Idaho Board of Health and Welfare
Minutes

November 16 & 17, 2006

The Board of Health and Welfare convened at:
Pete T. Cenarrusa Building
450 W. State Street, 10th Floor
Boise, Idaho

INDEPENDENT SUBCOMMITTEE WORK SESSION

Board members divided into their assigned subcommittee workgroups to discuss topics for their subcommittee reports, Agenda Item #3.

CALL TO ORDER

Chairman Kenyon called the meeting to order at 8:06 am.

ROLL CALL

Janet Penfold called the roll on behalf of Richard M. Armstrong, Secretary.

Board Members Present:
Quane Kenyon, Chairman
Dr. Richard Roberge
Richard M. Armstrong
Stephen Weeg
Dan Fuchs
Don Gross
Janet Penfold
Tom Stroschein
Senator Dick Compton
Representative Sharon Block

Board Members Absent:
Sara Nye (absent until Day 2 at 1:05 pm)

Department of Health and Welfare Staff Present:

Dick Schultz, Deputy Director
Dave Butler, Deputy Director
Bill Walker, Deputy Director
Jeanne Goodenough, DAG
Lauren Laskarris, Management Services
Sherri Kovach, Administrative Procedures
Tom Shanahan, Public Information
Michelle Britton, FACS
Jane Smith, Public Health
Sue Broetje, FACS, ISSH
Karen Cotton, Region I
Dieuwke Spencer, Public Health
Leslie Clement, Medicaid
Randy May, Medicaid
Cameron Gilliland, FACS
Mond Warren, Mgmt Services
Shirley Alexander, FACS
Pharis Stanger, Behavioral Health
Kathleen Allyn, Behavioral Health
Elke Shaw-Tulloch, MHS, Health
Chuck Halligan, FACS
Tanya McElfresh, Region II

Heather Wheeler, Region IV
Christy Colucci, Office of the Director
Kai Elgethun, M.D., Public Health
Paul Leary, Medicaid
Kathy Morris, FACS
Elsie Boyd, Office of the Director
Christine Hahn, M.D., Public Health

Others Present:

Tammy Emerson, Idaho Speech and Hearing Association (ISHA)
Cally Stone, ISHA
Steve Millard, President, Idaho Hospital Association (IHA)
Doug Crabtree, CEO/Trustee Eastern Idaho Regional Medical Center (EIRMC), IHA
Toni Lawson, IHA
DL Oakes, IHA
Kathy Moore, IHA
Joe Messmer, President/CEO, Mercy Medical Center, Chairman-Elect IHA Board of Directors
Sandra Bruce, President/CEO, Saint Alphonsus Regional Medical Center
Jeremy Pisca, J.D., Evans Keane, LLP, SARMC
Kirk Miller, M.D., Intermountain Orthopedics (IO)
David Kirk, IO
Jeff Hessing, M.D., HealthSouth Treasure Valley Hospital (TVH)
Jarred Blankenship, TVH
Michael Long, TVH
Dave Lamey, M.D., Orthopedic Surgery Center of Idaho (OSCI)
Troy Watkins, M.D., OSCI
Ellen Bencken, R.N. D.O.N., OSHI
Scott Brown, Mountain View Hospital
Victoria Alexander, Steele Memorial Medical Center (SMMC)
Bob Seehusen, Ex. Director, Idaho Medical Association (IMA)
Ron Hodge, IMA
Skip Smyser, Lobbyist, Idaho Ambulatory Surgery Center Association (IASCA)
Steve Farro, President-Elect, IASCA
Craig Carter, Scott Peyron & Associates, Inc.
Kris Ellis, Benton, Ellis and Associates
Jeff Martin, Gritman Medical Center
BJ Swanson, Gritman Medical Center
James Lineberger, Idaho Cardiology Associates, PA (ICA)
Marilyn Edmondson, ICA
Julie Lineberger, Idaho Urology Institute
David Kent, M.D., Sage Health Care
John Kloss, M.D., Boise Orthopedic Clinic
Joseph Daines, M.D. Orthopedics, St. Luke's
Jim Yost, Office of the Governor
Duwaine Emmons
Roger Gehrke
Amy Castro, Legislative Services Office
Melissa McGrath, Idaho Statesman
NPR News 91

PUBLIC COMMENT PERIOD

Chairman Kenyon opened the floor for public comment for 15 minutes on any subject not specifically shown on the agenda. The Chairman allowed for testimony regarding agenda item #21, Temporary Moratorium on Development or Construction on New Inpatient Hospital Beds.

Ron Robins, representative from the Local 635 Chapter of the United Brotherhood of Carpenters and Joiners of America, expressed concern over non-unionized laborers who build medical facilities and hospitals possibly not having healthcare or access to healthcare. Board members recommended he contact his local legislators to voice his concerns.

Dr. David Kent, Psychiatrist, Sage Health Care, expressed concern regarding agenda item #21. Dr. Kent strongly recommended the Board not consider a moratorium at this time and that it should go to the Legislature for further discussion.

Bob Seehusan, Executive Director, Idaho Medical Association, stated his concerns regarding agenda item #21. Mr. Seehusan asked that the Board not approve nor recommend a moratorium. He would like to see this issue go before the Legislature to flush out all of the details.

AGENDA ITEM #1: APPROVAL OF BOARD MINUTES

Chairman Kenyon presented the minutes of the September 21-22, 2006, meeting for adoption.

Motion: Dr. Roberge moved for approval of the minutes of the September 21-22, 2006, Board Meeting, with minor changes.

Second: Steven Weeg

Vote: Motion carried. 9 Ayes 0 Nays 0 Absent

AGENDA ITEM #2: MEDICAID REFORM: INCREASED ACCESS WITH DECREASED COSTS

Cally Stone and Tammy Emerson, representatives of the Idaho Speech Language and Hearing Association (ISHA), submitted and reviewed information related to speech-language pathologists (SLPs) becoming independent Medicaid providers. ISHA is requesting a letter of support from the Board to be sent to the Division of Medicaid, Legislators, and the Office of the Governor regarding Medicaid's recent decision to write a rule change allowing SLPs to receive direct Medicaid reimbursement.

Ms. Emerson stated that currently Idaho Medicaid clients are only able to receive speech-language pathology services through hospitals, developmental disabilities agencies (DDA) or schools. SLPs must provide services through these agencies in order to provide services to Medicaid clients. Ms. Emerson stated that Medicaid customers are being denied federally mandated 'equal access' to speech-language pathology services under the current Medicaid billing system. ISHA is in the process of educating the public, agencies providing services, the Division of Medicaid, and the Idaho Legislature about how obtaining direct reimbursement for speech-language pathology services will alleviate problems associated with 'equal access' and increase Medicaid expenditures. Ms. Emerson summarized a few difficulties with the current Medicaid billing services:

- Medicaid clients have a difficult time obtaining 'equal access' to SLP services due to waiting lists and shortage of SLPs in Medicaid-approved providers.
- Medicaid clients are being denied choice of service providers; more importantly, clients are being denied access to SLPs who specialize in specific disorders.
- Medicaid clients are unable to receive continuity of services. For example, Medicaid clients turning three-years old, who transfer from Child Development Centers, are unable to continue on with the same SLP who is unable to bill Medicaid.

Ms. Emerson stated that since pathologists, who are practicing outside of schools, hospitals, and Developmental Disabilities Agencies (DDAs) are not allowed to bill Medicaid for services, they are not able to take Medicaid cards. They have to turn away families and send them to the schools or to hospitals where they are underserved. Ms. Emerson believes that if those children received adequate services earlier, they would become self-sufficient at a faster rate and therefore would not be welfare-dependent in the future.

Ms. Stone added that access is a major problem and that is their driving force of this request. She believes children are receiving piecemeal services and in some areas of Idaho are not receiving services at all.

Board members requested commentary by Leslie Clement, Administrator, Division of Medicaid. Leslie Clement stated that the division has been talking with ISHA for sometime now. In the beginning, Medicaid's main concern was that SLPs are not licensed. However, this is currently on its way to being solved. Ensuring that SLPs will be providing quality services was important before allowing them the ability to bill Medicaid. Ms. Clement stated that the Board might see rules down the road, but will not see them this session since things are still being worked out.

Board members continued to discuss the issue of licensure, shortage of SLPs, education needed to become a SLP, and the question of whether a waiver will be needed from the federal government. Ms. Clement stated that anytime the division expands services and wants the federal government to share in the costs, then approval is needed.

Board members responded to their request for a letter of support. Since things were already in the process and since the Division of Medicaid Administrator and the Director of the Department were in attendance, the Board members felt a letter was not necessary at this time, but would encourage the Department to continue to work with ISHA. Board members suggested that the issue be revisited in two or three meetings to see how things have evolved.

AGENDA ITEM #3A: RULES OF PANHANDLE HEALTH DISTRICT #1
DOCKET NO. 41-0101-0601

Jeanne Goodenough, Deputy Attorney General, IDHW, introduced Jerry Mason, J.D., Public Health District #1; Doug Conde, Deputy Attorney General, Idaho Department of Environmental Quality (IDEQ); and Barry Burnell, Administrator, Water Quality Division, IDEQ.

Mr. Mason explained that for the past two years staffers of the Panhandle Health District have been working with staff from the IDEQ to prepare changes to rules of the District concerning the Institutional Controls Program governing remediation and barrier preservation in the Bunker Hill Superfund site in Shoshone and Kootenai counties. During recent months, district staffers have worked on changes to certain aspects of the on-site wastewater disposal rules concerning existing structures (and their replacements) and addressing a problem with speculative placement of drainfields without designation of an accompanying land use. Several minor adjustments have also been incorporated to update the District's rules in light of today's realities.

Mr. Mason continued to explain that while all of this has gone on they had assumed that the wholesale Idaho Code changes that had been made when IDEQ was created had changed the reference to the Department of Health and Welfare in Idaho Code §39-416(3). Although they have kept in sustained contact with IDEQ as these rules were developed, he discovered, much to his chagrin, and to the surprise of Doug Conde who advises IDEQ, that I.C. §39-416(3) still calls for comment/non-disapproval from the

Board of Health and Welfare. Therefore, they are asking the Board to consider a request for a "no objection" to these changes.

Mr. Conde added that he has reviewed the changes to the Panhandle Health District rules, Docket No. 41-0101-0601, and determined, in accordance with Idaho Code 39-416 that the rules will not be in conflict with IDEQ laws or rules.

MOTION: Rep. Block moved that the Idaho Board of Health and Welfare does not disapprove the rules of the Panhandle Health District, Docket No. 41-0101-0601 in compliance with Section 39-416(3), Idaho Code.

SECOND: Dr. Roberge

Vote: Motion carried. 9 Ayes 0 Nays 0 Absent

AGENDA ITEM #3: **SUBCOMMITTEE REPORTS**

- Janet Penfold, chair, Support Services subcommittee, submitted and reviewed reports of the Department's financials, the budget of the Board, and an update on the two major information technology projects, Medicaid Management Information System (MMIS) and the eligibility system, EPICS. Mrs. Penfold stated that through four months of the year, the Department continues to run under projected expenses; personnel costs are under approximately $640 thousand on expenses of $52.4 million, operating expenses are reported to be under by $4.9 million on a spend of $33.3 million, with the largest savings being shown in the data processing area. Capital outlay is under by $330 thousand, and trustee and benefits are under by $33.6 million on expenses of $442.8 million. At the last Board meeting, the Department reported to the Board that the largest expense area, Medicaid trustee and benefits, is being reduced from $1 billion 195 million to approximately $1 billion 170 million. Due to reduced client counts and utilization rates, the budget is now being trimmed by another $10 million. The budget is now estimated to stand at $1 billion 160 million. These reductions were submitted as negative supplemental funding requests in the Department's 2008 budget request.

  Mrs. Penfold reported that the Board has spent $24,900 as of October 31, 2006. A straight-line projection estimates the Board will spend less than the budget of $97,400. However, this projection does not include the additional expenses for printing of the annual report. The estimate for this was $22,000. After including this estimate the Board will spend approximately $102,000 for the year ($4600 over the budget).

  Mrs. Penfold reported on the finances for both IT projects. EPICS replacement has an annual budget of $5.6 million. During the last four months, $1.3 million has been spent. The MMIS RFP's have been released. The SFY 2007 budget is $8.7 million and to date, expenses have only been $120 thousand. With the continued progress in the second stage the expenditure rate is expecting to increase.

- Don Gross, chair, Legislative and Operations subcommittee, handed out samples of the legislation reports Bill Walker and the Department can produce and send to the members via email. By receiving these reports the Board members will be better informed of what is happening during the legislative session and therefore will be able to take a more active role in the legislative process.

- Dr. Roberge, chair, FACS and Welfare subcommittee, reported on a number of issues. The subcommittee had reviewed the request to appeal to the Department of Agriculture regarding their claim that IDHW was out of compliance and IDHW should return federal matching, food stamp money and pay a penalty. Dr. Roberge reported that this is pending and awaits a judge's approval. IDHW has an error rate of 4.44%, below its goal of 6%.

  Dr. Roberge reported that the Department's social worker shortage in Children and Family Services is slowly being resolved. The Department has met with Boise State University to discuss an internship program to be integrated into the University's social work classes. The students will be introduced to the Department's program and will hopefully encourage graduates to consider applying for positions within the Department upon graduation.

  Dr. Roberge discussed two pilot programs. The Mountain Home office has placed a computer kiosk in the lobby area for new applicants to fill in their personal data before visiting with staff members. Staff members are available to aid non-computer savvy individuals. The office has found this method allows for better time allocation and for quicker eligibility determination. If this program is found to be effective, it may be expanded to other areas of the state. The Boise Westgate Mall has been piloting the initial phase of a future statewide call center for eligibility programs for the past two months. Since its onset 17,000 calls have been received and the operators have been able to answer and provide information to 10,000 applicants in an average of 45 seconds. This means that 60% of callers inquires did not need to be answered by eligibility personnel. This program will continue to be monitored.

  Dr. Roberge reported that with the changes in Medicaid reform and the Deficit Reduction Act, timeliness has become a higher priority. Medicaid has begun a corrective plan to finalize Family Medicaid applications within the federal requirement of 45 days by November 31, 2006. When this process began the average was 75 days. To maintain this level of performance the Department will be asking the legislators for 8 positions; 4 in the Quality Assurance unit and 4 in the field to assist with Medicaid eligibility work.

  Director Armstrong added that he believed they will be at 45 days at the end of this month and at 30 days by the end of December. Board members continued to discuss the importance of minimizing the wait time for those needing assistance.

- Stephen Weeg, chair, Health Services subcommittee, reported that the subcommittee has chosen to track a few of the Department's on-going initiatives: Medicaid Modernization implementation, the behavioral health area and the work of the Interim Committee on Mental Health and Substance Abuse, and immunization rates. Mr. Weeg deferred the update regarding the Interim Committee on Mental Health and Substance Abuse until agenda item #23. Mr. Weeg stated that in terms of Medicaid Modernization implementation, the biggest issue has been the federal government requiring the state to keep the old Medicaid plan in place. The Department has been working with CMS to change the old plan by removing all of the optional services so it doesn't look as appealing or as a better choice than the new plans. In terms of implementation, the subcommittee has started to talk about how people are flowing into the new plans, how many people are starting in the basic plan and then a percentage is moving from there to the enhanced plan. The committee has asked to see the data over time to see the number of people that enroll or reenroll and where those people are falling within those plans. Mr. Weeg stated that the subcommittee also has discussed the state's immunization rate. Mr. Weeg reported that unfortunately the rate has gone down. The 4:3:1 series went from 83% to 79% and the 4:3:1:3:3 went from 81% to 78%. The Division of Public Health has already developed strategies to reverse the recent year's data focusing primarily on education and

motivation of those administering vaccinations.

Board members were concerned with the drop in immunizations rates and asked why the rules regarding having to have an updated immunization record to enter school had not solved this problem. Mr. Schultz stated that the numbers previously quoted earlier were for those that were three years old as opposed to the school entry numbers which are up at 94-95%.

AGENDA ITEM #4: DIRECTOR'S REPORT

Director Armstrong provided a brief update on Department activities:

- A summary document for Governor-Elect Butch Otter's transition team has been created and is available. The document summarizes all major issues the Department is going through and related Department recommendations.

- The Department was assigned two major responsibilities: to establish the Interagency Committee on Substance Abuse and the Health Quality Planning Commission.

- Director Armstrong deferred to Senator Compton for an update on the Health Quality Planning Commission.

  Senator Compton reported that the commission has had four meetings thus far. Members spent the first three meetings sharing information, hearing presentations from outside experts, and listening to the members' priorities. The membership of the commission is very diverse and the members have brought different levels of expertise to the table. The commission met on November 15, 2006, for a forth meeting. The members discussed a straw man model for a health information exchange, heard a presentation on a claims-based health information exchange in Massachusetts and discussed the commission's recommendations for quality reporting. The members have also spent time assessing health information technology initiatives and quality reporting activities currently conducted by Idaho hospitals and the commission members. During the next meeting, members will be discussing data architecture for the recommended health information exchange model.

- Director Armstrong concluded his report by telling the Board members that Department management will be responding to employees more directly and with more detail in regards to the Office of Performance (OPE) evaluation: Management in the Department of Health and Welfare, February 2006.

AGENDA ITEM #6: CONFIRMATION OF NEWLY APPOINTED REGIONAL DIRECTOR, REGION I

Bill Walker introduced Karen Cotton and reviewed her resume.

Motion:	Dr. Roberge moved to confirm the appointment of Karen Cotton as Regional Director, Region I, Department of Health &Welfare.		
Second:	Stephen Weeg		
Vote:	Motion carried. 9 Ayes	0 Nays	0 Absent

AGENDA ITEM #7: **CONFIRMATION OF NEWLY APPOINTED REGIONAL DIRECTOR, REGION II**

Bill Walker introduced Tanya McElfresh and reviewed her resume.

Motion: Tom Stroschein moved to confirm the appointment of Tanya McElfresh as the Regional Director, Region II, Department of Health & Welfare.

Second: Don Gross

Vote: Motion carried. 9 Ayes 0 Nays 0 Absent

AGENDA ITEM #8: **CONFIRMATION OF NEWLY APPOINTED REGIONAL DIRECTOR, REGION IV**

Bill Walker introduced Heather Wheeler and reviewed her resume.

Motion: Dr. Roberge moved to confirm the appointment of Heather Wheeler as the Regional Director, Region IV, Department of Health & Welfare.

Second: Janet Penfold

Vote: Motion carried. 9 Ayes 0 Nays 0 Absent

AGENDA ITEM #9: **WEST/SOUTHWEST REGIONAL METHAMPHETAMINE LEGISLATIVE POLICY PLANNING CONFERENCE**

Quane Kenyon, Chairman, reported on the West/Southwest Regional Methamphetamine Legislative Policy Planning Conference held October 5-6, 2006, in Salt Lake City, Utah. Chairman Kenyon found that states surrounding Idaho were impressed at Idaho's attempt at coordination. One thing that struck him as interesting is that methamphetamines have until just recently been a problem in the West and now it is moving east. Attendees at the conference split off into small groups to discuss how States were being affected, how they were currently combating the problem and to offer other States recommendations. Chairman Kenyon stated that some of the recommendations they made for Idaho were to fully fund drug courts and to explore separate funding for drug abuse under Medicaid. The Chairman was most impressed by the Montana Meth Project, a charitable organization addressing the meth issue in that State. Board members viewed a few minutes of the educational video regarding Montana's meth problem and how the project attempts to address the issue.

AGENDA ITEM #10: **BOARD DATES FOR 2007**

Dave Butler and Sherri Kovach reviewed the Board dates for 2007 with the Board.

Motion: Dan Fuchs moved to approve the meeting dates for 2007.

Second: Dr. Roberge

The Board approved the following dates:

- January (when DHW presents budget to JFAC)
- March 15-16, 2007
- May 17-18, 2007
- July 19-20, 2007
- September 20-21, 2007
- November 15-16, 2006

AGENDA ITEM #11: **VITAL STATISTICS**
DOCKET NO. 16-0208-0601 (PENDING)

Jane Smith, Administrator, Division of Public Health, reported that last year the Idaho Funeral Association introduced House Bill 646 in the legislature to clarify Idaho's disinterment law – that is, who can legally request the removal of a body from where it is buried. The amended law makes it clear that the person who has the authority to determine final arrangements is the same person that can authorize the removal. Ms. Smith stated that this is a very straightforward change to allow for agreement between the Department's rules and the amended statute (54-1142) and to provide for minor updates.

Motion: Senator Compton moved that the Idaho Board of Health and Welfare adopt as pending, rules for Vital Statistics as presented in the final proposal under Docket No. 16-0208-0601, with the rules becoming final and effective at the conclusion of the 2007 Legislative Session.

Second: Dr. Roberge

Vote: Motion carried. 9 Ayes 0 Nays 0 Absent

AGENDA ITEM #12: **IMMUNIZATION REQUIREMENTS FOR IDAHO SCHOOL CHILDREN**
DOCKET NO. 16-0215-0601 (PENDING)

Dieuwke Spencer, Bureau Chief, Clinical and Preventive Services, Division of Public Health, reported that last spring, the division met with the Idaho Medical Association's Public Health Committee regarding school immunization rules that were not aligned with the Advisory Committee on Immunization Practices (ACIP) schedule. Immunizations have an approved age range – 4 to 6 – in which the 5th DPT (Diphtheria, Pertussis, and Tetanus) and 2nd MMR (Measles, Mumps, and Rubella) may be given. The current rules require physicians to immunize at a younger age than they may want to by stipulating "upon admittance to preschool." Ms. Spencer stated that by eliminating "preschool," the physician can utilize their medical judgment as to the best time to immunize a child within that age range.

Motion: Dan Fuchs moved that the Idaho Board of Health and Welfare adopt as pending, the rules for Immunization Requirements for Idaho School Children, as presented in the final proposal under Docket No. 16-0215-0601, with the rules becoming final and effective at the conclusion of the 2007 Legislative Session.

Second: Janet Penfold

Vote: Motion carried. 9 Ayes 0 Nays 0 Absent

AGENDA ITEM #13: **RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES DOCKET NO. 16-0322-0601 (PENDING)**

Randy May, Deputy Administrator, Medicaid, reported that this docket was previously presented to the Board in the June 14th meeting in Pocatello and again at the July 20th meeting in Boise. The rule was previously approved by the Board as temporary. In January 2006, during the legislative review and approval process for the rewritten rules governing residential care or assisted living facilities, the Department committed to promulgate a rule—at the first window of opportunity—to add a grandfather clause to the section of the rule requiring fire-suppression sprinklers for facilities that accept residents incapable of self-evacuation. The Department agreed to a sunset date on that grandfather clause of July 1, 2010. By this date certain, all residential care or assisted living facilities must either have a sprinkler system installed, or cease the practice of admitting or retaining residents incapable of self-evacuation. That commitment by the Department was a key factor in the rules being passed by the 2006 Legislature. Mr. May explained that these rules were negotiated with the industry and advocates. Earlier this summer, the Department sought public comment but received no input. Informal discussions with the industry indicate they support the rules as written.

Motion: Representative Block moved that the Idaho Board of Health and Welfare adopt as pending, the Residential Care or Assisted Living Facilities, as presented in the final proposal under Docket No. 16-0322-0601, with the rules becoming final and effective at the conclusion of the 2007 Legislative Session.

Second: Dan Fuchs

Vote: Motion carried. 8 Ayes 1 Nay (Weeg) 0 Absent

AGENDA ITEM #14: **DEVELOPMENTAL DISABILITIES AGENCIES (DDA) DOCKET NO. 16-0411-0601 (PENDING)**

Cameron Gilliland, Program Manager, Developmental Disabilities, FACS, reported this chapter of rules was adopted by the Board as temporary this summer. They are now asking that they be approved as pending for the next legislative session. The change in the DDA rules will fill a gap in services by adding supportive counseling as a service for individuals with DD.

Mr. Gilliland explained that supportive counseling is a sub-category of psychotherapy that allows social workers and psychotherapists to assist individuals with DD. Individuals with DD learn how to solve problems and make decisions about personal, health, social, educational, vocational, and financial concerns. During the 2006 legislative session, the Department did a full-scale update of the DDA rules. One of the updates was to make the requirements for psychotherapy match the requirements listed in the social work rules. Bachelor's level social workers would no longer be able to provide psychotherapy. The Idaho DDA Association pointed out that social workers provide valuable counseling to individuals who have DD. Supportive counseling was then requested as a service by the Idaho Developmental Disability Agency Association. This rule was published in the August Bulletin and to his knowledge received no comment as a result of that publication.

Motion: Stephen Weeg moved that the Idaho Board of Health and Welfare adopt as pending, the rules for Developmental Disabilities Agencies (DDA), as presented in the final proposal under Docket No. 16-0411-0601, with the rules becoming final and effective at the conclusion of the 2007 Legislative Session.

Second: Janet Penfold

Vote: Motion carried. 9 Ayes 0 Nays 0 Absent

AGENDA ITEM #15: ADJOURNMENT

Chairman Kenyon adjourned the meeting at 3:10 pm; the Board will reconvene on November 17, 2006 at 8:00 a.m.

BOARD OF HEALTH AND WELFARE
FRIDAY, NOVEMBER 17, 2006:

CALL TO ORDER

Chairman Kenyon called the meeting to order at 8:01 am.

ROLL CALL

Richard Armstrong, Secretary, called the roll. All members were present with the exception of Senator Compton, absent until 8:10 am; Sara Nye, absent until 1:05 pm; and Stephen Weeg, absent until 1:15 pm. Don Gross and Senator Compton excused themselves at 2 pm.

AGENDA ITEM #5: CONFIRMATION OF NEWLY APPOINTED ADMINISTRATIVE DIRECTOR, IDAHO STATE SCHOOL AND HOSPITAL

Due to a scheduling conflict, Ms. Broetje's confirmation was deferred to Friday November 17, 2006. Michelle Britton introduced Sue Broetje and reviewed her resume.

Motion: Dr. Roberge moved to confirm the appointment of Susan Broetje as Administrative Director, ISSH, Department of Health & Welfare.

Second: Rep. Block

Vote: Motion carried. 8 Ayes 0 Nays 1 Absent (Weeg)

AGENDA ITEM #16: **RULES GOVERNING MANDATORY CRIMINAL HISTORY CHECKS DOCKET NO. 16-0506-0601 (REPEAL)(TEMPORARY)**

Mond Warren, Bureau Chief, Audits and Investigations, Management Services, reported that due to the number of changes being made, this chapter of rules is being repealed and has been rewritten under Docket 16-0506-0602.

Motion: Dr. Roberge moved that the Idaho Board of Health and Welfare adopt as Temporary rulemaking in the Rules Governing Mandatory Criminal History Checks, as presented under Docket No. 16-0506-0601, with the effective date of the Temporary to be January 1, 2007.

Second: Janet Penfold

Vote: Motion carried. 8 Ayes 0 Nays 1 Absent (Weeg)

AGENDA ITEM #17: **CRIMINAL HISTORY AND BACKGROUND CHECKS DOCKET NO. 16-0506-0602 (REWRITE) (TEMPORARY)**

Mond Warren, Bureau Chief, Audits and Investigations, Management Services, reported this chapter of rules is the rewrite of Docket 16-0506-0601. Mr. Warren stated that the Criminal History Unit processes criminal history and background checks for individuals who have access to vulnerable adults and children; such as foster care and adoption applicants, Medicaid providers, and licensed daycare providers. Last year, the Idaho Legislature approved the necessary statutory authority which allowed the Department to begin working on changing the current rules and process for background checks.

Mr. Warren reported that the temporary rules amend the fees for criminal history and background checks to comply with Idaho law, which now requires the applicant to be responsible for the cost. The Department is currently charging $45 for the background check and a recent evaluation revealed the cost per check is $48. This amount was based upon the charges from the FBI and State Police, and personnel and operating costs of the criminal history unit. These temporarily rules allow a background check to be transferable for up to three years rather than the previous one year; however, if an individual changes employers a $10 state background check would be required opposed to the increased $48 fee. Employers still have the option of requesting another fingerprint based background check at any time on new employees.

Mr. Warren stated that these rules also incorporate the changes due to the implementation of new technology. They detail the process for submitting an application on-line; however, still allow paper applications to be submitted if an individual does not have internet access. These rules also amend the list of individuals required to have a background check. The list of disqualifying crimes for which individuals are automatically denied a background check clearance has also been amended.

Motion: Dan Fuchs moved that the Idaho Board of Health and Welfare adopt as Temporary rulemaking the rules for Criminal History and Background Checks, as presented under Docket No. 16-0506-0602, with the effective date of the Temporary to be January 1, 2007.

Second: Janet Penfold

Vote: Motion carried. 8 Ayes 0 Nays 1 Absent (Weeg)

AGENDA ITEM #18: **RULES GOVERNING FAMILY AND CHILDREN'S SERVICES DOCKET NO. 16-0601-0601 (PENDING)**

Kathy Morris, Program Specialist, Child Protection, FACS reported this chapter of rules is being changed to clarify and provide improved safety, permanency and well being for children in foster care and in state guardianship. Ms. Morris reviewed the major substantive changes in the docket:

- A new section for Criminal History and Background Checks has been added. With the change in the Department Criminal History and Background Check rules, each program must specify who is required to have a criminal history and background check.
- The definition sections pages 261-268 improves the definitions, provides consistent language, and is in response to input received from the courts and families.
- Next, on page 274, Section 405.05.e concerns visitation of children in state custody who are placed outside the state of Idaho in foster family care. The foster child's safety and well being is being monitored through the other state agency according to a schedule agreed upon by Idaho and the receiving state.
- Section 428, page 275 allows the expedition of placement with relatives in other states or to allow a child to move with their foster family and maintain their Idaho foster home license until licensed by the other state.
- On page 280, section 701.08 allows a reduction in the time of supervision for a child being adopted by their foster parents. This reduces unnecessary delays in finalization of adoption and more timely permanency for the child.
- Section 702.04 on page 281 brings the rules in line with Idaho Code provisions for Hard-To-Place Children (I.C. 56-801) by ensuring that guardianship assistance is available for at children with special needs who have been freed for adoption, but where attempts to identify an adoptive home have been unsuccessful.
- On page 282, section 831, allows the Department to waive adoption related fees including the adoption home study for foster parents adopting foster children placed in their home who become eligible for adoption. The waiver will be rescinded if the family uses a Department home study to adopt a child not in the Department's custody.
- On page 286, section 900.03 and .04 concerning state-funded adoption assistance. This change brings this section of rule in line with Idaho Code by restricting this state funded adoption assistance to children adopted from state custody.

Motion: Rep. Block moved that the Idaho Board of Health and Welfare adopt as pending, pending, the Rules Governing Family and Children's Services, as presented in the final proposal under Docket No. 16-0601-0601, with the rules becoming final and effective at the conclusion of the 2007 Legislative Session.

Second: Dr. Roberge

Vote: Motion carried. 8 Ayes 0 Nays 1 Absent (Weeg)

AGENDA ITEM #19: **RULES GOVERNING CHILD CARE LICENSING DOCKET NO. 16-0602-0601 (PENDING)**

Kathy Morris, Program Specialist, Child Protection, FACS reported this chapter of rules is being amended to better protect children in foster care and other licensed facilities from accidental drowning in

swimming pools and other water hazards on the foster parent's property. The rules also clarify the requirements for fingerprinting of children turning 18 in a licensed foster home or facility and clarify the requirements for alcohol and drug counselors. Ms. Morris reviewed the major substantive changes in the docket:

- On page 290, section 009 clearly defines who is subject to the criminal history background checks under this set of rules. On page 291, section 009.04 at the top of the page provides for exception to the background check for foster youth who turn 18 and continue to reside in the same foster home or residential facility. Further down that same page in section 404.03 specifies the requirement for background checks for the foster family's child who turns 18. It does require when and if a youth returns to take up permanent residence at the foster home after an absence of 90 days or longer, a criminal history and background check is required. Anyone 21 years of age or older who lives in the foster home and has not already been printed, must complete a criminal history background check.
- Section 430 starting on page 292 outlines the safety requirements for foster parents concerning their pools, ponds, hot tubs and other bodies of water on or near their property. Similar requirements for residential care facilities are found on page 295 under section 749.
- Finally on page 297, section 784.04.d clarifies the time lines for meeting the requirements for alcohol and drug counselors. The current rule allows counselors hired any time after June 30, 2001 up to three years to meet the requirements specified in section 784.04.a-c. The original intent in 2001 when these rules were written was to allow existing counselors a grace period to meet the requirements. It is being amended to insure newly hired staff are qualified to provide appropriate counseling services.

Motion: Dan Fuchs moved that the Idaho Board of Health and Welfare adopt as pending, the Rules Governing Child Care Licensing, as presented in the final proposal under Docket No. 16-0602-0601, with the rules becoming final and effective at the conclusion of the 2007 Legislative Session.

Second: Senator Compton

Vote: Motion carried. 8 Ayes 0 Nays 1 Absent (Weeg)

AGENDA ITEM #20: **STATEWIDE AND REGIONAL INTERDEPARTMENTAL SUBSTANCE ABUSE COORDINATING COMMITTEE DOCKET NO. 16-0604-0601 (PENDING)**

Pharis Stanger, Program Specialist, Substance Abuse, Behavioral Health reported that during the legislative session of 2006 Idaho's Health and Safety Code was changed to create the statewide Interagency Committee on Substance Abuse Prevention and Treatment and to reactivate Regional Advisory Committees to coordinate substance abuse prevention and treatment services. The change in code is so specific that Chapter 16.06.04 of Health and Welfare's rules is no longer necessary to guide us in developing Statewide and Regional Coordinating Committees. The docket repeals this entire chapter of rule.

Motion: Senator Compton moved that the Idaho Board of Health and Welfare adopt as pending, the rules for Statewide and Regional Interdepartmental Substance Abuse Coordinating Committee, as presented in the final proposal under Docket No. 16-0604-0601, with the rules becoming final and effective at the conclusion of the 2007 Legislative Session.

Second: Tom Stroschein

Vote: Motion carried. 8 Ayes 0 Nays 1 Absent (Weeg)

AGENDA ITEM #21: COAL-FIRED POWER PLANT PRESENTATION

Elke Shaw-Tulloch, Bureau Chief, Community and Environmental Health, Division of Public Health, gave a PowerPoint presentation on coal-fired plants and the pollutants associated with them.

Dr. Jerry Hirschfield, M.D., Legislative Chairman of the Idaho Chapter of American Academy of Pediatrics, reviewed and reported on the effects on children from pollutants. He appealed for the Board's support in not allowing coal-fired plants.

Representative Block attested to the response from citizens in regard to creation of a coal-fired plant in Idaho. For the record, she submitted a list of signatures collected thus far in opposition to coal-fired plants in Idaho. Rep. Block also stated that Governor James E. Risch opted out of the mercury cap and Governor-Elect Butch Otter has agreed with this decision.

AGENDA ITEM #22: TEMPORARY MORATORIUM ON DEVELOPMENT OR CONSTRUCTION ON NEW INPATIENT HOSPITAL BEDS

Steve Millard, President, Idaho Hospital Association (IHA) submitted and reviewed a petition on behalf of the Idaho Hospital Association, Inc. Mr. Millard stated that the Idaho Hospital Association plans to propose legislation in 2007 which would require a "certificate of need" before any health facility could be developed, constructed or expanded, or major medical equipment could be purchased. The legislation will set up a regulatory mechanism where any entity that wishes to construct such a health facility must prove need in its community and receive a "certificate" of that need from a body that would be created in the legislation. Therefore, the Idaho Hospital Association petitions the Board of Health and Welfare to disallow the licensure of any additional inpatient hospital beds through a temporary rule until the legislature can address the issue in the 2007 session. Mr. Millard explained that the IHA was not asking for the Board to take a position on the certificate of need.

Stephen Weeg declared that he was a previous member of the Idaho Hospital Association and he has done some contract work with IHA.

Discussion ensued with the following testimonies:

Dr. Jeff Hessing, Medical Director, Treasure Valley Hospital (TVH) distributed and reviewed a packet of information including a letter from Robert Huntley, an attorney for TVH. Dr. Hessing stated that TVH has served over 40,000 residents of this state in the last ten years. He believes they have earned their right to be in the health care market. TVH takes care of indigent patients. On a percentage basis of their bottom line provide more charity care than on a percentage basis of the bottom line of the big hospitals. Dr. Hessing believes they do more than their share and they do it while at the same time they pay taxes and do research with other nonprofit organization and have other ways that they pay back the communities. Dr. Hessing stated that he hoped the Board members are all aware of the process that goes on in this town as well as across the country; the process of hospitals buying up physician practices. Dr. Hessing explained that the majority of family practices physicians in the town are not in private practice—they are owned by the hospitals. Dr. Hessing explained that he sits with his patients and they decide where they should go for their care. In his opinion he can provide higher quality, better care with high patient satisfaction at a lower cost than most of the hospitals in this town can provide. And that is why about 40% of his patients go to Treasure Valley Hospital. He believes that there is not a crisis/shortage like the IHA suggests there is.

Board members asked for clarification of a payer mix spread sheet located in the packet. Dr. Hessing referred members to the second to last page which summarizes TVH's numbers. The last page is analysis of another locally owned business, separate from TVH. It was his attempt to get information from around the state for the members.

Dr. Dave Lamey, Orthopedic Surgery Center of Idaho (OSCI) began his testimony by clarifying that he was not participating with the facility that is under discussion. Dr. Lamey was concerned about attempts to restrict physician ownership. Dr. Lamey explained that he is part of surgery center here in Boise that has been a huge benefit to the medical community. He is afraid if we began restricting the ability for physicians to have ownership that sooner or later the hospitals will have no competition at all. He sees competition as a good thing. He sees specialization of facilities as a good thing. As far as the concerns that have been raised by Mr. Millard, Dr. Lamey thinks the work shortage concern is not that big of a deal here if this hospital does succeed. Regarding self referral at his surgery center, he has documentation to share that shows they do not discriminate. Dr. Lamey explained that they do have a percentage of uninsured Medicaid/Medicare—the less desirable payers. Dr. Lamey continued his report by explaining that these facilities are so efficient; he may do 10 or 12 surgeries a day and if one or two or three of those are Medicaid or underinsured it doesn't make sense for him to go to a hospital to do his other ones there--it would just ruin his efficiency for the day. OSCI can provide all of the care and can show that they do it faster, cheaper, and with higher patient satisfaction. Dr. Lamey thinks competition is good and it concerns him if competition will be restricted.

Dr. Troy Watkins, Orthopedic Surgery Center of Idaho, stated he was offended with Mr. Millard's accusation that across the board, people who are engaged in private enterprise, in order to make the system work better, to provide better service to their patients at a cheaper price it automatically makes him a dishonest person. Dr. Watkins reported that 19% of what OSCI does is either paid for by the government or done for no pay. OSCI does not discriminate. Dr. Watkins reminded the members that they can only talk about Treasure Valley Hospital, which is the only private hospital in town or the free standing surgical centers, which are already in existence as far as the new facility is concerned. Since a number of the same people will be investors in each you have to assume that this facility will be run as the already existing facilities are; charge patients who don't have insurance the lowest commercial rate that they can. The hospitals charge patients without insurance full ride. The big hospitals like St Luke's and St. Al's work with insurance companies that have polices which self-direct patients to their own hospitals. Dr. Watkins explained how difficult it was for him to get time at St. Luke's to perform surgery. Dr. Watkins believes that there are enough out-patient procedures being done in this community already that if they were closed down, which the IHA is trying to do, it would be impossible for hospitals to pick up the slack. Dr. Watkins reported that he was not sure if it was coincidence, but the certificate of need went of out of effect in the planning stages of St Luke's Meridian and now that the St. Luke's Meridian has been built, IHA wants reinstatement of the certificate of need.

Ellen Bankin, R.N., Director of Nursing at Orthopedic Surgery Center of Idaho stated that she is not here to restate what the physicians have stated. She is here to represent her role as a registered nurse. The Idaho State Board of Nursing says that her primary charge to is advocate for the patients, so she is here to advocate for the patients and as the director of nursing she is there to advocate for the staff caring for these patients. Ms. Bankin stated that she was given the opportunity to set an overall direction of quality patient-centered care as a team member along with physicians and staff at the OSCI. It has always been and remains their vision to achieve excellence in healthcare in a cost-effective efficient manner while simultaneously making each patient feel as though they are the only human in their facility. Their patient satisfaction results support the continued achievement of this vision. Cost-effective care is a challenge for OSCI. They do not have the multi-billion dollar clout of a major healthcare system. They do not purchase enormous quantities of anything to achieve the lowest available price. According to the Office

of Inspector General, the Medicare program pays $1 billion more annually for procedures performed in hospital outpatient settings than it would pay if the same procedures were preformed in ASCs. They continually receive lower reimbursements for high quality care and yet they infuse the communities with income via property tax and income tax. They serve their community without bias for ability to pay. A significant portion of their patient population is Medicare/ Medicaid/ Tricare and the uninsured patient. Ms. Bankin stated that at times, the press would have you believe they turn these patients away. This is not their reality. Still they put quality first. Within days of caring for their first patient, they received a Medicare visit and were awarded certification on the spot and without a single recommendation for improvement. They then made the decision to also achieve an independent accreditation through the Accreditation Association for Ambulatory Health Care (AAAHC). This was completely voluntary on their part in order to demonstrate to their patient community that they are committed to the scrutiny of quality standards as do the local major regional medical centers through the joint commission. Since that time, they have received two surprise Medicare visits. Each time the surveyor upheld their certification and without recommendations for improvement. The market force in this state will drive their success or failure. Her plea to the Board was to allow the market force to be the future of healthcare of Idaho citizens. Consumer choice should not be legislated.

Dr. Kirk Miller, Anesthesiologist, Intermountain Surgery Center distributed information packets and stated that he represents a group of physicians that are currently building a surgical hospital in Idaho, which is the primary reason behind the current request. They have been trying to build this hospital since November 2001. There are two reasons why it has taken so long. They have spent a great deal of time trying to create a partnership with the hospitals in order to work with them rather than without them. Unfortunately, they were unsuccessful. The other reason it has taken this long is that they have already experienced a national moratorium on the development of surgical hospitals. Dr. Miller reported that the Untied States Congress heard the same concerns and arguments that have been presented to you today from the IHA, as well as the counter arguments from opposing groups. Congress listened to the arguments and made a decision to institute a moratorium in order to investigate the impact of surgical hospitals on our national and local health care. In 2003, Congress then commissioned Medicare to investigate the issue, and in August of 2006 Medicare eliminated the moratorium, ruling in favor of surgical hospitals. In 2006, Medicare published the following observations and conclusion: 1) Specialty hospitals do not adversely affect the finances of community hospitals. 2) Medicare observed that the competition form a surgical hospital improved the quality of care provided in the community. 3) The physician's commitment to and pride in "their" specialty hospitals are powerful positive forces that should be encouraged. 4) Medicare also commented on the financial benefits a specialty hospital provided to the community through "substantial tax revenues". The following institutions have also published their support of surgical hospitals and they include: Federal Trade Commission, the General Accounting Office, the Department of Justice, the National Center for Policy Analysis, Small Business & Entrepreneurship Council, Wall Street Journal, Washington Times, Harvard Business School, AMA and the American College of Surgeons. The rationale for all of the above was the same. In our free market society, competition promotes lower costs, increased quality and increased efficiency. That is why Medicare eliminated the moratorium for the entire county in the Fall of 2006. The issue of surgical hospitals and their impact on health care and the local community has been discussed and studied at the national level. Therefore, any request by the IHA to place a moratorium on the development of new hospital beds is a direct attempt to stop competition.

Board members were interested to know how many people involved and where in the process they were. Dr. Miller stated that there are 20 physicians involved in this process and are in the process of purchasing the land for the center.

Sandra Bruce, CEO, Saint Alphonsus Regional Medical Center, reported that she wanted to ask the Board/state of Idaho to take a pause to think about what kind of system is needed in Idaho to plan for

health care faculties, equipment and services. There are 38 other states in this country that have some formalized health planning that goes on at a state level. She believes that the law does direct this committee to protect the health and welfare of the citizens of this state. Ms. Bruce believes that with the explosive growth rate in the Treasure Valley and uniqueness of Idaho with rural and urban markets, it's time to take the next step and to look where healthcare services ought to be located and what kinds of services are needed. Ms. Bruce stated what she anticipates the impact on St. Al's and St. Luke's and other hospitals in the Treasure Valley to be, if the ortho-, neuro- hospital as we understand it goes forward. The first thing she is worried about, at St. Al's is the jeopardy to the trauma program that is offered. It's an expensive program to operate and it requires orthopedic surgeons and neurosurgeons who are trained in trauma to be on call 24 hours, seven days a week. Ms. Bruce stated that what they have learned in other communities is once an ortho-/ neuro- hospital is built, frequently the physicians at a trauma hospitals like at St. Al's resign their privileges. The other area she is concerned about is access to other services that St. Al's and other hospitals provide that are not very lucrative and don't pay for themselves. St. Als' emergency department runs 24 by 7. Ms. Bruce stated that she appreciates the orthopedic surgery center and she thinks they do good work, but when she drives home at night at 7pm the lights are off. They are offering a different kind of service, 24 by 7 emergency room services to any Idahoan, regardless of the ability to pay and 20% of those Idahoans don't have health insurance. Ms. Bruce explained that when you pull out very profitable services like orthopedics or neuro- the financial stability of those programs that don't pay for themselves is in jeopardy. Behavioral health/ mental health do not pay for themselves. The trauma program doesn't pay for itself. The 24 by 7 emergency departments don't pay for themselves and part of the revenue source comes from orthopedics and neuro- because they pay well. St. Als runs an intensive care unit and on any given day St. Luke's and St. Al's are talking to each other about whose got a bed in ICU, whose got a bed but doesn't have an ICU nurse to staff it. Those are expensive units to run. Ms. Bruce explained that she is not saying that this is a bad thing to do. She is saying let's look at what the implications for the rest of the system are because in allowing one thing to go forward we may unwittingly unravel all of the safety net that we have built here in the valley for Idahoans.

Board members asked if Ms. Bruce had a sense of what St. Al's hospital payer mix was in terms of Medicare/Medicaid. Ms. Bruce stated that she did not have that information with her, but she thinks their Medicare is between 45-50% and Medicaid is between 12-15%. This led her to another point—since about 60% of hospitals revenues is coming from the federal and state governments, isn't it time for the government to get involved in the planning of those facilities and resources.

Steve Farro, President-Elect, Idaho Ambulatory Surgery Center Association, stated that his concern is that as a citizen of Idaho he would hope that if there was a clear and present danger to the welfare and healthcare of his family or anybody's family in the conference room that it is within the Board's charter to step up and put some type of moratorium or action in place. But barring any clear and present danger to our area he hopes that we leave that in the hand of the legislators, which apparently will happen in the next few months. Mr. Farro wanted to also clarify that JCAHO accreditation and AAAHCO recognize each other, so if you are required to have one and have either one then you are covered.

Doug Crabtree, CEO, Eastern Idaho Regional Medical Center was asked to read a letter sent to IHA from Gary M. Dyer, Executive Vice President and COO, Blue Cross of Idaho, which requests that the Board to impose a moratorium in the short-term. Mr. Crabtree reported that the EIRMC is a 24 by 7 operation with a service area of about 300,000 people. They are Joint Commission accredited and offer specialized services including trauma but also meet their areas' most basic needs with the town's only emergency room and have the psychiatric beds in the community and the region. And most importantly they are town's only healthcare safety net. Located adjacent to their hospital is a specialty/ limited service facility that is owned by a number of physicians but they don't take care of sick people. More than often those people are transferred from their facility to EIRMC. Mr. Crabtree urged the Board to seriously consider

IHA's proposal.

Dr. John Kloss, Orthopedist, Boise Orthopedic Clinic, has practiced in Boise for 26 years. Dr. Kloss reported on his employment background. Dr. Kloss believes that medical care in Idaho, in some respects is in the dark ages. Medical care is the only [inaudible] industry that has not deregulated itself, unbundled and made cost-effective care for the [inaudible] elements that it should have. There are effective trauma management and payment systems available. Dr. Kloss stated that the way we fund our trauma service is not feasible anymore. We should not expect nor would you expect in your business to ask one component of your business to fund another unfunded business. Why should we tax the orthopedic patient to pay for the unfunded trauma patient? Why should we tax the cardiac patient to pay for the unfunded trauma patient? Dr. Kloss believes that there are two issues here; one is the provision of trauma care. Dr. Kloss stated that the physicians failed to say that when Dr. Watkins finished work at the OSCI or Dr. Lamey finished surgery they were then on call. All of these physicians are on call. No other professionals put up with being on call, but that's what is expected of our trauma physicians. We need a trauma service, but it should not be on the backs of the other patients of the hospital.

Scott Brown, Mountain View Hospital in Idaho Falls, stated that currently they are a licensed hospital in the state of Idaho but they have been referred to as a specialty hospital. Their current payer mix is 39% Medicare/Medicaid, 30% Blue Cross/Blue Shield and 30% commercial with a self-paid component. Mr. Brown reported that MVH has all of the ambulatory services of a traditional hospital and the only thing they don't have is a designated level of trauma with regards to their emergency room. They do have 24 hour call services. The general public recognizes their facility as a hospital and they have to be prepared to take care of any issue that is out there. The MVH facility offers a lot more services than most of the rural hospitals or critical access local hospitals around. Patients are better educated and they demand more from our healthcare and demand more access. The reason they are being successful is because their needs are not being met at most of the hospitals and they do have options and they do trust their physicians. Mr. Brown concluding by stating that his opinion is that competition is good and means better access for patients.

Kathy Moore, West Valley Medical Center, IHA was frustrated with statements being made that the opening of an ambulatory surgery center or a limited service hospital does not impact the care at your community hospital is very unfounded. Ms. Moore explained that in October 2006, she had 50% of her outpatient surgeries compared to October of last year. They have already closed one operating room out of four to their community. They are now considering closing their second facility which will mean that they will be at 50% capacity. Ms. Moore stated that this will increase the costs of services to their community because she is now put in a position where she has to subsidize her anesthesia group just to maintain coverage for a 24 by 7 OR that is prepared to see emergencies. She sees orthopedics and other emergency cases that are presented in her emergency department that they treat, stabilize and then those surgeries are done at the ambulatory surgery center so she does not have the opportunity to capture that volume back into her hospital. Ms. Moore stated that if this was about quality of patient care her physicians would have opened an ambulatory surgery center or a limited service center that would have had a full service department. She is happy to compete in a free market, but what that will mean for your community hospitals is that means that she will close her 24 by 7 emergency department, ICU, and OR and become one of these boutique hospitals. Ms. Moore concluded by stating that if you think this does not impact the quality of services that you are receiving in your community or your community hospital she would just ask that you would reconsider that comment from earlier.

Board members requested information related to the number of ambulatory surgery centers, where they are in Idaho and the same thing for the specialty hospitals. Mr. Steve Farro stated that he could get that information to them.

The Chairman asked Steven Millard to make a brief concluding statement to wrap-up the session. Mr. Millard wanted to make sure that it was clear that by bringing this before the Board, the IHA was not bad mouthing the physicians and they are not trying to close any facilities. They are trying to figure out a way to make sure there is proper planning done in this state. IHA is afraid that if a process is set by the 2007 Legislature that the facility currently being talked about won't go through a process. IHA thinks that physicians are good people and they take care of patients very well, but our system has incentives that are perverse and anybody in the same situation with a financial incentive—the more you do, the more you make—is probably going to do more. It's a common human trait. Mr. Millard stated that IHA understands that it is a hard issue for this Board and they appreciate the Board's time and they hope the Board will take it under advisement.

Chairman Kenyon stated that the proposal was received by the Board on November16th; the Board has up to 28 days to review and respond to the petition. The Board plans to make a decision the first week of December.

AGENDA ITEM #23: MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT DELIVERY SYSTEMS INTERIM COMMITTEE

Representative Kathy Skippen addressed the Board, not as a representative of the Mental Health and Substance Abuse Treatment Delivery Systems Interim Committee, but as the recipient of a letter sent to her and Senator Joe Stegner by the Board's Chairman. Representative Skippen reviewed portions of the subject matter in the letter. Discussion ensued. Rep. Skippen stated that she supports what the interim committee supports, which is to fund a consultant study to look at the current system and what should be in place. Board members thanked her for her thoughts and for joining them at the meeting.

MISCELLANEOUS INFORMATION

Senator Compton added for the record that he applauds the Department for its choice of replacements for Regional Directors previously confirmed.

Board members discussed when to hold a special meeting to make a final decision on the Idaho Hospital Association's petition. Members agreed on December 6, 2006. Lauren Laskarris and Dave Butler will apprise the Board when the time and place is confirmed.

Michelle Britton reported that the Medicaid review of ISSH was completed and they received very good feedback from surveyors with only two deficiencies being found.

Board members asked that updates regarding substance abuse and mental health be a standing agenda item for Health Services subcommittee.

Chairman Kenyon submitted for the record, a letter sent to him by the Community Care Advisory Council. Chairman Kenyon considers the letter an endorsement of the recently adopted temporary rule to add a sunset date of July 1, 2010, to the grandfather clause of the rule requiring fire-suppression sprinklers for facilities that accept residents incapable of self-evacuation.

AGENDA ITEM #24: **ADJOURNMENT:**

Motion: Chairman Kenyon moved to adjourn the meeting at 3:10 am.

Vote: Motion carried. 7 Ayes 0 Nays 2 Absent (Gross, Compton)

Respectfully signed and submitted by:

Quane Kenyon

Quane Kenyon, Chairman, Health and Welfare Board

Richard M. Armstrong, Secretary, Health and Welfare Board

Elsie Boyd

Lauren Laskarris, Management Analyst and Recorder