

## 2020 IDAHO LEGISLATURE

### UPDATE

January 13, 2020 through January 17, 2020

*Michael McGrane, RN*

This is the second week of the session. Normally rules review goes quickly but methodically. This year, with the deluge of rules to approve (every single administrative rule must be reviewed), committees have elected to review and approve rules in mass or trod through them line-by-line. In some committees the process has become confusing and painful. To their credit, the Health and Welfare Committees that had the most of any committees to review is finished.

A secondary fight over the rules process continues. Prior to the legislative session, leadership came to a compromise on how the rules process in subsequent years will work, giving the legislature more authority than the Governor over administrative rules. That compromise has now fallen apart, setting up the possibility that again this year, rules will not be reauthorized, and the entire process of recreating all the rules happens again.

To complicate matters further, Thursday, Governor Little issued two new executive orders, one putting a moratorium on all state agencies in creating any new rules until December 31<sup>st</sup>. One way agencies and boards deal with necessary rules between legislative sessions is to create temporary rules that become immediately effective then reviewed for approval during the following legislative session. This option has now been eliminated. The Governor continues to push for limited government through limited rulemaking.

#### **Board of Dentistry Rules – Passed with Exception of Dental Therapy Rules**

Wednesday, Susan Miller, Director for the Board of Dentistry, presented the proposed Dental Therapy rules that were negotiated over the summer. The proposal included a requirement for a collaborative practice agreement between the supervising dentist and the dental therapist to specify what activities for which the dental therapist is trained and at what level of supervision would be required, along with a list of prohibited practices. That list prohibits extractions except for removal of periodontally diseased teeth with Class III mobility and removal of coronal remnants of deciduous teeth. The Dental Therapy law approved last year requires graduation from a CODA accredited dental therapy program and limits practice to tribal reservations. There are currently no CODA accredited programs and only one potential candidate for licensure with the Coeur d'Alene Tribe.

The Idaho State Dental Association (ISDA) was vehemently opposed to the dental therapy rules. With two hours of debate in the House Health and Welfare Committee, the rules were passed. Then in the Senate Health and Welfare Committee, again with over two hours of debate and testimony, the rules were passed with the exception of the entire section pertaining to dental therapy practice. This leaves the rules and the Board in limbo and essentially prohibits any dental therapy practice for at least

another year. Before the Governor issued the new Executive Order placing a moratorium on new rules, the Board would have been forced to adopt temporary rules then go back through more negotiated rule making over the summer. Now the Board will need to decide whether they can make the case that a public safety emergency exists in order to adopt temporary rules that would go into effect when the legislature adjourns, or do nothing and let the rules stand without addressing dental therapy practice. The Board meets January 31<sup>st</sup>.

Although the Dental Association compromised with the Coeur d'Alene Tribe last year to get the Dental Therapy law passed, ISDA is now absolutely opposed to dental therapy. IDHA's position has always been consistent – support for dental therapy statewide with CODA accredited hygienist based dental therapy education.

### **Department of Health and Welfare Rules – Passed**

All rules expired at the end of the 2019 session as the legislature failed to adopt them. So they all needed to be renewed this session. The “omnibus” rules for the Department of Health and Welfare occupy thousands of pages that include some controversial issues. These include rules regarding immunizations and parental exemptions, the requirement that high school seniors receive the second meningitis vaccination prior to graduation, the mandatory requirements for newborn screening, foster care rules and department assisted adoption of foster children, and Child Protective Services investigations and religious and privacy rights. The Department rules passed quickly Monday in the Senate Health and Welfare Committee packaged with a single vote and no testimony, but Tuesday's hearing in the House Health and Welfare Committee brought out the anti-vaccination groups and others who opposed governmental intrusion. In the end the rules passed. They will go forward into the larger bill to approve all rules at the end of the session.

### **Gender Identity – Vital Statistics Rules**

Another hot topic, gender reassignment and gender identity on birth certificates, was withheld from Committee consideration although a few people showed up to testify. The decision by the Committee Chairman, Representative Fred Wood, was to hold consideration of the Vital Statistics gender identity rules to allow two pending bills, one in the House and one in the Senate to move forward before the rules. This will be an ongoing issue that generates passionate debate this session.

### **211 Suicide Hotline**

Governor Little announced the creation of the 211 Suicide Hotline, a partnership between the Idaho Suicide Prevention Hotline and the Department of Health and Welfare Careline. The hotline has long been accessible through a direct 10-digit phone number and a toll free 800 number. Now those who need help can dial 211, option 3 to go directly to the Suicide Prevention Center. This was an effort by Senator Fred Martin of Boise and the Suicide Prevention Coalition.

### **Mental Health**

Under the Governor's executive order, a joint resolution of both houses of the legislature and a proclamation from the Idaho Supreme Court, the Behavioral Health Council is being formed to coordinate efforts to address mental illness. The combined efforts of all three governmental branches will provide coordination and collaboration. In his State-of-the-State address, Governor Little committed additional attention and funding toward mental health. The Chief Justice of the Idaho Supreme Court described mental illness and the "most intractable social issue."

### **Religious Exemption to the Child Protection Act**

A bill to narrow the religious exemption to the Child Protection Act is being introduced by Representative John Gannon of Boise. For several years attempts to eliminate the exemption have failed. Idaho law requires parents to "*furnish necessary food, clothing, shelter, and medical attendance for his or her child or children*" except for allowing parents to refuse medical care based upon religion. The law was enacted in 1972 under pressure from the federal government to support religious rights. Religious exemptions survive in only a handful of states. Since the law was enacted, nearly 200 Idaho children have died from treatable illnesses where parents have chosen prayer over treatment. The bill introduced this year would require parents to seek medical attention for their child specific to serious illnesses that could cause disability or death. Testimony at a program by Protect Idaho Kids demonstrated how religion has been used not only to deny medical care, but to shield physical, sexual and psychological abuse from discovery.

### **H0318 – Division of Occupational and Professional Licenses**

There are many, many trade councils and professional boards that exist in state government from the State Historical Society, the Idaho Potato Commission, the Idaho State Bar to the Boards of Nursing, Medicine and Dentistry. Under the law first enacted in 1974, The Bureau of Occupational Licenses manages several independent boards. H0318, if passed, would rename the Bureau to the Division of Occupational and Professional Licenses under the responsibility of the Director of the Division. It would also give the Governor full authority to reorganize the structure of the Division and the Boards that are part of the division. The objective is to create efficiencies by streamlining operations and create greater opportunities for better coordination between boards with similar missions such as healthcare. Under the Division, the Boards would be grouped with each group having oversight by a single executive director. The concern is that current freestanding boards like nursing and dentistry could lose autonomy and identity.

## **CALL TO ACTION**

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The site includes information on who your legislators are (you can search by your address), and how to contact them. In addition is information on House and Senate Standing Committees, with photos and background information on each legislator. The site also has links to Committee agendas and meeting minutes.