required Medicaid services. The system isn't working if the totality of cost is doubled without doubling the number of patients. Not all providers are under financial duress. This is an unsustainable broken system.

Brian Whitlock, President, Idaho Hospital Association, testified **neither in support** of **nor in opposition** to **S 1350**. This is a hospital tax to pay for non-hospital provider increases. The association board has taken a neutral position to be good partners with Idaho for Medicaid cost containment.

The legislation covers the agreement for the hospitals to pick up the ongoing cost in 2025, as long as they aren't taking all of the risks. Contrary to what was anticipated, the American Rescue Plan Act (ARPA) funds were unable to immediately cover this. The hospitals have been asked to begin the assessment in 2024. If the public health emergency continues through November, 2022, there will be two additional quarters of ARPA funds, equalling $66M, which could then cover the amount needed for 2024. It is unknown whether the UPL will generate the anticipated amount of funds and if the new methodology will be approved by the CMS. This is a complex and confusing issue. There is a lack of contingency other than relying on the hospitals. **Mr. Whitlock** asked the committee to send **S 1350** to the floor without a recommendation.

MOTION: **Rep. Lickley** made a motion to send **S 1350** to the floor without recommendation.

SUBSTITUTE MOTION: **Rep. Vander Woude** made a substitute motion to send **S 1350** to the floor with a **DO PASS** recommendation

Rep. Ferch declared Rule 80, stating a possible conflict of interest.

MOTION WITHDRAWN: **Rep. Lickley** asked unanimous consent to withdraw her motion to send **S 1350** to the floor without recommendation. There being no objection the request was granted.

VOTE ON MOTION: **Chairman Wood** called for a vote on the motion to send **S 1350** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Ferch, Kingsley,** and **Christensen** requested to be recorded as voting **NAY. Rep. Vander Woude** will sponsor the bill on the floor.

S 1353: **Sen. Michelle Stennett**, District 26, presented **S 1353**, which creates a uniform essential caregiver visitation practice across facilities. Currently some facilities allow in-person visitation and others do not. Facilities require different authorizing documentation. Providers working with patients who are unable to personally advocate need the assistance of an essential caregiver for best patient care. The inconsistency also hinders spouses being with their loved ones during advanced stages of an illness.

MOTION: **Rep. Burns** made a motion to send **S 1353** to the floor with a **DO PASS** recommendation.

Chelsey Hellwege, Nampa Resident, testified **in support** of **S 1353**. She shared her family's struggle during her father's illness when they were not allowed to comfort, advocate, or assure her father they would take care of their mother. No one should die alone without their family by their side.

Calley Riste, Nampa Resident, testified **in support** of **S 1353**. She shared her personal story regarding the loss of her father and how he was isolated from his family. This is something done to criminals. It is detrimental to a patient during a time when they are expected to heal. This is not how sick persons and their families deserve to be treated.

Christi Jensen, Nampa Resident, testified **in support** of **S 1353**. She shared her story of her father's COVID isolation beyond the CDC recommended time. Her family was unable to help direct his nutritional needs or advocate for him. This privilege was taken away. This type of negligence has to end and this legislation is necessary.

VOTE ON MOTION: **Chairman Wood** called for a vote on the motion to send **S 1353** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Lickley** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 9:47 a.m.

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Representative Wood
Chair

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Irene Moore
Secretary