

FAEGRE BAKER DANIELS

2014 Legislative Update

Indiana Society of Anesthesiologists



March 2, 2014

The legislature is heading into the final two-week stretch. Tomorrow (March 3) is the final day for passage of Senate bills from the House. The Senate is scheduled to wrap up work on House bills on Tuesday, although the deadline may be extended to Wednesday if weather conditions worsen in the next few hours. The final 10 days of session will be focused on conference committees.

Under the legislature's rules, the author of a bill that was amended in the second chamber has the right to concur with the changes and send the bill to the governor, or dissent from the changes and send the bill to conference committee. Comprised of two members from each chamber, conference committees meet on short notice to hammer out the differences between the House and Senate versions of the same bill. The conference committee process is also an opportunity for lawmakers to revive measures that were presumed dead. Under the rules, provisions from a bill that passed one chamber but died in the second chamber may be brought back to life in a conference committee report on related legislation.

Following are highlights of recent activity on issues of interest to ISA:

- **SB 233** was approved unanimously by the House on Thursday. In its current form, the bill does the following: (1) provides for licensure of AAs, diabetes educators and pharmacy technicians, (2) changes asset limitations for the CHOICE home health care program, and (3) recognizes CRNAs as advanced practice nurses, minus prescriptive authority and collaboration. I have attached a copy of the bill as passed by the Senate.

The CHOICE language is expected to be removed during conference committee. At this point, the fate of the CRNA language is uncertain. In the past, Sen. Pat Miller has not been supportive of folding CRNAs into the APN statute, but she is not expected to be a conferee on SB 233 and therefore will not control the bill when it goes to conference committee. I'll have more information later in the week, but for now, we don't expect to see any activity on SB 233 over the next few days as House and Senate members focus on amending and voting out the dozens of bills in both chambers that are still awaiting final passage.

- **HB 1061** (dental hygienists) was amended in the Senate Health Committee last Wednesday to delete the language allowing dental hygienists to administer nitrous oxide.

Brief summaries of SB 233 and other bills of potential interest to ISA are included in the following tracking list. As always, please let me know if you have any questions or need additional information.

HB 1061 DENTAL HYGIENE PRACTICE (FRIZZELL D) Allows a dental hygienist to practice under prescriptive supervision: (1) until June 30, 2018, in a dental office if the patient has a current medical history on file and has received a comprehensive oral examination and a written prescription for care has been issued by the dentist within the previous 45 days; or (2) in other settings. 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 treatment to a patient. 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 legislative council.

Current Status: 3/3/2014 - House Bills on Second Reading

HB 1097 IMMUNITY FOR PROVIDING VOLUNTEER HEALTH CARE (FRIZZELL D) Requires the professional licensing agency to maintain a registry of certain persons licensed to provide health care who intend to provide voluntary health care services. Grants certain persons licensed to provide health care services immunity from liability for an act or omission relating to the provision of health care if: (1) the person is licensed to provide health care; (2) the care was provided voluntarily and without compensation; (3) the person providing the care provides notice of immunity; and (4) the person providing health care is on the registry maintained by the professional licensing agency. Specifies that immunity for providing: (1) dental services is available if the dental services are provided in a dental office or elsewhere; and (2) nondental health care services is only available if the nondental 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. Provides that the immunity for certain health care providers is not available if the health care provider provided substandard care or committed gross negligence or willful or wanton misconduct. Grants immunity from health care related claims to certain owners, operators, lessors, and lessees who make their real property available for the provision of voluntary health care services.

Current Status: 3/3/2014 - House Bills on Third Reading

HB 1218 DRUG TREATMENT AND REPORTING (DAVISSON S) Requires prior authorization before an opioid treatment program may provide a patient with more than a seven day supply of opioid treatment medication at any one time (current law requires prior authorization for more than 14 days of medication). Requires the division of mental health and addiction (division) to establish certain standards and protocols for opioid treatment programs. Requires an opioid treatment program to follow the standards and protocols adopted by the division for each opioid treatment program patient. Requires the dispenser at an opioid treatment program to transmit certain information to the division within specified time frames. Provides that the information is subject to federal patient confidentiality regulations. Requires a provider to release information from a committed patient's mental health records upon request of a court. 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 in specified circumstances. 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. Requires the Indiana professional licensing agency to study the impact of including all prescription drugs in the INSPECT program and sets forth requirements of the study. Requires the legislative council to assign an interim committee 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: 3/3/2014 - House Bills on Second Reading

HB 1258 TELEHEALTH PILOT PROGRAM (SHACKLEFORD R) Requires the medical licensing board to: (1) establish a pilot program to provide telehealth services to patients in Indiana; and (2) report to the legislative council before September 1, 2014 concerning the pilot program. Sets forth requirements of the pilot program.

Current Status: 3/3/2014 - House Bills on Second Reading

- 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: 2/17/2014 - Returned to the Senate without amendments
Recent Status: 2/17/2014 - Third reading Passed: Roll Call 221: yeas 95 and nays 0
- 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 electronic health data. (The introduced version of this bill was prepared by the health finance commission.)
Current Status: 2/27/2014 - Returned to the Senate with amendments
Recent Status: 2/27/2014 - Third reading Passed: Roll Call 311: yeas 92 and nays 0
- 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: 2/24/2014 - Returned to the Senate without amendments
Recent Status: 2/24/2014 - Third reading Passed: Roll Call 245: yeas 92 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. Permits the chair of a standing interim study committee to establish subcommittees. 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: 2/27/2014 - Returned to the Senate with amendments
Recent Status: 2/27/2014 - Third reading Passed: Roll Call 313: yeas 93 and nays 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.
Current Status: 2/27/2014 - Returned to the Senate with amendments
Recent Status: 2/27/2014 - Third reading Passed: Roll Call 330: yeas 94 and nays 0
- SB 233** **CHOICE MATTERS; PROFESSIONAL LICENSING MATTERS (GROOMS R)** Beginning January 1, 2015, changes asset limitations within the community and home options to institutional care for the elderly and disabled program (program) from \$500,000 to \$250,000 and specifies certain exemptions. Beginning January 1, 2015, requires annual adjustment of the asset limitation using the federal Consumer Price Index. Beginning January 1, 2015, allows a participant who is unable to perform at least one activity to participate in the program under specified circumstances. Requires the division of aging (division) and the area agencies on aging to jointly establish specified procedures. Beginning January 1, 2015, allows the division to: (1) annually redetermine program eligibility; and (2) place a lien to recoup the cost of program services that exceed \$20,000. Requires the division to exclude

\$20,000 of countable assets in determining cost participation for the program. 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 assistant without a license. Provides for the licensure of diabetes educators. Provides that certified registered nurse anesthetists may be recognized as advanced practice nurses under certain circumstances.

Current Status: 2/27/2014 - Returned to the Senate with amendments

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: 2/25/2014 - Returned to the Senate without amendments

Recent Status: 2/25/2014 - Third reading Passed: Roll Call : yeas 92 and nays 5

SB 292 ABORTION PROVIDERS (WATERMAN J) Authorizes the state department of health (state department) to inspect an abortion clinic at least one time per year and to conduct complaint inspections as needed. Requires a pregnant woman to be informed orally and in writing at least 18 hours before the abortion of an emergency telephone number for the facility that is available and answered 24 hours a day, seven days a week. Requires a physician who is performing an abortion to have hospital admitting privileges in writing. Requires the abortion clinic to keep at the clinic a copy of the admitting privileges of certain physicians and to provide a copy of the admitting privileges to the state department. Requires the state department to: (1) verify the validity of the admitting privileges documents; (2) remove any identifying information from the admitting privileges document before releasing the document; and (3) confirm to a member of the public, upon request, that admitting privileges have been received by the state department.

Current Status: 3/3/2014 - Senate Bills on Third Reading

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) 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; and (4) an officer of a corporation who is an employee of the corporation may elect not to be an employee of the corporation for purposes of worker's compensation and occupational diseases law. Removes language that provides that the reimbursement for an implant may not exceed the invoice amount plus 25%.

Current Status: 2/24/2014 - Returned to the Senate with amendments

Recent Status: 2/24/2014 - Third reading Passed: Roll Call : yeas 65 and nays 1

SB 406 HEALTH AND HUMAN SERVICES MATTERS (MISHLER R) Makes certain procedural changes to the false claims act and Medicaid false claims act to remove inconsistencies and comply with federal law. Requires the office of the secretary of family and social services to provide reports of a child's vision impairment diagnosis with the state department of health for inclusion in the birth problems

registry. Beginning January 1, 2015, changes asset limitations within the community and home options to institutional care for the elderly and disabled program (program) from \$500,000 to \$250,000 and specifies certain exemptions. Beginning January 1, 2015, requires annual adjustment of the asset limitation using the federal Consumer Price Index. Beginning January 1, 2015, allows a participant who is unable to perform at least one activity to participate in the program under specified circumstances. Requires the division of aging (division) and the area agencies on aging to jointly establish specified procedures. Beginning January 1, 2015, allows the division to: (1) annually redetermine program eligibility; and (2) place a lien to recoup the cost of program services that exceed \$20,000. Requires the division to exclude \$20,000 of countable assets in determining cost participation for the program. 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. Repeals the law concerning the health care facility advisory council. Transfers certain duties of the council to the state department of health. Changes the amount of time from four years after birth to twelve months after birth that a birth certificate presented for filing is considered a delayed certificate of birth. Requires a diagnosis of autism at any age to be reported to the birth problems registry. (Current law provides for the reporting of an autism diagnosis made before a child's fifth birthday). Allows not more than 50% of the monies in the spinal cord and brain injury fund to be used to develop a statewide trauma system. 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. Requires, before September 1, 2014, the state department of health to: (1) adopt rules concerning the regulation of facilities for treatment of traumatic brain injuries; and (2) make recommendations to the legislative council and health finance commission concerning food handling law changes.

Current Status: 3/3/2014 - Senate Bills on Third Reading

SB 421

PROFESSIONAL LICENSING MATTERS (HEAD R) Among other things:

- 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 administrative expenses of the profession.
- Provides money in the controlled substances data fund to be used for the administration of the INSPECT program. (Current law allows money to be used for the operation of the INSPECT program.)
- Requires the Indiana professional licensing agency (agency) to report to the legislative council not later than October 1, 2014, concerning establishing a process for individuals in certain occupations to certify the individual's qualifications to be included on a list maintained by the agency. Makes technical corrections.

Current Status: 3/3/2014 - Senate Bills on Third Reading