

FAEGRE BAKER DANIELS

2014 Legislative Update #2

Indiana Society of Anesthesiologists



January 27, 2014

The 2014 General Assembly is in its final week of committee hearings on bills in their house of origin. Tuesday (January 28) is deadline for bills to pass from committee in the House, and Thursday (January 30) is the Senate deadline. If a bill has not yet been scheduled for a hearing, the odds are good that it is dead for the session. To date, none of the bills addressing implementation of the Affordable Care Act or expansion of Medicaid have been granted a hearing.

Last Wednesday, the Senate Health & Provider Services Committee heard **SB 244** (health care professional registry). The bill was amended in committee to include the attached AA licensure language.

Representatives from the governor's office and the attorney general's office addressed the portion of the bill creating a health care professional registry, and Dr. McNiece and I testified briefly on the AA amendment. The AAAA lobbyist also spoke in support of the AA amendment. Committee members were familiar with AA licensure, so most the panel's questions were targeted at the health care registry language. As expected, the lobbyist for the Indiana Association of Nurse Anesthetists came to the podium and raised the same arguments against AA licensure which failed to kill the bill in 2013, including an assertion that CRNAs have "exactly" the same training as anesthesiologists. Dr. Kinsella then offered a rebuttal to some of the IANA lobbyist's more outrageous statements.

In light of concerns raised by committee members over the registry provisions, Sen. Miller did not call the bill for a vote. It has been rescheduled for this Wednesday (Jan. 29) at 9 a.m. She has been working with the governor's office on an amendment to the registry provisions, which will be offered on Wednesday. Unless an amendment is offered to the AA licensure language, we do not expect any further testimony on anesthesia issues.

Following is a tracking list of bills of interest to ISA that are still moving through the legislative process. As always, please let me know if you have any questions or need additional information.

- HB 1005 GOVERNMENT REDUCTION (MCMILLIN J)** Requires an administrative agency to submit certain information to the office of management and budget (OMB) and receive a certain determination from the director of OMB before pursuing a rulemaking action.
Current Status: 1/28/2014 - House Select Committee on Government Reduction, (Bill Scheduled for Hearing); **Time & Location:** 8:30 AM, Rm. 156-D
- HB 1061 DENTAL HYGIENE PRACTICE (FRIZZELL D)** Allows a dental hygienist to practice under prescriptive supervision in: (1) a dental office if the patient has a current medical history on file and has received a comprehensive oral examination; or (2) a setting where a written prescription for care has been issued by the dentist within the previous 45 days. Removes certain provisions that limit a dental hygienist to practice in specific settings under prescriptive supervision. Prohibits a dental hygienist from using a laser to provide care under a prescription. Requires three years of active practice before a dental hygienist can provide care under a prescription. Requires the board of dentistry to report certain information to the health finance commission. Allows a dental hygienist who has received certain training to administer nitrous oxide under the direct supervision of a licensed dentist. Removes a dental hygienist authority to administer nitrous oxide after July 1, 2018.
Current Status: 1/27/2014 - Second reading engrossed
- HB 1097 IMMUNITY FOR PROVIDING VOLUNTEER HEALTH CARE (FRIZZELL D)** Grants a person licensed to provide health care services immunity from liability for an act or omission relating to the provision of health care if the care was: (1) within the scope of the person's license; and (2) provided voluntarily and without compensation. Specifies that the immunity: (1) is available even if the health care services are provided in a setting other than a medical clinic or health care facility; and (2) is not available if the person committed gross negligence or willful or wanton misconduct.
Current Status: 1/27/2014 - House Judiciary, (Bill Scheduled for Hearing); **Time & Location:** 10:30 AM, Rm. 156-D
- HB 1114 LEGEND DRUG PRESCRIPTIONS BY OPTOMETRISTS (DAVISSON S)** Allows optometrists who are certified by the optometry board to administer, dispense, and prescribe certain narcotic drugs, codeine with compounds, and hydrocodone with compounds. Repeals a law concerning drug formulary requirements. Makes conforming changes.
Current Status: 1/27/2014 - Second reading engrossed
- HB 1218 DRUG TREATMENT AND REPORTING (DAVISSON S)**
- Requires the division of mental health and addiction (division) to establish standards and protocols for opioid treatment programs to do the following: (1) Assess new opioid treatment program patients to determine the most effective but least addictive opioid treatment drugs to start the patient's opioid treatment. (2) Transition appropriate opioid treatment program patients who are receiving methadone for opioid treatment to less addictive opioid treatment drugs.
 - Provides that beginning July 1, 2015, the board shall provide for the modification of the controlled substance prescription monitoring program to: (1) accept prescription drug information; and (2) monitor all prescription drugs; in the same manner as controlled substances.
 - Provides that beginning July 1, 2015, any person who is required by the central repository for controlled substances data law to transmit controlled substance information to the INSPECT program must submit all prescription drug information to the INSPECT program in the same manner as controlled substance information is transmitted.
 - Provides that the prescription drug information is confidential and may not be released to a law enforcement officer or law enforcement agency, except for controlled substances.
- Current Status:* 1/27/2014 - House Bills on Second Reading

- HB 1258 DISTANCE TREATMENT BY PHYSICIANS (SHACKLEFORD R)** Requires the medical licensing board to adopt emergency rules to establish: (1) a pilot program to allow treatment, including issuing a prescription, without the establishment of an in person patient-physician relationship; and (2) standards and procedures for physicians in the pilot program. Requires the medical licensing board to adopt rules that allow for the treatment, including issuing a prescription, without the establishment of an in person patient-physician relationship by a physician licensed in Indiana whose practice is located in Indiana.
Current Status: 1/27/2014 - Second reading engrossed
- HB 1276 BARBER LICENSING (SLAGER H)** Allows the state board of cosmetology and barber examiners to adopt rules to develop a license that states, in prominent type on the license, that the license is a "barber license".
Current Status: 1/28/2014 - House Employment, Labor and Pensions, (Bill Scheduled for Hearing);
Time & Location: 8:30 AM, Rm. 156-A
- SB 44 ELECTRONIC HEALTH DATA WORK GROUP (BREAUX J)** Requires the state department of health and the office of the secretary of family and social services to establish a work group to study specified issues concerning access to electronic health information. (The introduced version of this bill was prepared by the health finance commission.)
Current Status: 1/16/2014 - Representative Clere added as sponsor.
- SB 56 MEDICAL MALPRACTICE PATIENT'S COMPENSATION FUND (PAUL A)** Requires claims for payment from the medical malpractice patient's compensation fund to be computed and paid every three months instead of every six months.
Current Status: 1/24/2014 - Senate Bills on Third Reading Passed (Y: 44, N: 0)
- SB 139 HEALTH MATTERS (BECKER V)** Amends the definition of "attendant care services" to include providing assistance for the taking of medications that include controlled substances and prescription drugs. Removes the July 1, 2014, expiration date of the anatomical gift promotion fund. Extends the office of minority health until July 1, 2016.
- SB 142 ADMINISTRATION OF MEDICAID (MILLER P)** Designates the office of the secretary of family and social services as the single state agency for the administration of the Medicaid program and removes the designation from the office of Medicaid policy and planning. Specifies that the office of Medicaid policy and planning develops and coordinates Medicaid policy for Indiana under the direction of the secretary of family and social services. Repeals provisions referring to the office of Medicaid policy and planning as the single state agency for administering Medicaid.
Current Status: 1/28/2014 - Senate Bills on Third Reading
- SB 233 PHARMACY TECHNICIANS (GROOMS R)** Changes pharmacy technician certification to licensure. Adds a high school graduation, high school equivalency certificate, or state general educational development requirement for pharmacy technician licensure. Specifies education and training requirements. Requires passage of a specified certification examination beginning July 1, 2015. Specifies that individuals with certificates who are in good standing will be considered to have licensure.
Current Status: 1/29/2014 - Senate Health and Provider Services, (Bill Scheduled for Hearing);
Time & Location: 8:30 AM, Rm. 431
- SB 244 HEALTH CARE PROFESSIONAL REGISTRY (MILLER P)** Requires the professional licensing agency to create and maintain a health care professional registry for health care professionals who meet certain qualifications.
Current Status: 1/29/2014 - Senate Health and Provider Services, (Bill Scheduled for Hearing);
Time & Location: 8:30 AM, Rm. 431

- SB 262** **BIOSIMILAR DRUGS.** (HERSHMAN B) Allows a pharmacist to substitute an interchangeable biosimilar product for a prescribed biological product if certain conditions are met. Requires a pharmacist to record in a certain manner the name and manufacturer of a biologic product that the pharmacist is dispensing not later than ten days after dispensing the biologic product. Requires the board of pharmacy to maintain a link on the board's website to the current list of all biological products that are determined by the United States Food and Drug Administration to be interchangeable with a specific reference biological product. Allows the board of pharmacy to adopt rules. Provides that a written or electronic prescription for a biological product must comply with the existing prescription form requirements. (The introduced version of this bill was prepared by the health finance commission.)
Current Status: 1/28/2014 - Senate Bills on Third Reading
- SB 285** **INSULIN AND TRAMADOL.** (GROOMS R) Adds insulin to the definition of "legend drug". Provides that insulin may be sold for retail sale by a pharmacy only to an individual who possesses a prescription from certain practitioners. Designates Tramadol (Ultram) as a schedule III controlled substance.
Current Status: 1/28/2014 - Senate Bills on Third Reading
- SB 290** **MEDICAL DEBT COLLECTION PROCEDURES.** (TALLIAN K) Defines "medical collection case" and prohibits the collection of prejudgment interest in a medical collection case. Permits the defendant in a medical collection case filed in small claims court to remove the case to a circuit or superior court. Makes the statute of limitations in a medical collection case two years. (Under current law, the statute of limitations is six years.) Permits a person named as a defendant in multiple medical collection cases in the same county to consolidate them into one case. Provides that separate medical collection cases may be consolidated in a small claims court if each separate case is under the jurisdictional amount for the small claims court, even if the aggregate amount in controversy in the consolidated case exceeds the jurisdictional amount. Specifies that venue in a small claims court is in the defendant's county of residence.
Current Status: 1/29/2014 - Senate Judiciary, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 130
- SB 294** **WORKER'S COMPENSATION** (BOOTS P) Changes the worker's compensation and occupational diseases compensation law by providing that: (1) a medical service provider may not be reimbursed for more than one office visit for each repackaged legend drug prescribed; (2) the maximum period during which a medical service provider that is not a retail or mail order pharmacy may receive reimbursement for a repackaged legend drug begins on the date of the injury or disablement and ends at the beginning of the eighth day after the date of the injury or disablement; (3) the pecuniary liability of an employer or an employer's insurance carrier for a specific service or product covered under worker's compensation or occupational diseases compensation and provided by a medical service facility is established by payment of: (A) a negotiated amount; (B) an amount not to exceed 150% of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility's Medicare reimbursement rate; or (C) an amount not less than 125% of the cost to the medical service facility of the specific service or product provided; (4) reimbursement for an implant may not exceed the amount of the medical service facility's actual acquisition cost as evidenced by an invoice from the implant manufacturer, plus 25% and must be reduced by the amount of any financial incentive that the medical service facility receives or benefits from in connection with the implant; (5) a medical service provider may not receive more than one reimbursement for an implant; (6) the term "medical service provider" does not include a medical case manager or another person who assists in the planning, coordination, monitoring, or evaluation of medical services provided to an employee; and (7) for purposes of determining pecuniary liability, distinguishes a medical service provider from a medical service facility on the basis of the provider's billing form for Medicare reimbursement.
Current Status: 1/29/2014 - Senate Pensions and Labor, (Bill Scheduled for Hearing); **Time & Location:** 10:00 AM, Rm. 233

SB 421 **PROFESSIONAL LICENSING MATTERS** (HEAD R) Among other things, provides that certain applications for a professional license may not be denied if the applicant was charged or convicted of a criminal offense two years prior to the date of application. Makes an exception for denial for certain crimes. Replaces the regulated occupations evaluation committee with the jobs creation committee. Provides that the funds from certain professions may be used by that profession's board to pay for the administration expenses of the profession.

Current Status: 1/28/2014 - Senate Bills on Second Reading