

FAEGRE BAKER DANIELS

2016 Legislative Update #4

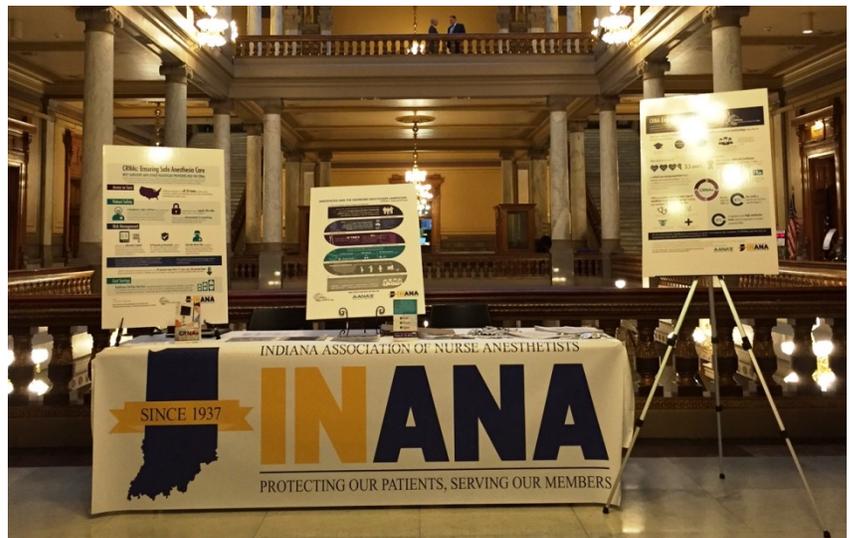
Indiana Society of Anesthesiologists



January 30, 2016

State lawmakers put in long hours at the Statehouse last week as committees worked to meet the Thursday deadline for adoption of committee reports. As expected, a large number of bills are now presumed “dead” because they did not receive a hearing in their house of origin, although provisions from at least some of the measures will magically reappear in the weeks ahead in other bills.

Although the IANA did not push for legislation this year to expand CRNA scope of practice, about 15 CRNAs showed up at the Statehouse on Tuesday to meet with legislators and hold court at an informational booth on the 3rd floor between the House and Senate chambers. This was a first for IANA, and an indication that IANA plans to step up its presence at the Statehouse with the upcoming retirement of Sen. Pat Miller.



Otherwise, the first half of the 2016 session was generally a mixed bag, with lawmakers reaching a stalemate on much-needed medical malpractice reform and scuttling an onerous transparency bill. Highlights include:

- [House Bill 1156](#) (dental hygienists) was amended by the House Public Health Committee at the request of ISA to delete provisions that authorized a dental hygienist to administer nitrous oxide.
- [Senate Bill 152](#) (medical malpractice reform) was set for a hearing last week, but was abruptly pulled from the schedule by committee chairman Sen. Brent Steele, who had authored the measure in a futile effort to force a compromise between health care providers and the trial lawyers. Steele declined to assign blame to stakeholders for failure to reach a compromise, instead noting that the issue may have been too complex to resolve in a short session. As introduced, SB 152 would have increased the potential payout from the Patients' Compensation Fund from \$1,250,000 to \$1,650,000, increased

a provider's potential liability from \$250,000 to \$450,000, and raised the trigger for the medical review panel from \$15,000 to \$75,000.

- [House Bill 1291](#) would have required insurers and health care providers to provide information to patients about their out-of-pocket costs for prescribed, non-emergency health care services. Although House Insurance Committee chair Rep. Martin Carbaugh granted the bill a hearing, he declined to call for a vote, citing concerns with mandating the use of technology that would likely be outdated within a few years.
- [Senate Bill 171](#) was introduced by Sen. Vaneta Becker at the behest of the Indiana State Medical Association and was intended to provide greater transparency to the fees that providers are charged when they are paid via virtual credit card or any other form of electronic funds transfer. The bill's provisions were stripped in committee and replaced with language urging the Legislative Council to assign the issue of electronic claim payments to an appropriate study committee during the 2016 interim.
- [Senate Bill 30](#) was a product of the Interim Study Committee on Public Health, Behavioral Health and Human Services, which approved the bill last summer with a near unanimous vote. However, the introduced language did not fare as well in the Senate, which deleted provisions that required insurers and HMOs to file quarterly reports with the Indiana Department of Insurance (IDOI) on denied claims. In its current form, the bill now does the following:
 - Requires IDOI to post information on its website about the internal and external grievance procedures for health insurance policies and HMO contracts.
 - Requires a health insurer or HMO to provide information about its internal and external grievance procedures with each claim denial.
 - Requires IDOI to compile and analyze complaints it receives concerning a denial of coverage because a proposed treatment is experimental or not medically necessary, and report a pattern of denials to the Legislative Council.

The upcoming week will be short but hectic. Tuesday (February 2) is the deadline for second reading, and Wednesday (February) is the last day for bills to pass their house of origin. Legislators will then take a four-day weekend and return to the Statehouse on February 8 to start the process all over again, with Senate hearings on House bills and House hearings on Senate bills.

Following is a list of bills of potential interest to ISA that are still alive, along with brief summaries. In addition, up-to-date summaries may be found at any time during the legislative session by clicking on this [link](#).

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

HB 1156 DENTAL HYGIENISTS (FRIZZELL D) Increases from 45 days to 90 days the amount of time a written order for specific dental care is valid under prescriptive supervision. Increases from 14 hours to 19 hours the continuing education that a dental hygienist must receive during a license period. Urges the legislative council to assign the topic of loan forgiveness for dentists and dental hygienists who treat Medicaid patients to an interim committee.

Current Status: 2/1/2016 - House Bills on Second Reading

Recent Status: 1/28/2016 - Committee Report amend do pass, adopted
1/27/2016 - DO PASS AMEND Yeas: 10; Nays: 0

State Bill Page: [HB 1156](#)

HB 1263 PRESCRIPTIONS AND TELEMEDICINE (KIRCHHOFER C) Sets forth requirements that must be met before a prescriber may prescribe medicine to a patient receiving telemedicine services.

Current Status: 2/1/2016 - House Bills on Second Reading

Recent Status: 1/28/2016 - Committee Report amend do pass, adopted
1/27/2016 - DO PASS AMEND Yeas: 8; Nays: 5

State Bill Page: [HB 1263](#)

HB 1272 PROFESSIONAL LICENSING MATTERS (ZENT D)

- Requires a practitioner to provide the Indiana professional licensing agency (agency) and the practitioner's specific board with certain information concerning continuing education. (Current law requires a practitioner to provide the information to a specific board.)
- Allows an individual who holds a professional or occupational license and is called to active duty to fulfill all continuing education requirements through distance learning.
- Allows the practitioner's specific board to conduct random audits of license renewals of practitioners required to take continuing education courses.
- Provides that an employee of the agency must keep information concerning a complaint regarding a regulated occupation confidential unless disclosure is required under law, required for the advancement of an investigation, or made to a law enforcement agency that has jurisdiction or is reasonably believed to have jurisdiction over a person or matter involved in the complaint.

Current Status: 1/26/2016 - Senator Brown L added as sponsor

Recent Status: 1/26/2016 - Third reading passed; Roll Call 51: yeas 95, nays 0
1/26/2016 - House Bills on Third Reading

State Bill Page: [HB 1272](#)

HB 1278 INSPECT PROGRAM (DAVISSON S)

- Allows a dentist, physician, advanced practice nurse (excluding CRNAs), physician assistant, and podiatrist to include an INSPECT program report in a patient's file.
- Allows an individual who holds a temporary fellowship permit to access the INSPECT program. Allows a county coroner conducting a medical investigation of the cause of death to access the INSPECT program.
- Makes certain changes to the immunity granted to practitioners who use the INSPECT program. (Current law extends immunity to both practitioners who use and do not use the INSPECT program.)
- Allows a practitioner's agent to check INSPECT program reports on behalf of the practitioner.
- Allows a patient to access an INSPECT program report that is in the patient's medical file.
- Requires the boards that regulate health care providers that prescribe or dispense prescription drugs to establish prescribing norms and dispensing guidelines that, if exceeded, justify the unsolicited dissemination of exception reports.

- Specifies the exception reports that a board's designee may forward to a law enforcement agency or the attorney general for purposes of an investigation.

Current Status: 1/26/2016 - Senator Miller, Pat added as sponsor

Recent Status: 1/26/2016 - Senator Grooms added as second sponsor
1/26/2016 - Third reading passed; Roll Call 50: yeas 95, nays 0

State Bill Page: [HB 1278](#)

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. Provides for certain grievance related notice to be provided upon request. Requires the commissioner of insurance to analyze certain complaints received by the department and report a pattern of complaints to the legislative council. (The introduced version of this bill was prepared by the interim study committee on public health, behavioral health, and human services).

Current Status: 2/1/2016 - Senate Bills on Second Reading

Recent Status: 1/28/2016 - Committee Report amend do pass, adopted
1/27/2016 - DO PASS AMEND Yeas: 9; Nays: 0

State Bill Page: [SB 30](#)

SB 41 PHARMACY BENEFITS (LONG D) Specifies requirements for the establishment and use of a prescription drug step therapy protocol by a state employee health plan, an accident and sickness insurer, or a health maintenance organization.

Current Status: 2/1/2016 - Senate Bills on Third Reading

Recent Status: 1/28/2016 - Second reading amended, ordered engrossed
1/28/2016 - Amendment #2 (Crider) prevailed; voice vote

State Bill Page: [SB 41](#)

SB 80 PHARMACISTS AND EPHEDRINE (HEAD R) Defines "drug related felony" and 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 the exercise of the pharmacist's professional judgment. 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: 2/1/2016 - Senate Bills on Third Reading

Recent Status: 1/28/2016 - Senate Bills on Third Reading
1/26/2016 - Reread second time: amended, ordered engrossed

State Bill Page: [SB 80](#)

SB 162 HOSPITAL EMPLOYEE IMMUNIZATIONS (MILLER P) Requires a hospital, beginning January 1, 2017, to administer or make available to be administered certain immunizations to hospital employees or contractors who routinely have direct contact with a patient of the hospital. Allows a hospital to elect to annually administer or make available certain immunizations to other employees and contractors. Provides for exceptions. Allows a hospital to establish a process for determining whether the tenets of the religion relied upon for an exemption prohibit the individual from receiving the immunization. Authorizes a hospital, if the hospital has a written policy in place before the individual's failure to receive the immunization, to: (1) make as a condition of employment or a contract an individual having an immunization; and (2) terminate an employee or contractor for not obtaining the immunization if the employee or contractor does not qualify for an exemption. Provides for immunity for the hospital.

Current Status: 2/1/2016 - Senate Bills on Second Reading

Recent Status: 1/28/2016 - Committee Report amend do pass, adopted
1/27/2016 - DO PASS AMEND Yeas: 7; Nays: 0

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: 1/25/2016 - Representative Brown, C. added as cosponsor

Recent Status: 1/25/2016 - Representative Brown, T. added as sponsor
1/25/2016 - Third reading passed; Roll Call 45: yeas 36, nays 14

State Bill Page: [SB 165](#)

SB 171 **STUDY OF ELECTRONIC HEALTH CARE CLAIM PAYMENTS** (BECKER V) Urges the legislative council to assign to a 2016 interim study committee the issue of use of electronic methods of health care claim payment.

Current Status: 2/1/2016 - Senate Bills on Third Reading

Recent Status: 1/28/2016 - Second reading ordered engrossed
1/28/2016 - Senate Bills on Second Reading

State Bill Page: [SB 171](#)

SB 174 **CRIMINAL LAW MATTERS** (YOUNG R) Creates the offense of dealing in a controlled substance by a practitioner, and enhances the offense if the offenses causes the death of another person.

Current Status: 1/21/2016 - Representative Frizzell added as sponsor

Recent Status: 1/21/2016 - Third reading passed; Roll Call 39: yeas 48, nays 0
1/21/2016 - Senate Bills on Third Reading

State Bill Page: [SB 174](#)

SB 214 **CONTROLLED SUBSTANCES** (HERSHMAN B) Prohibits Medicaid reimbursement for Subutex, Suboxone, or a similar trade name or generic of the drug if the drug was prescribed for the treatment of pain or pain management and the drug is only indicated for addiction treatment. 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: 2/1/2016 - Senate Bills on Third Reading

Recent Status: 1/28/2016 - Second reading ordered engrossed
1/28/2016 - Senate Bills on Second Reading

State Bill Page: [SB 214](#)

SB 297 **OPIOID DEPENDENCE TREATMENT** (MILLER P) Requires Medicaid coverage for inpatient detoxification for the treatment of opioid or alcohol dependence. 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 the office of the secretary and the division to develop treatment protocol containing best practice guidelines for the treatment of opiate dependent patients. Requires an opioid treatment program to provide specified information upon request by the division.

Current Status: 1/26/2016 - Senator Randolph added as coauthor

Recent Status: 1/26/2016 - Senator Charbonneau added as coauthor
1/26/2016 - Representatives Davisson, Brown, T., Ziemke added as cosponsors

State Bill Page: [SB 297](#)

SB 364 **MEDICAID PROVIDER AUDIT WORK GROUP** (BASSLER E) Requires the office of Medicaid policy and planning (office) to establish a work group to discuss the policies and procedures used in Medicaid provider audits. Requires the office to submit the work group's findings and any statutory recommendations to legislative council before December 1, 2016.

Current Status: 2/1/2016 - Senate Bills on Second Reading

Recent Status: 1/28/2016 - Committee Report amend do pass, adopted
1/27/2016 - DO PASS AMEND Yeas: 9; Nays: 0

State Bill Page: [SB 364](#)