

**MINUTES OF THE
HEALTH AND HUMAN SERVICES INTERIM COMMITTEE**
Wednesday, November 18, 2015 – 7:30 a.m. – Room 445 State Capitol

Members Present:

Sen. Evan J. Vickers, Senate Chair
Rep. Kay L. McIff, House Chair
Sen. Allen M. Christensen
Sen. Luz Escamilla
Sen. Mark B. Madsen
Sen. Brian E. Shiozawa
Rep. Stewart Barlow
Rep. Melvin R. Brown
Rep. Rebecca Chavez-Houck
Rep. Craig Hall
Rep. Timothy D. Hawkes
Rep. Paul Ray
Rep. Edward H. Redd

Rep. Robert M. Spendlove
Rep. Norman K Thurston
Rep. Raymond P. Ward

Members Absent:

Rep. Sandra Hollins

Staff Present:

Mr. Mark D. Andrews, Policy Analyst
Mr. Gregg A. Girvan, Policy Analyst
Ms. Cathy J. Dupont, Associate General Counsel
Ms. Lee A. Killian, Associate General Counsel
Ms. Lori Rammell, Legislative Assistant

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.leg.utah.gov.

1. Committee Business

Chair McIff called the meeting to order at 7:52 a.m. and noted that Rep. Hollins would not be attending the meeting.

MOTION: Sen. Vickers moved to approve the minutes of the October 21, 2015, meeting. The motion passed unanimously with Sen. Christensen, Sen. Escamilla, Sen. Madsen, Rep. Hall, Rep. Hawkes, and Rep. Spendlove absent for the vote.

Three items were distributed by staff to the committee, but not discussed: (1) "Putative Father Registry Study," (2) "2015 Adoption Registry Annual Report," and (3) a letter from President Niederhauser and Speaker Hughes on interim study reporting.

2. Third-Party Medical Liability

Chair McIff distributed and discussed draft legislation "Nonpatient Cause of Action" (2016FL-0614/005). He explained that the purpose of the draft legislation is to address the Utah Supreme Court's 2012 decision in *Jeffs v. West*, which reportedly has the potential to extend the duty of medical care providers to unidentifiable third parties. Chair McIff responded to questions from the committee regarding the standards of proof as they relate to this draft legislation and the responsibility of physicians for adverse outcomes.

MOTION: Rep. McIff moved to inform the Legislative Management Committee that the committee has concluded that significant issues are addressed by draft legislation "Nonpatient Cause of Action," but more time is needed to develop solutions and consensus. The motion passed unanimously with Sen. Escamilla and Sen. Madsen absent for the vote.

3. Medicaid Preferred Drug List

Rep. Ward distributed draft legislation "Medicaid Preferred Drug List Amendments" (2016FL-0187/007)

and explained that the purpose of the draft legislation is to consider whether the state's Medicaid program's preferred drug list authorization should be expanded to allow for psychotropic drugs not currently on the list. He reviewed previous testimony on this issue from the committee's May and June meetings and discussed changes he has made to the draft legislation as a result. In response to questions from the committee, Rep. Ward stated that the anticipated savings to the state as a result of this legislation will eventually reach \$4,500,000 per year.

MOTION: Rep. Thurston moved to delete “the Division of Substance Abuse and Mental Health within” from line 131 of the draft legislation. The motion passed unanimously with Sen. Escamilla and Sen. Madsen absent for the vote.

Rep. Thurston responded to questions from the committee regarding the need for a restricted account if the suggested change is made.

Ms. Dupont clarified that lines 130-131 are instructions to the Legislature, not the Department of Human Services, on how it may appropriate funds. She added that if the intent is to send funds to the department for specific purposes, the language of the bill could state "for mental health purposes."

Ms. Ginger Phillips, Utah resident, expressed concern about the impact the draft legislation might have on consumers of mental health drugs.

MOTION: Rep. Ward moved that draft legislation "Medicaid Preferred Drug List Amendments" be approved as a committee bill as amended, with 40% of related savings annually earmarked for appropriations to the Department of Human Services.

SUBSTITUTE MOTION: Rep. Hawkes moved that the committee inform the Legislative Management Committee that it has concluded the preferred drug list issue is significant, but more time is needed to develop solutions and consensus.

Following committee discussion, Rep. Hawkes withdrew his motion.

SUBSTITUTE MOTION: Rep. Ray moved that because the committee was not able to take public comment at the meeting on the changes made to the draft legislation since the May and June meetings of the committee, and that therefore the draft legislation was not a finished product, the committee ask the sponsor of the draft legislation to bring the bill back during the next General Session. The motion failed with Sen. Escamilla, Rep. Barlow, Rep. Hall, Rep. Ray, Rep. Redd, and Rep. Spendlove voting in favor. Sen. Madsen was absent for the vote.

VOTING ON THE ORIGINAL MOTION: The original motion passed with Sen. Escamilla, Rep. Hall, Rep. Ray, and Rep. Spendlove voting in opposition. Sen. Madsen was absent for the vote.

4. Medical Marijuana

Sen. Vickers and Rep. Daw presented draft legislation "Medical Cannabidiol Amendments" (2016FL-0041/011), which would amend Utah law to permit the use of certain marijuana products for specific medical purposes and medical research. Sen. Vickers and Rep. Daw responded to questions from the committee regarding the collection of data as outlined in the draft legislation.

MOTION: Sen. Vickers moved to amend draft legislation "Medical Cannabidiol Amendments" by deleting the words "repeals the hemp extract registration act" on line 46 and deleting lines 95-98. The

motion passed unanimously with Sen. Madsen and Rep. Thurston absent for the vote.

Sen. Madsen presented "Medical Cannabis Program" and clarified the significant differences between his proposed draft legislation and the draft legislation presented by Sen. Vickers and Rep. Daw. He stated that his intention is to provide an alternative to prescription opioids through the creation of a regulatory structure to permit whole marijuana plant use. Sen. Madsen responded to questions from the committee regarding the effectiveness of cannabidiol (CBD), a marijuana extract, without the other components of the marijuana plant, specifically THC. Sen. Madsen offered to make a copy of his proposed draft legislation available to committee members.

MOTION: Sen. Thurston moved that the committee inform the Legislative Management Committee that the committee has concluded that medical marijuana is a significant issue, but more time is needed to develop solutions and consensus, and that one or more bills addressing the issue are expected to be introduced during the 2016 General Session.

SUBSTITUTE MOTION: Rep. Hawkes moved that draft legislation "Medical Cannabidiol Amendments," as amended, be approved as a committee bill. The substitute motion passed with Sen. Escamilla, Sen. Madsen, Rep. Brown, Rep. Ray, and Rep. Thurston voting in opposition.

5. Sunset Review — Hemp Extract Registration Act

Staff distributed "Sunset Review Guidelines" and "Hemp Extract Registration Act" as background materials for this issue.

Rep. Gage Froerer distributed "Cannabis Therapy for Pediatric Epilepsies," "Clinical Experience with Cannabis in Treatment-Resistant Pediatric Epilepsy," and draft legislation "Hemp Extract Amendments" (2016FL-0724/005). He explained the necessity of the committee's reauthorizing the Hemp Extract Registration Act, which is scheduled to expire on July 1, 2016, and the importance of extending the act and changing the CBD minimum content requirement from 15% to 5%. He explained that the purpose of the draft legislation is to completely remove the repeal date from Title 26, Chapter 56, Hemp Extract Registration Act.

Ms. Annette Maughan, President, Epilepsy Association of Utah, stated that her son has improved significantly since beginning use of CBD. She reported on the number of children in the state using CBD and the outcomes to date.

Ms. Jennifer May, Hope 4 Children with Epilepsy, presented "Hope 4 Children with Epilepsy" and told of the improvement in her son's symptoms due to CBD. She reported on the results of some of the families that have been tracking their children's seizures since beginning their use of CBD. She also distributed a statement from CW Botanicals and explained issues CW Botanicals is encountering in the manufacturing of CBD. Ms. May responded to questions from the committee regarding adverse reactions to CBD.

MOTION: Sen. Christensen moved that the draft legislation be amended to include a repeal date of July 1, 2021. The motion passed unanimously.

MOTION: Sen. Vickers moved that draft legislation "Hemp Extract Amendments," as amended, be approved as a committee bill. The motion passed unanimously.

Mr. Rich Oborn, Director, Office of Vital Records and Statistics, Utah Department of Health, distributed

and discussed "Hemp Extract Registration Act: Implementation Update."

6. Sunset Review — Exemption for Use or Possession of Hemp Extract

Staff distributed, as background material for this item, Utah Code Section 58-37-4.3, Exemption for Use or Possession of Hemp Extract. This item was discussed under Item 5.

7. Sunset Review — Hospital Provider Assessment Act

Staff distributed Title 26, Chapter 36A, Hospital Provider Assessment Act, as background material for this item.

Ms. Dupont explained draft legislation "Reauthorization of Hospital Provider Assessment Act" (2016FL-0480/003), which extends the sunset date of the act for three years and makes amendments to the act.

Mr. Dave Gessel, Executive Vice President, Utah Hospital Association, participated by telephone and expressed the desire of the Utah Hospital Association to see the sunset date of the Hospital Provider Assessment Act extended for three years.

MOTION: Sen. Christensen moved to approve as a committee bill draft legislation "Reauthorization of Hospital Provider Assessment Act." The motion passed unanimously.

8. Statutorily Required Reports

Mr. Girvan distributed "Statutorily Required Reports" and draft legislation "Repeal of Health and Human Services Reports and Programs" (2016FL-330/009). He explained that the purpose of the draft legislation is to consider whether various health and human services reports required by state statute should be continued, modified, or repealed.

MOTION: Sen. Vickers moved to approve as a committee bill draft legislation "Repeal of Health and Human Services Reports and Programs." The motion passed unanimously.

9. Aging

Rep. Tanner introduced the issue of whether Utah Code should be amended to create regulatory protections for participants in continuing care retirement communities (CCRCs). He presented excerpts from "Older Americans: Continuing Care Retirement Communities Can Provide Benefits, But Not Without Some Risk" (Government Accountability Office), which was previously posted on the committee's web page. Two other documents were also previously posted or linked to on the committee's web page: "Livable Communities," from Chapter 9 of AARP's 2015-2016 Policy Book; and "2015 Assisted Living and Continuing Care Retirement Community State Regulatory Handbook," from the American Seniors Housing Association. Rep. Tanner reviewed the history of CCRCs and the requirements for residence in a CCRC. He outlined the large upfront fees, the ongoing monthly fees, the services available, and the current regulation of CCRCs in other states. He recommended regulation similar to that implemented in Texas, and requested that regulation be the responsibility of the Insurance Department. He pointed out that extensive regulation, including requiring a minimum reserve amount, might make establishing CCRCs too expensive for developers in the state.

Mr. Craig Peterson, Mountainlands Association of Governments, reported briefly on the challenges to be

anticipated as the state's population ages.

Mr. Dan Bammes, Communications Director, Utah Foundation, presented and discussed the foundation's report "Taking Care of Our Seniors." He noted that respite care for caregivers; nutrition, including Meals on Wheels; and transportation, are important state-funded services for seniors.

Dr. Anne Palmer, Executive Director, Utah Commission on Aging, distributed the commission's annual report and summarized some of the commission's major accomplishments.

MOTION: Sen. Vickers moved that, absent completed draft legislation, the committee inform the Legislative Management Committee that the committee has concluded that significant issues exist regarding services to the elderly, but more time is needed to develop solutions and consensus, and that legislation regulating continuing care retirement communities is likely to be introduced during the 2016 General Session. The motion passed unanimously with Rep. Hawkes absent for the vote.

10. Adjourn

MOTION: Sen. Vickers moved to adjourn the meeting. The motion passed unanimously with Rep. Hawkes absent for the vote.

Chair McIff adjourned the meeting at 11:06 a.m.