

**MINUTES OF THE
HEALTH AND HUMAN SERVICES INTERIM COMMITTEE**
Wednesday, November 14, 2012 – 2:00 p.m. – Room 20 House Building

Members Present:

Sen. Allen M. Christensen, Senate Chair
Rep. Paul Ray, House Chair
Sen. Patricia W. Jones
Sen. Stuart C. Reid
Rep. Tim M. Cosgrove
Rep. Bradley M. Daw
Rep. Wayne A. Harper
Rep. Ronda Rudd Menlove
Rep. Dean Sanpei
Rep. Evan J. Vickers

Members Absent:

Sen. Mark B. Madsen
Sen. Luz Robles
Rep. Daniel McCay
Rep. Christine F. Watkins

Staff Present:

Mr. Mark D. Andrews, Policy Analyst
Ms. Cathy Dupont, Associate General Counsel
Ms. RuthAnne Frost, Associate General Counsel
Ms. Lori Rammell, Legislative Secretary

1. Committee Business

Chair Ray called the meeting to order at 2:24 p.m.

MOTION: Sen. Christensen moved to approve the minutes of the June 20, 2012; September 19, 2012; and October 17, 2012, meetings. The motion passed unanimously with Rep. Cosgrove absent for the vote.

2. Obesity

Rep. Eric K. Hutchings distributed "Spark: The Revolutionary New Science of Exercise and the Brain" and "Scores in Math and English by Number of Fitness Standards - 2004," which reflected the importance of physical activity in students' academic performance. He stated that obesity is related to academics, depression, and behavior. He said that there will be requests to allow schools to incorporate physical fitness in public education and that he will come back with suggestions on how to do that.

Lieutenant Colonel Michael Jay Turley, Recruiting and Retention Coordinator, Utah National Guard, distributed "Obesity in Utah" and "Still Too Fat to Fight" and discussed the problem of obesity and its relationship to the military. He stated that the recruiting pool is shrinking as fewer people qualify for military service. He said retention is also a problem due to issues of obesity and obesity-related injuries. Obesity, he said, has a direct effect on military readiness.

Mr. Eric Allred, Health and Industrial Hygiene Manager, Rio Tinto, distributed "KUC Wellness Strategy: Sustaining Business Through People" and discussed the economic impact of obesity and its effects on business in Utah. He stated that because 86% of Rio Tinto employees are obese, the company decided to hire nutrition and exercise experts to act as health coaches to employees. He said the company also offered incentives to employees for exercise equipment and gym memberships.

Mr. Scott Brown, Salt Lake Valley Board of Health, discussed how local health departments are community leaders in the fight against obesity.

Dr. Liz Joy, Medical Director, Clinical Outcomes Research, Intermountain Healthcare, discussed the importance of physical activity in schools. She stated that the best investment we can make is in our

children and that the evidence supporting the importance of physical activity is incontrovertible. She suggested children be involved in 60 minutes per day of high quality physical activity.

Chair Ray turned the chair over to Sen. Christensen.

3. Sunset Review—Hospital Provider Assessment Act

Mr. Andrews reviewed the actions which a committee may take when conducting a sunset review, including the review of Utah Code Ann. Title 26, Chapter 36a, Hospital Provider Assessment Act, which will automatically be repealed July 1, 2013, unless the Legislature reauthorizes it.

Mr. Michael Hales, Deputy Director, Utah Department of Health, indicated that the assessment on hospitals allows hospitals to provide their own matching funds for 30% of their total inpatient reimbursement. A portion of the assessment—\$1 million—is also used for general Medicaid funding.

Mr. David Gessel, Utah Hospital Association, distributed "Utah Hospital Association Strongly Supports Reauthorization of Hospital Assessment Act" and stated that hospitals are in favor of reauthorizing the assessment statute. Mr. Gessel indicated that legislation to reauthorize the assessment is under negotiation.

The committee did not take any action on Utah Code Ann. Title 26, Chapter 36a.

4. Sunset Review—Expansion of 340b Drug Pricing Programs

Mr. Hales reported that Utah Code Ann. Section 26-18-12, "Expansion of 340b drug pricing programs," was intended to encourage the Department of Health to expand its 340b drug pricing program beyond coverage for hemophiliacs by University Hospital. He indicated that the department is doing that with the implementation of an accountable care organization model in Medicaid and is working on additional expansions. He said the department recommends the statute be allowed to sunset.

The committee did not take any action on Utah Code Ann. Section 26-18-12.

5. Sunset Review—Timing of Implementation of Clearance for Direct Patient Access

Dr. Marc Babitz, Director, Division of Family Health and Preparedness, Utah Department of Health, explained the purpose of Utah Code Ann. Section 26-21-211, "Timing of Implementation of Clearance for Direct Patient Access," which will be repealed July 1, 2013, unless the Legislature reauthorizes it. He said that the statute is no longer necessary and recommended that it be allowed to sunset.

MOTION: Sen. Jones moved that Utah Code Ann. Section 26-21-211 be allowed to sunset. The motion passed unanimously with Rep. Daw and Rep. Ray absent for the vote.

6. Sunset Review—Standard of Proof for Emergency Care When Immunity Does Not Apply

Mr. Ryan Springer, attorney, Utah Association for Justice, commented on Utah Code Ann. Section 58-13-2.5, "Standard of proof for emergency care when immunity does not apply." He stated that the position of the Utah Association for Justice is that the statute should be allowed to sunset, as scheduled,

on July 1, 2013. He said that if the sunset is extended, the Utah Association for Justice proposes that the committee conduct intensive fact finding regarding the outcomes of the statute, which would include legislative audits and public hearings with sworn testimony.

Mr. Mark Brinton, General Counsel and Director of Public Affairs, Utah Medical Association, stated that Utah Code Ann. Section 58-13-2.5 is good law and is in the best interest of the public. He indicated that even though the association does not believe the section needs a sunset provision, it recognizes that the section is within a chapter of law that has its own sunset provision and is content to leave the section under that requirement. He indicated the association supports draft legislation "Health Care Provider Immunity Sunset Amendment" (2013FL-0428/002).

Chair Christensen turned the chair over to Rep. Vickers.

Sen. Christensen presented draft legislation "Health Care Provider Immunity Sunset Amendment" (2013FL-0428/002), which removes Utah Code Ann. Section 58-13-2.5 from the Legislative Oversight and Sunset Act.

Sen. Jones declared a conflict of interest as a member of the board of directors of St. Mark's Hospital.

Rep. Harper said that it was inappropriate for a demand, rather than a request, to be made of the committee as to how it should do its duty, including doing an audit and receiving sworn testimony.

Acting Chair Vickers declared a conflict of interest as a member of the board of directors of Valley View Medical Center in Cedar City.

MOTION: Chair Christensen moved that draft legislation "Health Care Provider Immunity Sunset Amendment" (2013FL-0428/002) be adopted as a committee bill. The motion passed unanimously with Rep. Ray absent for the vote.

Acting Chair Vickers turned the chair back to Sen. Christensen.

7. State Security Standards for Personal Information

Sen. Reid presented draft legislation "State Security Standards for Personal Information" (2013FL-0010/012). He discussed his personal experience as a victim of the Medicaid data breach that occurred earlier this year. He stated that this legislation, which addresses statewide security standards for personal information stored or transmitted on state servers, has been reviewed by the governor's office and the agencies involved in the data breach. He said that this bill requires an amended notice of privacy practices, that the data base be properly protected, and that by 2014 an audit be performed to ensure that best practices are being observed in terms of system security.

Mr. Dan Fry, Chief Financial Officer, Department of Technology Services, indicated that although the governor's office has not taken a position on this bill, the department sees nothing problematic with it. He pointed out that the bill may generate a fiscal note. He said that a security assessment is being conducted, but the results will not be available until December.

Chair Christensen noted that as a health care provider he has a conflict of interest.

Chair Christensen asked how he, as a doctor, could verify to the health department that the privacy information required by lines 21–24 of the bill had been provided to a patient.

Dr. David Patton, Director, Department of Health, explained that it would be difficult to verify that the more than 6,000 health care providers in the state had given the privacy information to their patients. He said that the bill does not require verification on an individual patient basis; rather, it requires that the privacy document distributed to the patient meet certain requirements.

Ms. Dupont said the bill requires a doctor's notice of privacy practice to comply with statute.

Mr. Gessel spoke in favor of the draft legislation.

MOTION: Sen. Reid moved that "State Security Standards for Personal Information" be approved as a committee bill. The motion passed unanimously with Rep. Ray absent for the vote.

8. Medical Reserve Corps Amendments

Rep. Menlove presented draft legislation "Medical Reserve Corps Amendments" (2013FL-0308/004), distributed to the committee prior to the meeting.

Mr. Mike Weibel, Director, Medical Reserve Corps of Cache, Rich, and Box Elder Counties, explained that Medical Reserve Corps volunteers have liability protection during declared emergencies and disasters, but this legislation would extend that liability protection to training, including providing services at nonemergency events (e.g., flu shot clinics).

MOTION: Rep. Menlove moved that "Medical Reserve Corps Amendments" be approved as a committee bill. The motion passed unanimously with Rep. Daw absent for the vote.

Chair Christensen turned the chair over to Rep. Ray.

9. Controlled Substances Schedules

Chair Ray introduced this issue and then turned the chair back to Sen. Christensen.

Rep. Ray presented draft legislation "Controlled Substances Schedules" (2013FL-0422/002), distributed to the committee prior to the meeting. He said that this bill adds substances and makes technical changes to the controlled substance schedules.

MOTION: Rep. Ray moved that "Controlled Substances Schedules" be approved as a committee bill. The motion passed unanimously with Rep. Daw absent for the vote.

Chair Christensen turned the chair over to Rep. Ray.

10. Traumatic Brain Injuries—Addressing Service Gaps

Mr. Palmer DePaulis, Director, Department of Human Services, spoke about gaps in the state's ability to help persons who have a traumatic brain injury but do not have an intellectual disability or mental illness.

He stated that 56,000 Utahns have been diagnosed with mild to severe permanent brain injuries. He said that those whom the Department of Human Services serves must meet certain requirements to receive limited services. He pointed out one gap in those services that affects those who are hospitalized, receive treatment, and are then sent home. He said they may experience changes in behavior and abilities, yet their families are not given instructions for how to cope with those changes. He added that another gap in services concerns those with a brain injury who are unable to receive therapies that would allow them to be reintegrated into their families. Mr. DePaulis stated that the most important issue related to treatment of traumatic brain injuries is the lack of a commitment statute regarding people with traumatic brain injuries. He said that there are people with brain injuries in jail or prison who cannot be released because they could be a threat to themselves or others.

Mr. Rolf Halbfell, Division of Services for People with Disabilities, Department of Human Services, stated that the mental health system is overwhelmed when working with people with traumatic brain injury. He said the medications, therapies, and treatments for people with traumatic brain injury are different from those used for persons with mental health issues.

11. Pharmacy Practice Act—Exemptions from Licensure

Mr. Mark Steinagel, Director, Division of Occupational and Professional Licensing, introduced the division's report on exemptions from licensure under the Pharmacy Practice Act, which is in response to a four-part study required by legislation. The first three parts of the required study are covered by a study done by the University of Utah College of Pharmacy. Mr. Steinagel indicated that the division is not making recommendations at this time on exemptions from licensure.

Dr. Mark Munger, College of Pharmacy, University of Utah, presented the results of a study he led on practitioner dispensing. The study included a national review of state statutes and rules on practitioner dispensing, a survey of practitioner practices, and a survey of consumer perceptions. Dr. Munger summarized information he displayed to the committee in slides titled "Research Series on Healthcare Practitioner Dispensing 2012."

Mr. Steinagel said that the fourth part of the study required by legislation has to do with practitioner compliance. He said that last week the division posted on the Internet a notice for practitioners to notify the division of their intent to dispense. This will allow the division to track compliance.

Mr. Steinagel indicated that the division will provide a written report of the College of Pharmacy study as soon as possible, while respecting the college's need to not publish the report until the study has been published in an academic journal.

Rep. Vickers said that he will probably open a bill file for the 2013 Annual General Session to look at the issue of practitioner dispensing and will most likely send the bill to interim study.

12. Cancer Awareness

Ms. Rona Greenwald, Pancreatic Cancer Action Network, distributed "Pancreatic Cancer Action Network." She stated that November is Pancreatic Cancer Awareness Month and reviewed statistics about pancreatic cancer.

Ms. Christine Keyser, Utah Indoor Radon Program Coordinator, Utah Department of Environmental Quality, discussed the prevalence of homes with elevated indoor radon levels. She distributed "Radon and My Home: What do I Need to Know?" and "Utah Department of Environmental Quality Division of Radiation Control Short Term Test Results by County and Zip Code." She discussed the unique factors that create an increased risk of radon contamination in Utah, including local temperature inversions and the presence of basements and negative pressure in homes in the state.

Dr. Wally Akerly, medical oncologist, stated that radon causes lung cancer. He indicated that lung cancer is the leading cause of cancer deaths in the nation and that radon is the second leading cause of lung cancer. He said a simple test can detect radon and prevent those deaths.

Sen. Jones asked how someone could find a mitigation specialist to rid a home of radon. Ms. Keyser said that a list is available on the Internet. Ms. Keyser indicated that the law does not prevent people from doing their own mitigation, but noted that if people don't follow Environmental Protection Agency standards, they could cause increased danger for their family and neighbors.

Dr. Kevin Nelson, Chair, Coalition for a Tobacco Free Utah, distributed "Smokeless does not mean Harmless" and "New Forms of Tobacco Still Dangerous" and discussed smokeless tobacco. He stated that smokeless tobacco does in fact cause cancer and that unfortunately these products are more readily marketed to children. He stated that mouth, throat, and esophageal cancers are prevalent in users of smokeless tobacco products. He encouraged parity in tax rates across tobacco products.

13. Statutory Reports

Mr. Andrews distributed "Statutorily Required Health and Human Services Reports."

Dr. David Patton distributed "Utah Department of Health Annual and Periodic Legislative Reports Recommended for Elimination."

Sen. Christensen expressed interest in running a bill that would eliminate the requirements of several annual reports.

Chair Ray suggested that committee members consider which reports may no longer be necessary and bring suggestions back to the committee.

14. Behavioral Health Care Workforce Amendments

Not discussed.

15. Adjourn

MOTION: Sen. Christensen moved to adjourn the meeting. The motion passed unanimously with Sen. Reid absent for the vote.

Chair Ray adjourned the meeting at 5:29 p.m.