

FAEGRE BAKER DANIELS

2016 Legislative Update #5

Indiana Society of Anesthesiologists



February 13, 2016

State lawmakers returned to Indianapolis this week for the second half of the 2016 legislative session. The pace was unusually slow, with only a handful of bills set for hearing.

[Senate Bill 80](#) (pharmacists & ephedrine) was the only bill on ISA's tracking list to receive a hearing. Among other things, the bill would allow a pharmacist to deny the sale of ephedrine or pseudoephedrine on the basis of the pharmacist's professional judgment. The House Public Health Committee heard lengthy testimony on Wednesday in support of SB 80 by representatives from law enforcement, local government, pharmacists and retailers; however, drugstore giant CVS came out in opposition. The bill was held, and amendments are expected before it moves out of committee.

Although it was not scheduled for a hearing, last week the Indiana State Medical Association made an unsuccessful attempt to revive [Senate Bill 171](#) (electronic claim benefits). As introduced, the bill was aimed primarily at the bank fees that providers are required to pay when claims are paid via virtual credit card. Last month, the Senate Insurance Committee stripped the bill and instead called for a study of the issue. ISMA asked House Insurance Committee chairman Martin Carbaugh to revive portions of the bill; however, after meeting with representatives for providers, insurers and financial institutions, Rep. Carbaugh declared the bill dead for the year and instead called on stakeholders to attempt to agree on some type of disclosure by both insurers and financial institution regarding the fees associated with virtual credit cards.

Because there are only three weeks available for committee hearings during the second half of session, the next two weeks are expected to be hectic, as legislators work toward a tentative adjournment date of March 10.

The following bills on ISA's tracking list are scheduled for hearing next week:

Monday, February 15

- [Senate Bill 165](#) (Healthy Indiana Plan)
- [Senate Bill 364](#) (Medicaid provider audit work group)

Wednesday, February 17

- [House Bill 1263](#) (prescriptions & telemedicine)
- [House Bill 1278](#) (INSPECT program)

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: 2/2/2016 - Third reading passed; Roll Call 134: yeas 96, 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: 2/3/2016 - Third reading passed; Roll Call 165: yeas 74, nays 24

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

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: 2/2/2016 - Third reading passed; Roll Call 124: yeas 50, 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 - Third reading passed; Roll Call 76: yeas 50, nays 0

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: 2/3/2016 - Third reading passed; Roll Call 154: yeas 41, nays 8

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: 2/2/2016 - Third reading passed; Roll Call 129: yeas 50, 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 - Third reading passed; Roll Call 84: yeas 50, nays 0
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 - Third reading passed; Roll Call 88: yeas 50, nays 0
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: 2/3/2016 - Third reading passed; Roll Call 171: yeas 49, nays 0
State Bill Page: [SB 364](#)