

FAEGRE BAKER DANIELS

2014 Legislative Update #3

Indiana Society of Anesthesiologists



February 9, 2014

The 2014 Indiana General Assembly has reached the halfway point. Starting tomorrow (February 10), the House will begin consideration of bills passed by the Senate, and the Senate will start work on House bills. Each chamber will then have three weeks to hold hearings on bills adopted by the other chamber.

Any Senate bill that has not received a committee hearing in the House by the first week of March is technically dead for the year, and vice versa with House bills assigned to Senate committees. However, under the legislature's rules, language that has been adopted by one chamber may be added in a conference committee report on a related bill during the final week of session.

A total of 22 bills on ISA's tracking list did not pass the first chamber, and are technically dead for the year. This includes **HB 1357** (uniform prior authorization form) and **HB 1309** (Medicaid expansion). Although language from bills that did not receive a hearing in the first house may be added to a different bill during the second half of session, neither HB 1357 nor HB 1309 are likely to be revived this year.

SB 233 (pharmacy technicians and AAs) passed the Senate February 4 on a 47-1 vote. A copy of the bill as passed by the Senate is attached. **Sen. Ron Grooms** (R-Jeffersonville) is the author, with **Sen. Rod Bray** (R-Martinsville) and **Sen. Lonnie Randolph** (D-East Chicago) signing on as co-authors. The bill is sponsored in the House by **Rep. Steve Davisson** (R-Salem), and co-sponsored by **Rep. Ed Clere** (R-New Albany), **Rep. Ron Bacon** (R-Boonville), and **Rep. Steve Stemler** (D-Jeffersonville).

SB 233 has been assigned to the House Public Health Committee, chaired by Rep. Clere. Rep. Davisson is the vice chairman. Republican members include **Rep. Robert Behning** (R-Indianapolis), **Rep. David Frizzell** (R-Indianapolis), **Rep. Don Lehe** (R-Brookston), **Rep. Harold Slager** (R-Schererville), **Rep. P Eric Turner** (R-Cicero), and **Rep. Dennis Zent** (R-Pleasant Lake).

Rep. Charlie Brown (D-Gary) is the ranking Democrat member. Other Democrat members are **Rep. Pat Bauer** (D-South Bend), **Rep. Greg Porter** (D-Indianapolis), and **Rep. Robin Shackelford** (D-Indianapolis).

Brief summaries of SB 233 and other bills of potential interest to ISA are included in the following tracking list. "Dead" bills that did not pass the first chamber have been removed. Bills that are scheduled for hearing in the upcoming week are highlighted in blue.

As always, please let me know if you have any questions or need additional information.

- HB 1005 GOVERNMENT REDUCTION.** (MCMILLIN J) Among other things, 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: 2/3/2014 - Senator Schneider added as sponsor.
Recent Status: 2/3/2014 - Representative Goodin added as coauthor.
2/3/2014 - Referred to Senate
- 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 before October 1, 2017, including the effectiveness of dental hygienists administering nitrous oxide and whether the laws regarding nitrous oxide need to be changed.
 - 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: 2/4/2014 - Referred to Senate Health and Provider Services
Recent Status: 2/4/2014 - First Reading
1/29/2014 - Senator Breaux added as second sponsor.
- 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: (1) the care was within the scope of the person's license; (2) the care was provided voluntarily and without compensation; (3) the person providing the care provides notice regarding liability; and (4) the person providing the care applies the appropriate standard of care. Specifies that the immunity: (1) is available even if the health care services are provided in a setting other than a medical clinic, health care facility, or permanent facility whose primary purpose is the provision of health care services; and (2) is not available if the person committed gross negligence or willful or wanton misconduct.
Current Status: 2/3/2014 - Senator Pat Miller added as sponsor.
- 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: 2/4/2014 - Referred to Senate Health and Provider Services
Recent Status: 2/4/2014 - First Reading
1/29/2014 - Senator Grooms added as sponsor.
- 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 opioid treatment medications to start the patient's opioid treatment. (2) Ensure that patients voluntarily choose maintenance treatment and that the treatment be explained to the patient. (3) Transition appropriate opioid

treatment program patients who are receiving methadone for opioid treatment to other approved opioid treatment medications.

- Requires an opioid treatment program to follow the standards and protocols adopted by the division for each opioid treatment program patient. Provides a list of the drugs that may be used by an opioid treatment program as an alternative for methadone.
- Requires the dispenser at an opioid treatment program to transmit certain information to the division. Provides that the information is subject to federal patient confidentiality regulations.
- Requires that the board of pharmacy (board) adopt a rule requiring a practitioner and a opioid treatment program to check the Indiana scheduled prescription electronic collection and tracking (INSPECT) program before initially prescribing a controlled substance and periodically during the course of treatment that uses a controlled substance. Requires the division to report on the information collected. Increases the penalty to a Level 6 felony for violations of the central repository for controlled substances data laws.
- 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. Provides that the board may not require submission of noncontrolled substance prescription information until the professional licensing agency certifies the security of the INSPECT program.
- Requires the health finance commission to study the security of the INSPECT program. (The introduced version of this bill was prepared by the commission on mental health and addiction.)

Current Status: 2/4/2014 - Referred to Senate Judiciary

Recent Status: 2/4/2014 - First Reading

1/30/2014 - Senator Miller Patricia added as first sponsor.

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: 2/4/2014 - Referred to Senate Health and Provider Services

Recent Status: 2/4/2014 - First Reading

1/29/2014 - Senator Becker added as second sponsor.

SB 31 PROFESSIONS AND OCCUPATIONS. (TOMES J) Reorganization of certain licensing provisions. Provides for the reorganization of 12 Indiana Code sections containing frequently amended lists of professions and entities subject to professional licensing under IC 25-1. Makes no substantive change. Transfers the lists contained in each of these sections to corresponding chapters in a new IC 25 article. Sets forth the boilerplate language to be used when amending or adding a provision under the new structure. Updates affected internal references and cross-references. Removes obsolete references to entities not licensed by the professional licensing agency. Makes technical corrections. (The introduced version of this bill was prepared by the code revision commission.)

Current Status: 2/4/2014 - Referred to House Employment, Labor and Pensions

Recent Status: 2/4/2014 - First Reading
2/3/2014 - Senator M. Young added as second author.

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: 2/10/2014 - House Public Health, (Bill Scheduled for Hearing); Time & Location: 10:30 AM, Rm. House Chamber
	Recent Status: 2/4/2014 - Referred to House Public Health 2/4/2014 - First Reading

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: 2/4/2014 - Referred to House Ways and Means

Recent Status: 2/4/2014 - First Reading
1/24/2014 - Third reading Passed: Roll Call 38: yeas 44 and nays 0

SB 80 **INTERIM STUDY COMMITTEE STRUCTURE.** (LONG D) Establishes 17 interim study committees with authority to study legislative topics. Permits the legislative council to establish additional interim study committees. Provides for the appointment of chairs, vice-chairs, legislative members, and lay members of interim study committees. Specifies uniform policies to govern interim study committees. Eliminates various study and advisory committees. Eliminates obsolete provisions governing legislative evaluation and oversight. Reduces the number of members of the advisory council to the office of the utility consumer counselor and the political subdivision risk management commission to reflect the reduction of the number of congressional districts in Indiana from 10 to nine. Makes conforming amendments. Repeals laws that: (1) establish committees eliminated by this act; and (2) require quadrennial fiscal analysis of statutes regarding redevelopment areas and property tax deductions for redevelopment of real property in economic revitalization areas.

Current Status: 2/3/2014 - Representative Bosma added first sponsor.

Recent Status: 2/3/2014 - Representative Pelath added as cosponsor.
2/3/2014 - Senator Randolph added as coauthor.

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.

Current Status: 1/28/2014 - Representative Bacon added as sponsor.

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: 2/4/2014 - Referred to House Public Health

Recent Status: 2/4/2014 - First Reading
1/28/2014 - Representative T. Brown added as sponsor.

SB 233 **PHARMACY TECHNICIANS AND ANESTHESIOLOGIST ASSISTANTS.** (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 for pharmacy technicians. Provides for the licensure of

anesthesiologist assistants. Establishes a Class B misdemeanor for professing to be an anesthesiologist without a license.

Current Status: 2/4/2014 - Senator Randolph added as coauthor.

Recent Status: 2/4/2014 - Representative Davisson added first sponsor.
2/4/2014 - Representative Bacon added as cosponsor.

SB 244 **PROFESSIONS AND OCCUPATIONS REPORT.** (MILLER P) Requires the Indiana professional licensing agency (agency) to report to the legislative council not later than October 1, 2014, concerning establishing a process for occupations to certify the individual's qualifications to be included on a list maintained by the agency. Specifies information to be included in the report.

Current Status: 2/4/2014 - Representative T. Brown added first sponsor.

Recent Status: 2/4/2014 - Representative Bacon added as cosponsor.
2/4/2014 - Referred to House

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 - Representative Clere added as sponsor.

Recent Status: 1/28/2014 - Representative Davisson added as cosponsor.
1/28/2014 - Representative Candelaria Reardon added as cosponsor.

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: 2/10/2014 - House Public Health, (Bill Scheduled for Hearing); **Time & Location:** 10:30 AM, Rm. House Chamber

Recent Status: 2/4/2014 - Referred to House Public Health
2/4/2014 - First Reading

SB 290 **MEDICAL DEBT COLLECTION PROCEDURES.** (TALLIAN K) Urges the legislative council to assign the topic of medical debt collection in small claims courts to an interim study committee.

Current Status: 2/4/2014 - Representative DeLaney added first sponsor.

Recent Status: 2/4/2014 - Representative Steuerwald added as cosponsor.
2/4/2014 - Referred to House

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; and (3) for purposes of determining pecuniary liability, a medical service provider is distinguished from a medical service facility on the basis of the provider's billing form for Medicare reimbursement. Removes language that provides that the reimbursement for an implant may not exceed the invoice amount plus 25%.

Current Status: 2/4/2014 - Senator Buck added as second author.

Recent Status: 2/4/2014 - Representative Ober added first sponsor.
2/4/2014 - Representative Lehman added as cosponsor.

SB 406 **MEDICAID FALSE CLAIMS.** (MISHLER R) Makes certain procedural changes to the false claims act and Medicaid false claims act to remove inconsistencies and comply with federal law.

Current Status: 2/3/2014 - Representative Clere added as sponsor.

SB 421 **PROFESSIONAL LICENSING MATTERS.** (HEAD R) Among other things, replaces the regulated occupations evaluation committee with the jobs creation committee.

Current Status: 2/3/2014 - Representative Rhoads added as sponsor.

Recent Status: 2/3/2014 - Representative Rhoads added first sponsor.
2/3/2014 - Referred to House