

FAEGRE BAKER DANIELS

2016 Legislative Update #1

Indiana Society of Anesthesiologists



January 10, 2016

The 2016 General Assembly was gavelled into session on Tuesday, and state lawmakers wasted no time in moving forward with legislation to address problems with ISTEP, the state-mandated test for public school students. Two bills aimed at holding schools and teachers harmless from the precipitous drop in ISTEP scores were amended and approved by House and Senate committees on Wednesday. These measures are expected to breeze through both chambers with wide bipartisan support and be signed into law before the end of January.

Except for the two fast-tracked education bills, the 2016 General Assembly is moving at its typical pace. As of today, approximately 600 bills have been filed and released to the public. An additional 300-400 bills are expected to be filed by the middle of next week. To date, no bills have been filed regarding CRNA scope of practice.

Last week, Gov. Mike Pence and the Republican caucuses in both chambers set the tone for the short session by releasing their 2016 legislative agendas (see attached). There was considerable overlap, with the governor, House Republicans and Senate Republicans all calling for additional funding for local roads, enhanced efforts to curb drug abuse, and a quick fix to the ISTEP problem.

Senate Republicans also called for medical malpractice reform, with the goal of making Indiana's medical malpractice system more "patient friendly." To that end, the Senate GOP caucus is backing [Senate Bill 152](#), introduced by Sen. Brent Steele. Among other things, SB 152 would increase the potential payout from the Patients' Compensation Fund from \$1,250,000 to \$1,650,000, increase a provider's potential liability from \$250,000 to \$450,000, and raise the trigger for the medical review panel from \$15,000 to \$75,000. The bill is expected to be heard in the Senate Judiciary Committee on January 27.

Following is a list of bills filed to date of potential interest to ISA, along with brief summaries. You can read both the bill and its fiscal note by clicking on the link in the bill number.

In addition, up-to-date summaries and real-time information about every bill affecting physicians may be found at any time during the legislative session by clicking on this [link](#). As we add new bills to ISA's tracking list in the upcoming week, the online information will be updated to include these bills.

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

HB 1158 CANNABIS OIL FOR MEDICAL TREATMENT (GOODIN T) Exempts an individual and a physician from criminal penalties for possession or use of cannabis oil if: (1) the individual is the patient of the physician and has cannabis oil transferred, dispensed, or administered to the individual as part of the individual's treatment by the physician; and (2) the physician who is treating the individual transfers, dispenses, or administers cannabis oil as part of the individual's treatment.

Current Status: 1/7/2016 - Coauthored by Representative Lehe

All Bill Status: 1/7/2016 - Referred to House Courts and Criminal Code

1/7/2016 - First Reading

1/7/2016 - Authored By Terry Goodin

State Bill Page: [HB 1158](#)

HB 1166 EPHEDRINE AND PSEUDOEPHEDRINE SALES (MCNAMARA W) Changes the amounts of drugs containing ephedrine or pseudoephedrine that a pharmacy or National Precursor Log Exchange (NPLEx) retailer may sell and that a person may purchase without a prescription. Provides that a person who purchases the statutory maximum amount of over-the-counter drugs containing ephedrine or pseudoephedrine may obtain additional drugs containing ephedrine or pseudoephedrine with a valid prescription or order of a practitioner.

Current Status: 1/7/2016 - Coauthored by Representatives Bacon and Frizzell

All Bill Status: 1/7/2016 - Referred to House Public Health

1/7/2016 - First Reading

1/7/2016 - Authored By Wendy McNamara

State Bill Page: [HB 1166](#)

SB 30 ACCIDENT AND SICKNESS INSURANCE CLAIM DENIALS (MILLER P)

- Requires the department of insurance to develop, post, and maintain on the department's Internet web site information concerning internal and external grievances for accident and sickness insurance policies and health maintenance organization contracts.
- Requires certain information to be provided by accident and sickness insurers and health maintenance organizations to each insured and covered individual when an accident and sickness policy or a health maintenance organization contract is issued or renewed, or a claim for services is denied.
- Requires insurers and health maintenance organizations to file quarterly reports with the commissioner of insurance on the number of denied claims during the quarter.

(The introduced version of this bill was prepared by the interim study committee on public health, behavioral health, and human services).

Current Status: 1/5/2016 - Referred to Senate Health & Provider Services

All Bill Status: 1/5/2016 - First Reading

1/5/2016 - Authored By Patricia Miller

State Bill Page: [SB 30](#)

SB 72 MEDICAL RESEARCH CONTROLLED SUBSTANCES (LEISING J)

- Provides that a physician who has obtained approval from certain entities to obtain, administer, and dispense or prescribe a controlled substance is immune from criminal liability for the possession or distribution of the controlled substance.
- Provides that an ultimate user who possesses or uses a controlled substance from that prescribing or dispensing physician is immune from criminal liability for the possession or use of the controlled substance. Provides certain exceptions.

(The introduced version of this bill was prepared by the interim study committee on agriculture and natural resources.)

Current Status: 1/5/2016 - Referred to Senate Health & Provider Services

All Bill Status: 1/5/2016 - First Reading
1/5/2016 - Authored By Jean Leising
State Bill Page: [SB 72](#)

SB 80 PHARMACISTS AND EPHEDRINE (HEAD R)

- Defines "drug related felony", and requires courts to report drug related felonies to the state police department. Requires the state police department to report drug related felonies to NPLEx so that NPLEx can generate a stop sale alert to prevent individuals with drug related felonies from purchasing ephedrine or pseudoephedrine. Provides that the offense of possession of a precursor by a methamphetamine offender (which prohibits the possession of pseudoephedrine or ephedrine without a prescription by persons convicted of certain offenses) applies to a person who has been convicted of a drug related felony.
- Allows a pharmacist to deny the sale of ephedrine or pseudoephedrine on the basis of the pharmacist's professional judgment, and provides the pharmacist with civil immunity for making such a denial. Allows the Indiana board of pharmacy to: (1) adopt rules regarding professional determinations made; (2) review professional determinations made; and (3) discipline a pharmacist for a professional determination made; concerning refusal to sell ephedrine or pseudoephedrine.

Current Status: 1/6/2016 - Senators Hershman and Holdman added as coauthors

All Bill Status: 1/5/2016 - Referred to Senate Family & Children Services
1/5/2016 - First Reading
1/5/2016 - Authored By Randall Head

State Bill Page: [SB 80](#)

SB 152 MEDICAL MALPRACTICE (STEELE B)

- Increases the maximum amount recoverable for an injury or a death of a patient in a medical malpractice action from \$1,250,000 to \$1,650,000 after December 31, 2016.
- Increases the maximum amount recoverable from a health care provider in a medical malpractice action from \$250,000 to \$450,000 after December 31, 2016.
- Requires the insurance commissioner to increase these maximum amounts based on percentage increases of the Consumer Price Index (CPI): (1) beginning January 1, 2019, if there was an overall CPI percentage increase for calendar years 2016, 2017, and 2018; and (2) on January 1 every four calendar years thereafter based on an overall CPI percentage increase for the preceding four calendar years, if there was an overall percentage increase in the CPI during the preceding four calendar years.
- Allows a patient to commence a medical malpractice action without submitting a complaint to a medical review panel if the patient seeks damages in an amount not greater than \$75,000. (Current law states the amount must be not greater than \$15,000.)
- Provides that the cost of a periodic payments agreement expended by a health care provider must exceed: (1) \$187,000 for an occurrence of medical malpractice that occurs before January 1, 2017; and (2) 75% of the maximum amount a health care provider is responsible for for an occurrence of medical malpractice that occurs after December 31, 2016.
- Provides that a party, attorney, or panelist who fails to act as required under the medical malpractice law is subject to mandate and appropriate sanctions, including: (1) entry of a default judgment as to liability; and (2) allowing a case to be commenced in a court without presenting the case to a medical review panel.
- Amends the amount of attorney's fees a plaintiff's attorney may recover in a medical malpractice action.

Current Status: 1/5/2016 - Referred to Senate Judiciary

All Bill Status: 1/5/2016 - First Reading

1/5/2016 - Authored By Brent Steele

State Bill Page: [SB 152](#)

- SB 162** **HOSPITAL EMPLOYEE IMMUNIZATIONS** (MILLER P) Requires a hospital to administer or make available to be administered certain immunizations to hospital employees upon the employee's consent. Provides for exceptions.
Current Status: 1/5/2016 - Referred to Senate Health & Provider Services
All Bill Status: 1/5/2016 - First Reading
1/5/2016 - Authored By Patricia Miller
State Bill Page: [SB 162](#)
- SB 165** **HEALTHY INDIANA PLAN** (MILLER P) Repeals the prior healthy Indiana plan statutes and makes revisions to the currently operating healthy Indiana plan. Repeals statutes governing the high risk Indiana check-up plan.
Current Status: 1/13/2016 - Senate Health & Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431
All Bill Status: 1/5/2016 - Referred to Senate Health & Provider Services
1/5/2016 - First Reading
1/5/2016 - Authored By Patricia Miller
State Bill Page: [SB 165](#)
- SB 171** **INSURANCE PAYMENTS TO PROVIDERS** (BECKER V) Specifies requirements for accident and sickness insurers and health maintenance organizations related to provider claim payment by electronic funds transfer.
Current Status: 1/5/2016 - Referred to Senate Insurance & Financial Institutions
All Bill Status: 1/5/2016 - First Reading
1/5/2016 - Authored By Vaneta Becker
State Bill Page: [SB 171](#)
- SB 174** **CONTROLLED SUBSTANCES** (YOUNG R) Creates the crime of dealing in a controlled substance by a health care provider. Precludes certain defenses. Lists dealing: (1) in a schedule I, II, or III controlled substance; or (2) in a controlled substance by a health care provider; as an enhancing circumstance for purposes of sentencing if use of the controlled substance causes the death of another person.
Current Status: 1/12/2016 - Senate Corrections & Criminal Law, (Bill Scheduled for Hearing); **Time & Location:** 10:00 AM, Rm. 130
All Bill Status: 1/5/2016 - Referred to Senate Corrections & Criminal Law
1/5/2016 - First Reading
1/5/2016 - Senate Corrections & Criminal Law, (Bill Scheduled for Hearing); **Time & Location:** 1:30 PM, Rm. 130
1/5/2016 - Authored By R Michael Young
State Bill Page: [SB 174](#)
- SB 193** **CONSENT TO HEALTH CARE** (CRIDER M) Establishes an order of priority for individuals authorized to give consent to health care of another individual, including a person who has demonstrated special care for the individual. Allows a health care provider to determine the individual's health care in the case of more than one individual asserting authority or disagreement among those asserting authority. Makes a conforming amendment.
Current Status: 1/6/2016 - Referred to Senate Health & Provider Services
All Bill Status: 1/6/2016 - First Reading
1/6/2016 - Authored By Michael Crider
State Bill Page: [SB 193](#)

SB 209 **MEDICAL MARIJUANA** (TALLIAN K) Establishes a medical marijuana program (program) and permits caregivers and patients who have received a physician recommendation to possess a certain quantity of marijuana for treatment of certain medical conditions. Establishes the department of marijuana enforcement (DOME) as a state agency to oversee the program, and creates the DOME advisory committee to review the effectiveness of the program and to consider recommendations from DOME. Authorizes DOME to grant research licenses to research facilities with a physical presence in Indiana. Repeals the controlled substance excise tax and the marijuana eradication program. Makes conforming amendments.

Current Status: 1/6/2016 - Referred to Senate Health & Provider Services

All Bill Status: 1/6/2016 - First Reading
1/6/2016 - Authored By Karen Tallian

State Bill Page: [SB 209](#)

SB 214 **CONTROLLED SUBSTANCES** (HERSHMAN B)

- Limits Medicaid reimbursement for Subutex and Suboxone or a similar trade name or generic of the drug if the drug was prescribed for the treatment of pain or pain management, unless the drug was prescribed by a physician who meets certain requirements. Permits the office of Medicaid policy and planning to require prior authorization for these drugs when being prescribed for substance abuse treatment or as determined by the drug utilization review board or when being prescribed for more than six months.
- Requires the division of mental health and addiction to adopt rules concerning: (1) opioid treatment by an opioid treatment provider; (2) take home opioid treatment medications; (3) clinical standards for: (A) tapering of a patient on and off an opioid treatment medication; (B) relapse; and (C) overdose prevention; and (4) specified standards and protocols for an opioid treatment provider.
- Requires an opioid treatment provider to periodically and randomly test a patient for specified drugs during treatment.

Current Status: 1/13/2016 - Senate Health & Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

All Bill Status: 1/6/2016 - Referred to Senate Health & Provider Services
1/6/2016 - First Reading
1/6/2016 - Authored By Brandt Hershman

State Bill Page: [SB 214](#)

SB 231 **IMMUNIZATIONS PROVIDED BY PHARMACISTS** (GROOMS R) Adds the following immunizations to the list of immunizations that pharmacists may administer if certain conditions are met: (1) Measles, mumps, and rubella. (2) Varicella. (3) Hepatitis A. (4) Hepatitis B. (5) Haemophilus influenzae type b (Hib).

Current Status: 1/7/2016 - Referred to Senate Health & Provider Services

All Bill Status: 1/7/2016 - First Reading
1/7/2016 - Authored By Ronald Grooms

State Bill Page: [SB 231](#)

SB 237 **PSEUDOEPHEDRINE AND EPHEDRINE** (GLICK S) Provides that materials, compounds, mixtures, or preparations that contain ephedrine or pseudoephedrine are schedule III controlled substances that may be dispensed only by prescription. Repeals: (1) the statute allowing the dispensing of ephedrine and pseudoephedrine without a prescription subject to certain restrictions; and (2) provisions related to that statute. Requires pharmacies and certain retailers that sell ephedrine, pseudoephedrine, or drugs that contain ephedrine or pseudoephedrine before July 1, 2016, to continue to maintain an electronic or written log of such sales through June 30, 2018.

Current Status: 1/7/2016 - Referred to Senate Family & Children Services

All Bill Status: 1/7/2016 - First Reading
1/7/2016 - Authored By Susan Glick

State Bill Page: [SB 237](#)

SB 273 **STUDY OF DRUG PRICING AND ACCESS** (BREAUX J) Urges the legislative council to assign to an interim study committee a study of prescription drug pricing and access to specialty prescription drugs. Requires submission of a report and recommendations to the legislative council.

Current Status: 1/7/2016 - Referred to Senate Health & Provider Services

All Bill Status: 1/7/2016 - First Reading
1/7/2016 - Authored By Jean Breaux

State Bill Page: [SB 273](#)

SB 297 **OPIOID DEPENDENCE TREATMENT** (MILLER P)

- Requires Medicaid coverage for inpatient detoxification for the treatment of opioid or alcohol dependence. Allows the mental health Medicaid quality advisory committee to make recommendations to the office of Medicaid policy and planning (office) concerning the development of a treatment protocol containing best practice guidelines for the treatment of opiate dependent patients.
- Limits Medicaid reimbursement for certain drugs prescribed for the treatment of pain.
- Specifies that the healthy Indiana plan includes coverage of counseling services for substance abuse treatment.
- Adds requirements for an opioid treatment program to meet in order to operate in Indiana.
- Requires the division of mental health and addiction (division) to adopt specified administrative rules concerning opioid treatment by an opioid treatment provider. Requires an opioid treatment program to provide specified information upon request by the division.

Current Status: 1/13/2016 - Senate Health & Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

All Bill Status: 1/7/2016 - Referred to Senate Health & Provider Services
1/7/2016 - First Reading
1/7/2016 - Authored By Patricia Miller

State Bill Page: [SB 297](#)