Idaho Board of Health and Welfare
Minutes
November 18 & 19, 2010

The Board of Health and Welfare convened at:
Pete T. Cenarrusa Bldg.
450 W. State Street
Boise, Idaho 83720

Board Members Present
Richard Roberge, Chairman
Janet Penfold, Vice Chairman
Richard Armstrong, Secretary
Senator Patti Anne Lodge
Dan Fuchs
Quane Kenyon
Darrell Kerby
Tom Stroschein
Stephen Weeg
Tammy Perkins, Office of the Governor

Staff Present
Drew Hall, Deputy Director, Family and Welfare Services
Richard Schultz, Deputy Director, Health Services
David Taylor, Deputy Director, Support Services
Betty Mills, Special Assistant to the Board
Peg Dougherty, Lead Deputy Attorney General
Jane Smith, Administrator, Health
Leslie Clement, Administrator, Medicaid
Randy May, Deputy Division Administrator, Medicaid
Dr. Chris Hahn, Physician, Epidemiologist, Health
Steve Bellomy, Bureau Chief, Audits and Investigations
Eric Brown, Program Specialist, Medicaid
Carmela Kerns-Gupta, Health Program Specialist
Christopher Ball, Bureau Chief, Idaho Bureau of Laboratories
David Eisentrager, Idaho Bureau of Laboratories
Marian Woods, Program Manager, FACS
Susan Dwello, Program Specialist, FACS
James Aydelotte, Bureau Chief, Health
Stephanie Miller, Program Specialist, FACS
Shirley Alexander, Program Manager, FACS
Susan Altman, Program Supervisor, Audits and Investigations
Tom Shanahan, Public Information Manager
Tamara Prisock, Program Manager, Administrative Procedures Section

Others Present
Kay Christensen, Division Chief, Attorney General's Office
Sara Stover, Financial Management Analyst Sr., Division of Financial Management
Dustin Hurst, Idaho Reporter.com

Call to Order
Following proper notice in accordance with Idaho Code Section 67-2343 and pursuant to call by the Chairman, the meeting of the Idaho Board of Health and Welfare was called to order by Richard Roberge, Chairman of the Board, at 10:00 a.m. Thursday, November 18, 2010, at the Pete T. Cenarrusa Bldg., 450 W. State Street, Boise, Idaho.

Roll Call
Richard Armstrong, Secretary, called the roll. Roll call showed nine members present. Absent and excused were Representative Sharon Block. With seven voting members present, Chairman Roberge declared a quorum.

Public Comment Period
Chairman Roberge opened the floor for public comment. There being none, the Board then advanced to the next order of business.

RESTRUCTURING OF THE ATTORNEY GENERAL'S OFFICE
Kay Christensen, Division Chief in the Attorney General's office provided a brief update on the restructuring of the Attorney General's (AG) office. Kay introduced Peg Dougherty, Lead Deputy Attorney General who will be assisting the Board of Health and Welfare with legal matters.

ADOPTION OF MINUTES FROM BOARD MEETING ON MAY 20, 2010

Motion: Quane Kenyon moved that the minutes of the August 26, 2010 Board meeting be adopted as prepared.

Second: Janet Penfold

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

REVIEW OF RULES AND LEGISLATIVE PROPOSAL SUMMARY DOCUMENTS
A summary of rules and Legislative Proposals being presented to the 2011 Idaho Legislature was presented to the Board.

QUALITY ASSURANCE FOR IDAHO CLINICAL LABORATORIES
Docket No. 16-0206-1002 (Pending)

This chapter of rules is being completely rewritten in order to simplify, clarify, update and modernize the content, and to revise the chapter to reflect current practice of the Department's Bureau of Laboratories. Companion Docket No. 16-0206-1001 (Chapter Repeal).

Motion: I, Stephen Weeg, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Rules Governing Quality Assurance for Idaho Clinical Laboratories," presented under Docket No. 16-0206-1002, with an effective date of Sine Die 2011.

Second: Dan Fuchs

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

QUALITY ASSURANCE FOR IDAHO CLINICAL LABORATORIES
Docket No. 16-0206-1001 (Pending)

This chapter of rules was repealed. Companion Docket No. 16-0206-1002

Motion: I, Stephen Weeg move that the Idaho Board of Health and Welfare approve the "Pending" rules for the "Rules Governing Quality Assurance for Idaho Clinical Laboratories," presented under Docket No. 16-02-6-1001, with an effective date of Sine Die 2011.

Second: Dan Fuchs

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

VITAL STATISTICS RULES
Docket No. 16-0208-1001 (Pending)

These rule changes were made to bring the rules into alignment with the amended statute, H0492 (2010) related to fees charged for certified copies of vital records certificates. The cost of a death certificate (per certified copy) increased $1.00 to fund training for county coroners.

Motion: I, Darrell Kerby move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Vital Statistics Rules," presented under Docket No. 16-0208-1001, with an effective date of Sine Die 2011.

Second: Dan Fuchs

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

IMMUNIZATION REQUIREMENTS FOR CHILDREN ATTENDING LICENSED DAYCARE FACILITIES IN IDAHO

Docket No. 16-0211-1001 (Pending)

These are amended rules for children attending licensed daycare facilities to increase number of children who are fully protected from preventable diseases. Added to the rule was conditional attendance clause and vaccines. Rules were clarified on the exclusion of children from attendance.

Motion: I, Dan Fuchs move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Immunization Requirements for Children Attending Licensed Daycare Facilities in Idaho," presented under Docket No. 16-0211-1001, with an effective date of Sine Die 2011.

Second: Tom Stroschein

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

CERTIFICATION OF IDAHO WATER QUALITY LABORATORIES

Docket No. 16-0213-1001 (Pending)

This chapter of rules is being repealed. Companion Docket No. 16-0213-1002, (Chapter Rewrite).

Motion: I, Janet Penfold move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Rules governing Certification of Idaho Water Quality Laboratories," presented under Docket No. 16-0213-1001, with an effective date of Sine Die 2011.

Second: Darrell Kerby

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

STATE OF IDAHO DRINKING WATER LABORATORY CERTIFICATION PROGRAM

Docket No. 16-0213-1002 (Pending)

This chapter of rules was rewritten to conform to the U.S. Environmental Protection Agency's Manual for Certification of Laboratories Analyzing Drinking Water, Criteria and Procedures Quality Assurance, Fifth Edition (EPA 815-R-05-004) and to update fees. These rules provide laboratories and the Department a clear and accurate description of the criteria and processes

required for initiating, maintaining and revoking drinking water certification. Companion Docket No. 16-0213-1001 (Chapter Repeal).

Motion: I, Janet Penfold move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "State of Idaho Drinking Water Laboratory Certification Program," presented under Docket No. 16-0213-1002, with an effective date of Sine Die 2011.

Second: Darrell Kerby

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

IMMUNIZATION REQUIREMENTS FOR IDAHO SCHOOL CHILDREN
Docket No. 16-0215-1001 (Pending)

This will amend rules for children attending Idaho schools to increase the number of children who are fully protected from preventable diseases. This amendment will add conditional admission clause, vaccines, and clarify exclusion of children from attendance.

Motion: I, Tom Stroschein move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Immunization Requirements for Idaho School Children," presented under Docket No. 16-0215-1001, with an effective date of Sine Die 2011.

Second: Quane Kenyon

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

CERTIFIED FAMILIY HOMES
Docket No. 16-0319-1001 (Pending)

These rules were amended to update safety and sanitation requirements for Certified Family Homes (CFH). Changes included: manufactured and modular homes, recreation vehicles, commercial coaches or unapproved modifications, and proof of septic tank being pumped from 3 to 5 years. Guardianship of residents living in a CFH was changed to clarify who could be a guardian of a resident.

Motion: I, Stephen Weeg move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Certified Family Homes," presented under Docket No. 16-0319-1001, with an effective date of Sine Die 2011.

Second: Tom Stroschein

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None
Motion Carried

DEVELOPMENTAL DISABILITIES AGENCIES (DDAs)
Docket No. 16-0321-1001 & 16-0411-1001 (Pending)

This is a chapter rewrite for licensing and certification requirements currently under IDAPA 16.04.11 "Developmental Disabilities Agencies." This chapter provides licensing and certification requirements and provider qualifications for developmental disability agencies. (Companion to Docket 16-0411-1001).

Motion: I, Stephen Weeg move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Developmental Disabilities Agences (DDAs)," presented under Docket No. 16-0321-1001 and 16-0411-1001, with an effective date of July 1, 2011.

Second: Dan Fuchs

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

DEVELOPMENTAL DISABILITIES AGENCES
Docket No. 16-0411-1101 (Temporary)

To meet the Department's appropriations budget under HB701, changes to these rules include removal of supportive counseling and collateral contact services, and clarification of assessment requirements for individuals receiving Developmental Disability services.

Motion: I, Stephen Weeg move that the Idaho Board of Health and Welfare adopt The "Temporary" rules for the "Developmental Disabilities Agences," presented under Docket No. 16-0411-1101, with an effective date of January 1, 2011.

Second: Janet Penfold

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None
Motion Carried

CRIMINAL HISTORY AND BACKGROUND CHECKS
Docket No. 16-0506-1001 (Pending)

The Department's Criminal History and Background Checks (CHC) rules are being amended to reference only the Department's chapter of rules when an individual is required to have a criminal history and background check. The Departments list of disqualifying crimes and

unconditional denials that prevent a person from receiving a CHC clearance were updated to include those listed on the Nurse Aid and Child Protection Central Registries, and additional crimes.

Motion: I, Tom Stroschein move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Criminal History and Background Checks," presented under Docket No. 16-0506-1001 with an effective date of Sine Die 2011 and adopt the "Amendment to Temporary" rule with an effective date of September 1, 2010.

Second: Dan Fuchs

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

CRIMINAL HISTORY AND BACKGROUND CHECKS
Docket No. 16-0506-1002 (Pending)

The Department is required to check the Idaho Child Protection Central Registry when requested by another state, when an individual who applies to become a foster parent or adoptive parent in another state resided in Idaho within the past five years. Because of budgetary constraints, the Department is adding a fee to cover the administrative costs that occur when these checks are provided.

Motion: I, Dan Fuchs move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Criminal History and Background Checks," presented under Docket No. 16-0506-1002 with an effective date of Sine Die 2011.

Second: Tom Stroschein

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

CHILD AND FAMILY SERVICES
Docket No. 16-0601-1001 (Pending)

These rules are being amended to comply with the Department's Title IV-E State Plan. These rules address Title IV-E relative guardianship assistance to provide for a permanent living situation with a relative for older children, and detail requirements of the Multiethnic Placement Act (MEPA). The Fostering Connections to Success and Increasing Adoptions Act of 2008 has changed eligibility for Title IV-E adoption assistance. Within the next eight years (2010-2018), those changes could greatly expand the number of adopted children eligible for adoption assistance subsidies. As a result, these rules clarify who is eligible to receive an adoption subsidy, so those children who are most in need will continue to be able to receive assistance.

Motion: I, Janet Penfold move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Child and Family Services," presented under Docket No. 16-0601-1001 with an effective date of Sine Die 2011.

Second: Darrell Kerby

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

STANDARDS FOR CHILD CARE LICENSING
Docket No. 16-0602-1001 (Pending)

These rules amend Daycare Licensing Standards to align with statute. Statutory changes were effective on January 1, 2010 and necessitate corresponding changes and clarification in this chapter of rules. These rules were published as temporary rules, in order to have rules effective on July 1, 2010. These rule changes provide requirements and clarification for areas related to daycare licensing that include: safety and health standards, licensure requirements, suspension, denial, and revocation of licenses. While amending these child care licensing rules for daycare standards, other updates were made for consistency in language, clarification, deletion of obsolete language and updating references. These amendments will help ensure standards and processes to better protect the health and safety of children in child care facilities licensed by the Department.

Motion: I, Darrell Kerby move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Standards for Child Care Licensing," presented under Docket No. 16-0602-1001 with an effective date of Sine Die 2011 and the "Amendment to Temporary," rule with an effective date of July 1, 2010.

Second: Janet Penfold

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Weeg – 6
Nays: None
Abstained: Stroschein

Motion Carried

Some of the definitions were replaced to reflect the exact wording from the code.

STANDARDS FOR CHILD CARE LICENSING
Docket No. 16-0602-1002 (Pending)

The rule amendments in this docket provide requirements for licensing and inspections fees for daycare licensing that were effective on January 1, 2010.

Motion: I, Dan Fuchs move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Standards for Child Care Licensing," presented

under Docket No. 16-0602-1002 with an effective date of Sine Die 2011.

Second: Dan Fuchs

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

STANDARDS FOR CHILD CARE LICENSING
Docket No. 16-0602-1003 (Pending)

The requirements for criminal history and background checks in the process of licensing foster homes are being clarified.

Motion: I, Dan Fuchs move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Standards for Child Care Licensing," presented under Docket No. 16-0602-1003 with an effective date of Sine Die 2011.

Second: Janet Penfold

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

RULES AND MINIMUM STANDARDS GOVERNING NONHOSPITAL, MEDICALLY-MONITORED DETOXIFICATION/MENTAL HEALTH DIVERSION UNITS
Docket No. 16-0750-1001 (Pending)

This docket updates rules to allow for a breath alcohol test to be performed on individuals being brought in for treatment in addition to the blood draw alcohol test. This docket also amends the Tuberculin skin testing requirements.

Motion: I, Dan Fuchs move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Rules And Minimum Standards Governing Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units," presented under Docket No. 16-0750-1001 with an effective date of Sine Die 2011.

Second: Tom Stroschein

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried

DIRECTORS REPORT

Funding Idaho Medicaid

Director Armstrong presented this PowerPoint report to JFAC in a prior meeting.

- Medicaid SFY 2010 caseload increased 9.4%, reaching an average monthly enrollment of 210,015 people.
- 74% of the caseload increase includes coverage for additional 13,277 children.
- Enhanced ARRA funding allowed for a Medicaid rescission of $73.5 million in General Funds (GF) in SFY 2010.
- Medicaid carried over $89.5 million in claims payments to SFY 2011 due to a budget shortfall of $18.5 million in GF.
- Payments were delayed ranging from a minimum of three weeks for most providers, to up to three months for hospitals and nursing homes.

Director Armstrong stated that caseload growth and inflation are the 2 main areas causing the increase in needed funds.

The total Medicaid SFY 2012 budget request is for:
$471.6 million in General Funds
$170.6 million in State Dedicated Funds
$1,260.3 million in Federal Funds
$1,902.5 million Total Funds requested

In this budget request, 96.8% of all Medicaid dollars go out to Trustee and Benefit payments and a mere 1% is paid out for personnel. 2.2% is for operating costs, including the actual administration of the claims system for Medicaid.

The Director reported the Department continues to loose staff members to higher paying jobs throughout the state. Further cuts in personnel could result in lower service levels due to lack of knowledge in areas where more responsibilities are placed on employees.

Medicaid Management Information System (MMIS) Update

Director Armstrong reported that Molina's staff has more than doubled since the system has gone live. Nine of the 18 identified critical issues with the new system have been resolved. The remaining nine unresolved items have targeted completion dates.

Health and Welfare has held payment of approximately $16 million for contracted services not complete. Payment will continue to be held until the Department is satisfied the system is stable and contracted services are complete.

Supplemental Nutrition Assistance Program (SNAP) Update

In FY 2010, Idaho was ranked #1 in the nation for the growing need for Food Stamps. This is a 40.5% increase. The department's service productivity has improved more than six-fold since 2001. Accuracy and timeliness of cases (75% of cases are processed the same day they are received) are at all time highs and the cost per case has decreased by 50% since 2004.

RECOMMENDATIONS FROM NOMINATING COMMITTEE

The Nominating Committee recommended the Board officers remain the same for the upcoming year 2011.

Motion: Quane Kenyon moved to cast a unanimous vote to accept the Nominating Committees recommendation to have Richard Roberge continue as Chairman and Janet Penfold to continue as Vice Chairman of the Health and Welfare Board.

Motion Carried unanimously

Deputy Attorney General (DAG) Peg Dougherty reported on the Nick Arambarri case heard in District Court which pertained to the consolidation of the Department's 7 Regional Director positions to 3. She commended DAG Mark Withers for his clear representation of the Department. The Court found that the Director had the clear statutory authority to abolish the regional director position and granted the Department's Summary Judgment Motion. Affidavits that were provided by the board members in support of Director Armstrong's recommendation to consolidate the Department's 7 Regional Director positions to 3 positions, helped to tip the scales in favor of the Department.

In the future when an issue requiring Board concurrence with an action is required, Peg recommended that the record reflect a motion and concurrence by the Board.

SET DATES FOR 2011 BOARD MEETINGS

The Board of Health and Welfare will meet once a quarter for the year 2011. Scheduled meetings for 2011 are as follows:

Thursday, February 17, 2011
Thursday, May 19, 2011
Thursday, August 18, 2011
Thursday, November 17, 2011

Additional meetings/days may be added if necessary, at the discretion of the Chairman.

ADJOURNMENT

The next meeting of the Board of Health and Welfare is scheduled to be held February 17, 2011. There being no further business to come before the Board, Chairman Roberge adjourned the meeting at 11:00 a.m.

Respectfully signed and submitted by:

Richard Roberge MD

Richard Roberge, Chairman

Richard M. Armstrong, Secretary

Betty J. Mills, Special Assistant