

# FAEGRE BAKER DANIELS

## 2015 Legislative Update

### Indiana Society of Anesthesiologists



**April 26, 2015**

The 2015 General Assembly is heading into the final stretch. The next three days are going to be extraordinary hectic as state lawmakers race to adopt a budget and reach agreement on the 64 other bills pending in conference committee before the midnight deadline on Wednesday, April 29.

Of the 22 bills on ISA's tracking list, 7 have been signed into law, 5 are awaiting the governor's signature, and 10 are pending in conference committee. **Bills that are in conference committee are highlighted in blue.**

Following are summaries of bills of potential interest to ISA that passed both chambers. A "real-time" version of the tracking list may be found online by clicking [here](#).

We will have a more complete update next week after the legislature adjourns. In the meantime, please let us know if you have any questions or need additional information.

## SCOPE OF PRACTICE

### HB1183 PHYSICIAN ASSISTANTS (DAVISSON S)

- Allows a physician assistant who is delegated authority to prescribe a controlled substance after practicing for at least 1,800 hours. (Current law allows a physician assistant to be delegated to prescribe a controlled substance after practicing for one year after graduating from a physician assistant program and practicing for at least 1,800 hours.)
- Removes requirement that supervising physician must delegate prescribing authority by the name of the drug or drug classification.
- Specifies that a physician assistant may refill a prescription as allowed for in the physician assistant's supervisory agreement. Provides that a pharmacist may not require the supervising agreement or a cosignature to fill a prescription written by a physician assistant.
- Removes requirement that patient encounters must be reviewed within 72 hours and provides that a physician must review physician assistant charts within ten business days and within a reasonable time that is appropriate for the maintenance of quality medical care.
- Reduces the percentage of physician assistant charts that a physician must review

based on the year of practice by the physician assistant.

- Specifies patient record review by a physician for Schedule II prescription that a physician assistant with less than a year of authority to prescribe Schedule II controlled substances dispenses or prescribes.
- Provides that a physician may supervise four physician assistants at the same time. A
- llows physician assistants and advanced practice nurses to treat a patient with a Schedule III or Schedule IV controlled substance for weight reduction or to control obesity if certain conditions are met.

*Current Status:* 4/16/2015 - House concurred in Senate amendments; Roll Call 470: yeas 86, nays 0

*State Bill Page:* [HB1183](#)

<b>SB465</b>	<b>HUMAN SERVICES AND HEALTH MATTERS (MILLER P)</b> Among other things: <ul style="list-style-type: none"><li>• Extends the date by which a midwife is required to submit certain information to obtain an exemption from certain certification requirements. Amends the midwife birth certification requirements. Provides that a physician who signs a collaborative agreement with a certified direct entry midwife may not be held: (1) jointly or severally liable for the actions or omissions of a certified direct entry midwife; or (2) liable for the collaboration or work with the certified direct entry midwife, except in cases of gross negligence or reckless conduct.</li></ul>
<i>Current Status:</i>	4/16/2015 - Senate Conferees appointed Miller Patricia and Breaux
<i>State Bill Page:</i>	<a href="#">SB465</a>

## MEDICAL MALPRACTICE

<b>HB1145</b>	<b>CIVIL IMMUNITY FOR VOLUNTEER HEALTH CARE PROVIDERS (FRIZZELL D)</b> Specifies criteria for civil immunity from liability for certain volunteer health care providers. Requires the Indiana professional licensing agency to establish and maintain a health care volunteer registry. Provides that an approval of a location where the provision of health care services in which a provider may be immune from civil liability is valid for up to two years. Requires a person who meets the criteria for immunity from civil liability to provide a certain records and results of laboratory and imaging based screenings and tests to the patient. Requires that a person that provides the location where the health care service is provided do so without compensation as a condition of immunity. Allows a person that provides a health care service to provide recommendations for testing.
---------------	--

*Current Status:* 4/16/2015 - House concurred in Senate amendments; Roll Call 497: yeas 84, nays 0

*State Bill Page:* [HB1145](#)

<b>HB1065</b>	<b>USE OF INVESTIGATIONAL DRUGS, BIOLOGICAL PRODUCTS, AND DEVICES (CULVER W)</b> Provides that a manufacturer of an investigational drug, biological product, or device may make the drug, biological product, or device available to a patient who meets
---------------	---

certain requirements. Adds to the requirements concerning experimental or nonconventional medical treatment and the authority to allow a patient to receive an experimental or nonconventional medical treatment if a physician determines that the patient: (1) has been diagnosed with a terminal disease or condition; and (2) does not have comparable or satisfactory treatment options. Specifies that a new cause of action is not created. Makes a technical correction.

*Current Status:* 3/24/2015 - **SIGNED BY GOVERNOR**

*State Bill Page:* [HB1065](#)

## MISCELLANEOUS MEDICAL

**HB1184 CONTROLLED SUBSTANCES** (DAVISSON S) Authorizes optometrists who meet certain requirements to prescribe Tramadol. Adds Tramadol as a schedule IV controlled substance. Includes hydrocodone combination products as schedule II controlled substances. Removes dihydrocodeinone from the schedule III controlled substance list.

*Current Status:* 3/24/2015 - **SIGNED BY GOVERNOR**

*State Bill Page:* [HB1184](#)

**HB1303 STATE REGISTRATION OF PRIVATELY CERTIFIED INDIVIDUALS** (MCMILLIN J)

- Establishes a pilot project under which individuals who practice a certain occupation that is not a regulated profession under Indiana law can become "state registered" and be listed as practitioners of their occupation on the electronic registry of professions.
- Provides that an individual may not be state registered in connection with any health care occupation.
- Provides that an individual, to become state registered, must hold a certification or credential from a supporting organization (a national organization or Indiana chapter of a national organization that exists solely to serve practitioners of a particular occupation) that is approved by the executive director of the professional licensing agency (agency).
- Requires the jobs creation committee to evaluate an application for the approval of a supporting organization, hold a public hearing, and make a recommendation to the executive director of the agency. Requires the executive director, after receiving the recommendation, to decide whether to approve the supporting organization.
- Provides that the executive director can approve no more than five supporting organizations.
- Prohibits the executive director from approving a supporting organization if any action performed within the scope of practice of individuals who have earned a certification from the supporting organization is the same as or substantially similar to an action within the scope of practice of a profession licensed under Indiana law.
- Provides that an individual must meet certain additional requirements and conditions to be state registered, including not being delinquent in paying taxes or child support and not having committed a crime having a direct bearing on the individual's ability to

practice competently and lawfully.

- Requires the agency to review changes in an approved supporting organization's credentialing requirements or in the scope of practice of the occupation supported by an approved supporting organization.
- Authorizes the agency to remove an individual from the electronic registry under certain circumstances.
- Provides that not being state registered does not prevent an individual from practicing the same occupation as individuals who are state registered.
- Requires the executive director to report to the legislative council on the pilot project not later than November 1, 2017.
- Provides for the pilot project to expire April 1, 2018.

*Current Status:* 4/16/2015 - House dissented from Senate Amendments

*State Bill Page:* [HB1303](#)

**HB1323 MEDICAL RESIDENCY EDUCATION** (BROWN T) Establishes the medical residency education fund for the purpose of expanding medical education in Indiana by funding new residency program slots at licensed hospitals. Specifies uses of money from the medical residency education fund. Establishes the graduate medical education board in order to: (1) provide funding for residents not funded by the federal Centers for Medicare and Medicaid Services; (2) provide technical assistance for entities that wish to establish a residency program; and (3) provide startup funding for entities that wish to establish a residency program. Provides that a recipient of a medical education residence grant or money from the graduate medical education fund must agree to provide matching funds equal to at least 25% of the money provided.

*Current Status:* 4/15/2015 - House dissented from Senate Amendments

*State Bill Page:* [HB1323](#)

**HB1401 MEDICAID FRAUD** (WASHBURNE T) Expands the crime of Medicaid fraud to include knowingly or intentionally making, uttering, presenting, or causing to be presented to the Medicaid program a Medicaid claim that is materially false or misleading.

*Current Status:* 3/24/2015 - **SIGNED BY GOVERNOR**

*State Bill Page:* [HB1401](#)

**HB1454 AUTO-INJECTABLE EPINEPHRINE** (EBERHART S) Allows a health care provider with prescriptive authority to prescribe auto-injectable epinephrine to a business, association, or governmental entity (entity) or an entity's branch office. Sets requirements for certain individuals employed by an entity to fill, store, and administer auto-injectable epinephrine. Provides civil immunity for: (1) a certain entity's employees in the administration of auto-injectable epinephrine; and (2) health care providers in the prescribing of auto-injectable epinephrine and in the training of employees in the administration of auto-injectable epinephrine.

*Current Status:* 3/24/2015 - **SIGNED BY GOVERNOR**

*State Bill Page:* [HB1454](#)

**HB1562 PROFESSIONAL LICENSING MATTERS (ZENT D)**

- Requires that terminated pregnancy reports be filed electronically.
- Requires an individual who holds a professional license or certificate and who is convicted of a misdemeanor or felony to provide written notice of the conviction to the appropriate professional licensing board not later than 90 days after entry of the order or judgment of conviction.
- Provides that if a professional license or certificate is initially issued to the holder less than 90 days before the date on which such licenses or certificates generally expire, the license or certificate does not expire on the general expiration date but instead expires at the conclusion of the next licensing period.
- Provide that a mandatory notice to a license holder of the upcoming expiration of the license holder's license must be sent at least 90 days (instead of 60 days) before the expiration date.
- Allows the professional licensing agency (agency) to delay issuing a license renewal for up to 120 days for purposes of investigation. (Current law allows a delay of up to 90 days.) Provides that, after December 31, 2017, athletic trainer licenses expire on a date established by the agency in odd-numbered years.
- Creates a civil penalty for failure to complete or timely transmit a pregnancy termination form.

*Current Status:* 4/23/2015 – In conference committee

*State Bill Page:* [HB1562](#)

**SB123 HIGHER EDUCATION (BECKER V)** Permits the board of trustees of a state educational institution that has a research intensive campus to directly hold equity in a private entity under certain conditions. Revises the law setting forth the locations and names for centers for comprehensive medical education. Permits a public benefit corporation to merge with a state educational institution, without court approval, if the public benefit corporation is controlled by the state educational institution.

*Current Status:* 4/20/2015 – In conference committee

*State Bill Page:* [SB123](#)

**SB168 CONTROLLED SUBSTANCE TREATMENT AND DATA BASE (MILLER P)**

- Authorizes the division of mental health and addiction (division) to approve before June 30, 2018, not more than five new opioid treatment programs if: (1) the programs are run by a hospital or a certified community mental health center; and (2) the division determines that there is a need for a new opioid treatment program in the proposed location.

- Authorizes the division to approve an opioid treatment program in the proposed location if a hospital or community mental health center has not applied to the division to operate an opioid treatment program in the area before June 30, 2016.
- Requires new opioid treatment programs to be Medicaid providers and offer medication assisted treatments.
- Authorizes the division to approve an opioid treatment program in certain areas where a public health emergency has been declared.
- Requires the division to report to the general assembly specified information concerning any new treatment facilities.
- Permits physicians who hold a temporary medical license to have access to confidential information in the Indiana scheduled prescription electronic collection and tracking (INSPECT) program.

*Current Status:* 4/23/2015 – In conference committee

*State Bill Page:* [SB168](#)

**SB293 MEDICAL PEER REVIEW** (MILLER P) Provides for use of a peer review committee by a medical school located in Indiana. Allows sharing of peer review information between a medical school peer review committee and another peer review committee.

*Current Status:* 4/14/2015 - Signed by the President Pro Tempore

*State Bill Page:* [SB293](#)

**SB294 LEGEND DRUG INVESTIGATIONS** (MILLER P) Provides that certain laws concerning obtaining a legend drug or the validity of a prescription or drug order do not apply to actions of a person, practitioner, or pharmaceutical manufacturer performed in an investigation of a pharmaceutical manufacturer's legend drug that is suspected of being counterfeited, adulterated, or misbranded. Requires a pharmaceutical manufacturer that collects drug samples during an investigation to maintain records of the drug samples and to make the records available to certain law enforcement agencies. Prohibits a person from owning or operating a store, facility, or other place of business in Indiana where: (1) prescriptions are accepted to be filled; or (2) prescription drugs or devices are ordered, offered or advertised for sale, or paid for; unless the person has a pharmacy permit. Excludes mail order and Internet based pharmacies to the extent that they are allowed to operate under state law.

*Current Status:* 3/24/2015 - **SIGNED BY GOVERNOR**

*State Bill Page:* [SB294](#)

**SB358 MEDICATIONS** (GROOMS R)

- Defines "medication therapy management" for the purposes of the regulation of pharmacies and pharmacists. Adds the provision of medication therapy management to the definition of "the practice of pharmacy".
- Includes advanced practice nurses and physician assistants in the definition of "direct supervision" for the purposes of consulting with a pharmacist on certain drug regimen

protocols.

- Establishes the INSPECT oversight committee. Provides the committee's approval for the board to execute a contract with a vendor to administer the INSPECT program. Requires approval from the chairperson of the board of pharmacy to hire a director of the INSPECT program.
- Provides that if a dispenser's pharmacy is closed the day following a dispensing, the information required to be sent to the INSPECT program must be transmitted by the end of the next business day.

*Current Status:* 4/9/2015 - Senate concurred in House Amendments; Roll Call 410: yeas 49, nays 0

*State Bill Page:* [SB358](#)

**SB406 OVERDOSE INTERVENTION DRUGS** (MERRITT J) Requires certain emergency personnel to report to the state department of health the number of times an overdose intervention medication is administered. Allows specified health care professionals with prescriptive authority to dispense, write a prescription, or prepare a standing order for an overdose intervention drug without examining the individual to whom it may be administered if specified conditions are met. Allows for an individual who is a person at risk, a family member, friend, or other individual or entity in a position to assist another individual who, there is reason to believe, is at risk of experiencing an opioid-related overdose, to obtain and administer an overdose intervention drug if certain conditions are met. Provides for civil immunity.

*Current Status:* 4/17/2015 - **SIGNED BY GOVERNOR**

*State Bill Page:* [SB406](#)

**SB534 RULES FOR PRESCRIBING CONTROLLED SUBSTANCES** (GROOMS R) Requires the medical licensing board to adopt standards and protocols for the prescribing of controlled substances, including the use of abuse deterrent formulations. Requires, before March 1, 2016, the following boards to adopt rules concerning the prescribing of opioid controlled substances for pain management treatment: (1) the medical licensing board, concerning physician assistants; (2) the board of podiatric medicine, concerning podiatrists; (3) the state board of dentistry, concerning dentists; and (4) the Indiana state board of nursing, concerning advanced practice nurses. Requires each board to report before December 31, 2015, to the legislative council with a status report on the board's efforts to adopt the required rules.

*Current Status:* 3/24/2015 - **SIGNED BY GOVERNOR**

*State Bill Page:* [SB534](#)

## INSURANCE & MEDICAID REIMBURSEMENT

**HB1001 STATE BIENNIAL BUDGET** (BROWN T) State biennial budget. Appropriates money for capital expenditures, the operation of the state, the delivery of Medicaid and other services, and various other distributions and purposes. Establishes the Healthy Indiana Plan 2.0 and specifies funding for the plan. Establishes: (1) the incremental hospital fee fund; and (2) the phase out trust fund; and specifies uses and distributions of money within the funds. Requires the office of Medicaid policy and planning to conduct a review of rates payable under the

	current Medicaid fee structure and provide recommended rates for the Medicaid fee structure to the budget committee and legislative council before December 1, 2015. Provides that 50% of tangible property owned by certain for-profit hospitals that would otherwise be subject to property taxation is exempt from property taxation if that property is used in operation of hospital.
<i>Current Status:</i>	4/17/15 – In conference committee
<i>State Bill Page:</i>	<a href="#">HB1001</a>

<b>HB1269 HEALTH MATTERS (CLERE E)</b> Among other things:	<ul style="list-style-type: none"> <li>• Specifies that, if a health care treatment or procedure has been routinely covered by the Medicare program or the Medicaid program during the three preceding years, an insurer or health maintenance organization may not deny coverage on the basis that the procedure or treatment is investigational or experimental.</li> <li>• Provides for coverage of telemedicine services under a policy of accident and sickness insurance and a health maintenance contract. Prohibits a health care provider from being required to obtain a separate additional written health care consent for the provision of telemedicine services.</li> <li>• Requires the department of insurance to review specified information concerning denied insurance claims and report certain information before October 1, 2015, to the legislative council and the public health, behavioral health, and human services interim study committee.</li> </ul>
<i>Current Status:</i>	4/16/2015 - House dissented from Senate Amendments
<i>State Bill Page:</i>	<a href="#">HB1269</a>

<b>HB1448 MENTAL HEALTH DRUGS AND COVERAGE (DAVISSON S)</b> Includes inpatient substance abuse detoxification services as a Medicaid service. Authorizes the office of Medicaid policy and planning to require prior authorization for addictive medication used as medication assisted treatment for substance abuse. Allows money in the forensic treatment services account to be used to fund grants and vouchers for licensed mental health or addiction providers. Requires information and training to judges, prosecutors, and public defenders concerning diversion programs, probationary programs, and involuntary commitment.
<i>Current Status:</i> 4/16/2015 - House concurred in Senate amendments; Roll Call 503: yeas 87, nays 0
<i>State Bill Page:</i> <a href="#">HB1448</a>

<b>SB33 WORKER'S COMPENSATION (BOOTS P)</b> Allows an officer of a corporation who is also an owner of any interest in the corporation to elect not to be an employee of the corporation under worker's compensation. Urges the legislative council to assign to an interim study committee for the 2015 interim period the topic of worker's compensation reimbursement to all providers of worker's compensation related claims outside of hospitals, including the study of a common baseline of the providers' Medicare reimbursement rate plus a reimbursement above the Medicare level, seeking fair reimbursement. Removes outdated language.
<i>Current Status:</i> 4/16/2015 - Motion to dissent in House amendments filed



**SB464 MENTAL HEALTH ISSUES (MILLER P)**

- Specifies limitations for reimbursement for methadone by: (1) the state employee health plan; (2) Medicaid; (3) certain policies of accident and sickness; and (4) certain health maintenance organization contracts; if the drug is prescribed for the treatment of pain.
- Provides that addiction counseling, inpatient detoxification, case management, daily living skills, and long acting, nonaddictive medication may be required to treat opioid or alcohol addiction as a condition of parole, probation, community corrections, pretrial diversion, or participation in a problem solving court.
- Includes inpatient substance abuse detoxification services as a Medicaid service.
- Requires the office of Medicaid policy and planning to: (1) provide Medicaid coverage for the treatment of opioid or alcohol dependence that includes certain services and treatment; (2) develop quality measures and reporting to ensure a managed care organization's compliance with the coverage; and (3) report the clinical use of certain medications to the mental health Medicaid quality advisory committee.
- Requires coverage under the Indiana check-up plan of nonaddictive medication assistance treatment drugs prescribed for the treatment of substance abuse.
- Authorizes the division of mental health and addiction (division) to approve before June 30, 2018, not more than five new opioid treatment programs if: (1) the programs are run by a hospital or a certified community mental health center; and (2) the division determines that there is a need for a new opioid treatment program in the proposed location. Requires the division to report to the general assembly before July 1, 2018, specified information concerning any new facilities.
- Requires a prescriber who is prescribing methadone for the treatment of pain or pain management to indicate this treatment on the prescription or order.
- Establishes the mental health and addiction forensic treatment services account within the statutes governing the division, rather than the statutes governing corrections (under current law). Provides that the division may use money in the account to fund grants and vouchers that are provided to the following for mental health and addiction forensic treatment services: (1) Community corrections programs. (2) Court administered programs. (3) Probation programs. (4) Community mental health centers. (5) Certified mental health or addiction providers. Allows the division to use money in the account as a state match under the Medicaid rehabilitation program and the Primary Health Coordination Program.
- Requires the division to provide an education and training program concerning involuntary commitment and medication assisted treatment. Specifies that an individual is eligible for such mental health and addiction forensic treatment services if the individual meets certain criteria and if reimbursement for the service is not available to the individual under a health insurance policy, a health maintenance organization contract, the Medicaid program, or the Medicare program or any other federal

assistance program.

- Places restrictions on coverage under a health insurance policy and a health maintenance organization contract for methadone used in pain management.

*Current Status:* 4/16/2015 - Motion to dissent in House amendments filed

*State Bill Page:* [SB464](#)