

## **Idaho Legislative Update – Week Beginning February 7, 2011**

Margaret Wainwright Henbest, RN MSN CPNP

Executive Director

Nurse Leaders in Idaho

This week marks the fifth week of the Idaho State Legislature 2011 Session. Throughout the duration of this legislative session, NLI will provide periodic updates on legislation relating to health issues which may be of importance to you as a member. NLI will provide these updates to be a resource of objective, nonpartisan information regarding the Legislature's work in relation to issues of interest to the nursing community. Under the direction of the Partnership Committee and the Board of Directors of NLI, NLI may from time to time take a position on specific legislation, and ask for your help in communicating this position to your elected senator or representative. I hope that you will find these updates to be helpful resource, and appreciate your comments.

### **Idaho Legislature**

As you probably recall, in his address, Governor Otter outlined some specific strategies to meet the budget challenges of the upcoming year. The Governor called for cuts of \$34 million to balance the budget. \$25 million was to come from cuts to Medicaid. Over 1000 people came to testify about their concern over the impacts of the cuts during joint hearings called in the following weeks. However the projected budget deficit has been a moving target ever since. The first blow came with estimates from the tax commission that the state would provide \$70 million in tax rebates for clean energy developers, a tax rebate that initially was thought to cost the state about \$1 million. Then conformity with new federal tax laws was estimated to cost an additional \$50 million. Finally, revenue in December was down lower than projections. The budget hole was expected to be about \$185 million as a result. The legislature took action on the conformity issue last week, so this week's current budget deficit is \$137 million. I imagine we'll watch this number fluctuate some more still. What this means for Medicaid is a likely cut of at least \$50 million in state dollars (almost \$200 million total program dollars). This means a significant loss in services for clients and revenue for providers.

A bill that would have declared federal health care legislation null and void, and issue penalties for state workers who complied with the federal law was introduced and then pulled last week. The Attorney General ruled the bill itself unconstitutional. Monday a bill was printed instead that would block the implementation of Federal health reform in Idaho. The hearing began Wednesday morning in House State Affairs Committee .

A bill has been printed in the Senate that would make it a felony to assist a person's suicide. Idaho currently has no law that addresses physician assisted suicide.

A bill that was introduced in the House that would clarify the right of patients to have their living wills respected (H0028) has not been given a hearing. The Committee Chairman, says he is waiting for another bill that addresses this issue to be drafted and printed and then he'll give them a hearing.

On Monday, the full House passed a Joint Memorial to Congress that would create a constitutional amendment asserting parental rights over their children. It is in response to a United Nations Children Convention treaty that the US Senate may ratify this year. 194 countries have ratified it thus far. Proponents believe that parents rights should remain as they are today and fear that ratification of the treaty could change that.

I am hearing from many members about concern for the IMA legislation, "The Health Care Professional Transparency Act". That legislation has not yet been introduced. Also, the tobacco tax bill has been held

until later in the session by the Revenue and Taxation Chairman, who is also the bill's sponsor. He wants to wait for the budget numbers to settle out and some of the anti-fee and anti-tax sentiment to modify. Here are the bills that I am keeping my eye on:

H0001                      Prescriptive Authority for Pharmacists

The legislation grants pharmacists limited prescriptive authority to prescribe. The legislation would allow pharmacists to prescribe the controlled substances they are currently able to dispense without a prescription. The pharmacist would then send information regarding the prescription to the Board of Pharmacy for entry into the controlled substances prescription database, which is not currently recorded with the Board.

H0002                      Electronic Prescribing

The legislation amends the Controlled Substance Act to allow the electronic prescribing of controlled substances following the June 1, 2010 Drug Enforcement Administration (DEA) changes providing for the same under federal law.

H0019                      Legal Medical Use of Marijuana

The proposed legislation would establish permitted use of medical marijuana for certain chronic debilitating diseases. The Dept. of Health and Welfare is tasked with determining and registering alternative treatment centers, registered qualifying patients and primary care providers for the purposes of this legislation.

H0028                      Freedom of Conscience for Health Care Providers

This legislation is in response to the passage in 2010 of the Freedom of Conscience for Health Care Providers Bill. It reinstates the primacy of the "Medical Consent and Natural Death Act", Chapter 45, Title 39, Idaho Code. Patients who have living wills, powers of attorney for health care, and medical doctors' "POSTS" believe that their will and desire concerning their terminal illness should be respected and followed. This legislation restores this primary authority to the patients and treating physicians.

H0117                      State Sovereignty

This bill was previously known as the "nullification" bill. It states that the health care reform legislation shall not be enforced in the state of Idaho.

S1014                      Rape Defined

A defendant who rapes a female under the circumstance of fraud, can currently only be guilty of rape if the female submitted under the belief that the person committing the act is her husband. This legislation would close that loophole and provide protection to not only married women but non-married women as well. This amendment would make it so a defendant would be guilty of rape under the circumstance of fraud, when a female submits under the belief that the person committing the act is someone other than the accused not limited to husband/wife relationship.

S1021                      EMS and Practice of Medicine

This legislation confirms and clarifies a long standing presumed exception for those individuals who have received training in first aid care through the National Ski Patrol System, Inc. (NSPS). Such individuals may include ski patrollers, or other individuals who have taken a course in outdoor emergency care through the NSPS for use in outdoor recreational activities. Although such activities are typically geared towards winter sports, individuals holding the Outdoor Emergency Care (OEC) credential may perform first aid services at times other than when engaged in winter sports activities, as well.

S1057 Control of Venereal Diseases

This bill conforms with federal rules that require a specified time period of 48 hours for the collection of HIV tests from a person charged with certain crimes.

S1070 Homicide

This bill would create a felony relating to the causing of, or assisting in a suicide and for the revocation of certain licenses or certifications.