

# FAEGRE BAKER DANIELS

## 2017 Legislative Update #10

### Indiana Society of Anesthesiologists



*April 1, 2017*

With the exception of a few last-minute hearings on Monday morning, the 2017 General Assembly has wrapped up the committee process for the year and now moves into the final phase of the legislative session. Any bill that does not pass out of committee by noon on Monday is officially dead, although under the legislature's rules, its provisions may be amended into a conference committee report on another bill.

Next Wednesday (April 5) is the last day for floor amendments, and the following day is the deadline for bills to pass from the second chamber. The final two weeks will be devoted to conference committees, as lawmakers work to resolve differences between the House and Senate versions of the same bill.

Although Republicans control both the House and the Senate, some key differences are already coming into focus, especially on funding for infrastructure. Under the massive infrastructure funding bill passed by the House (HB 1002), 100% of all gas tax revenue would be immediately redirected toward road and bridge construction, leaving a \$300 million hole in the state budget that would be filled with an increase in the cigarette tax.

Last week, Senate Republicans unveiled their own version of HB 1002. Unlike the House plan, the Senate bill would phase in the 10 cent gas tax increase over two years instead of imposing it all at once. Existing gas tax revenues would remain in the general fund at their current levels and the cigarette tax would not be increased. Instead, the funding gap for infrastructure would be closed by authorizing the Indiana Department of Transportation to seek approval from the federal government to place tolls on any interstate highway.

#### **Highlights from last week:**

- [SB 408](#), which would have expanded the scope of the INSPECT program and imposed additional reporting requirements on prescribers, was stripped in committee and replaced with language requesting a study committee on the topic of improvements to INSPECT.
- [HB 1337](#) (telemedicine) was amended in committee to remove a limitation on prescribing controlled substances except for opioids through the use of telemedicine if, among other things, the patient has been examined in person by a licensed Indiana health care provider that has diagnosed the patient and established a treatment plan for the diagnosis for the patient and the prescriber has reviewed and approved the treatment plan and is prescribing for the patient pursuant to the treatment plan.

Following are summaries of bills of interest to ISA that are still alive at this point in session.

## SCOPE OF PRACTICE

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### **HB 1308 VARIOUS PROFESSIONAL LICENSING MATTERS (ZENT D)** Among other things:

- Eliminates the certificate of registration for professional corporations requirement.
- Allows all boards under the authority of the professional licensing agency (agency) to impose sanctions on a licensee as a result of an administrative complaint filed by the attorney general after renewal or reinstatement of a license.
- Makes certain provisions concerning midwifery certification effective July 1, 2018.
- Requires the boards under the authority of the agency to expedite the issuance or renewal of licenses, certificates, registrations, or permits to military spouses. (Current law requires the boards to adopt rules to expedite the issuance or renewal of licenses, certificates, registrations, or permits to military spouses.)

*Current Status:* 3/27/2017 – Passed Senate 49-0; awaiting governor's signature

*State Bill Page:* [HB 1308](#)

### **HB 1337 TELEMEDICINE MATTERS (KIRCHHOFER C)**

- Requires the office of Medicaid policy and planning (office) to reimburse a Medicaid provider, determined by the office to be eligible, for covered telemedicine services. Prohibits the office from setting any distance restrictions under Medicaid on telehealth services and telemedicine services.
- Adds podiatrist to the definition of "prescriber" for purposes of telemedicine services.
- Requires a telemedicine services prescriber to contact the patient's primary care provider if the telemedicine services prescriber has provided care to the patient at least two consecutive times through the use of telemedicine services.
- Removes a limitation on prescribing controlled substances except for opioids through the use of telemedicine if: (1) the prescriber maintains a controlled substance registration; (2) meets federal requirements concerning the prescribing of the controlled substance; (3) the patient has been examined in person by a licensed Indiana health care provider that has diagnosed the patient and established a treatment plan for the diagnosis for the patient; (4) the prescriber has reviewed and approved the treatment plan and is prescribing for the patient pursuant to the diagnosis included in the treatment plan; and (5) The prescriber complies with the requirements of the INSPECT program.
- Allows for the prescribing of an opioid using telemedicine services if the opioid being prescribed is a partial agonist being prescribed to treat or manage an opioid dependence.

*Current Status:* 4/3/2017 - House Bills on Second Reading

### **SB 51 IMMUNIZATIONS PROVIDED BY PHARMACISTS (GROOMS R)**

- Allows the state health commissioner or a designated public health authority who is a licensed prescriber to issue a statewide standing order, prescription, or protocol

that allows a pharmacist to administer or dispense certain immunizations.

- Allows immunization data to be released to an entity for outreach and education purposes to increase immunization rates if certain conditions are met.
- 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).
- Allows a pharmacist to immunize an individual who is at least 50 years of age for pneumonia under a physician's protocol.
- Requires a pharmacist to comply with the public health emergency consent requirements for immunizations administered during a public health emergency. Authorizes a pharmacist to administer immunizations under a standing order, prescription, or protocol of the state health commissioner.

*Current Status:* 4/3/2017 - House Bills on Second Reading

*State Bill Page:* [SB 51](#)

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## HEALTH INSURANCE

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**HB 1273 OUT OF NETWORK HEALTH CARE SERVICES (BAIRD J)** Requires referring providers to furnish notice to patients that an out-of-network provider may be called upon to render services to patient during the course of treatment.

*Current Status:* 4/3/2017 - House Bills on Second Reading

*State Bill Page:* [HB 1273](#)

**SB 73 ELECTRONIC AUTHORIZATION FOR PRESCRIPTION DRUGS (GROOMS R)** Requires certain health plans to accept and respond to electronic prior authorization requests according to a particular electronic transaction standard.

*Current Status:* 4/3/2017 – Concurrence filed

*State Bill Page:* [SB 73](#)

**SB 303 DIRECT PRIMARY CARE AGREEMENTS (KOCH E)** Specifies that: (a) a direct primary care agreement is not insurance; and (b) a primary care provider or an employer of primary care provider that enters into a direct primary care agreement is not required to obtain an insurance certificate of authority. Sets forth requirements of a direct primary care agreement.

*Current Status:* 4/3/2017 - House Bills on Second Reading

*State Bill Page:* [SB 303](#)

**SB 549 HEALTH RECORD INFORMATION (SANDLIN J)** Amends the definition of "abandoned" for purposes of protection of health records possessed by a health care provider or a former health care provider. Permits the attorney general to file an action against a health care provider or former health care provider to recover incurred costs related to abandoned records. Applies current law concerning data base security to a health care provider or former health care provider who is a data base owner currently exempt from the law if the data base owner does not have or implement a plan to safeguard personal information after ceasing to be a covered entity under the federal Health Insurance Portability and Accountability Act.

*Current Status:* 4/3/2017 – Concurrence filed

*State Bill Page:* [SB 549](#)

**HB 1540 PHARMACY LAW (DAVISSON S)**

- Allows the state health commissioner or a designated public health authority who is a licensed prescriber to issue a statewide standing order, prescription, or protocol that allows a pharmacist to administer or dispense: (1) certain immunizations; or (2) a smoking cessation product. Requires that the standing order, prescription, or protocol be posted on the Internet web site of the board of pharmacy (board).
- Allows the board to adopt emergency rules concerning pharmacies that perform compounding.
- Removes the requirement that a prescriber be notified when there is a change in the quantity filled of certain prescriptions.
- Allows a pharmacist to administer pneumonia immunizations to individuals who are at least 50 years of age.
- Authorizes a pharmacist to administer immunizations under a standing order, prescription, or protocol of the state health commissioner.
- Establishes a registration for pharmacy remote dispensing facilities. Sets forth requirements for the registration.
- Makes various changes to the laws concerning drug regimens and the use of protocols.
- Requires that a health insurance policy and a health maintenance organization contract that provides coverage for prescription medications must provide for synchronized refill schedule coordination for chronic prescription medications.

*Current Status:* 3/28/2017 – Passed Senate 48-1; eligible for concurrence or conference committee

*State Bill Page:* [HB 1540](#)

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## OPIOIDS

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**SB 151 INFORMATION IN INSPECT PRESCRIPTION DRUG DATA BASE (MERRITT J)**

- Requires the ephedrine, pseudoephedrine, and controlled substance prescription monitoring program to include an entry for a dispenser to indicate, when applicable, if a patient has entered into a pain management contract with a designated practitioner.
- Allows the management performance hub and the state epidemiologist to obtain information from the INSPECT program. Requires that the information provided to the management performance hub not include personally identifying information.
- Requires the professional licensing agency (agency) to establish a workgroup consisting of emergency medical technicians, registered nurses, paramedics, pharmacists, physicians, law enforcement officers and physician assistants for the purpose of evaluating the cost and feasibility of cataloging: (1) each administration of an overdose intervention drug by an emergency medical services provider; and (2) data related to certain controlled substance investigations by law enforcement;

in the INSPECT data base. Requires the agency to provide: (1) statutory recommendations; and (2) a written report; to the legislative council not later than December 1, 2017.

*Current Status:* 4/3/2017 - Senate Bills on Second Reading

*State Bill Page:* [SB 151](#)

**SB 226    PRESCRIBING AND DISPENSING OF OPIOIDS (MERRITT J)**

- Limits the amount of an opioid prescription a prescriber may issue for: (1) an adult who is being prescribed an opioid for the first time; and (2) a child; unless the prescription is for the treatment of specified conditions or circumstances. Requires documentation in the use of certain exemptions.
- Requires a prescriber to issue a prescription for an opioid in a lesser amount if requested by specified individuals and to document the request.
- Requires a pharmacist, upon the request of a specified individual, to partially fill the opioid prescription in compliance with federal law. Requires the pharmacist to document that the opioid prescription was partially filled.
- Requires the medical licensing board, in consultation with specified persons, to adopt emergency rules and rules concerning conditions that will be exempt from the prescription limitations.

*Current Status:* 3/21/2017 – Passed House 97-0; awaiting governor's signature

*State Bill Page:* [SB 226](#)

**SB 243    SUBSTANCE ABUSE PROGRAMS (CRIDER M)**

- Subject to the approval of the Indiana commission to combat drug abuse (commission), establishes the physician medication assisted treatment training reimbursement pilot program (pilot program) to reimburse qualified physicians who undergo certain medication assisted treatment training, for the purpose of increasing the number of physicians in Indiana allowed under the federal Drug Addiction Treatment Act of 2000 to prescribe certain controlled substances to treat opioid dependency in settings other than an opioid treatment program. Establishes requirements for participation in the pilot program.
- Subject to the approval of the commission, establishes the maternal neonatal opioid addiction project (project) within the division of mental health and addiction (division). Allows the division to implement the project and award one grant to a health care system application that meets specified requirements for participation in the project.

*Current Status:* 3/28/2017 – Passed House 88-0; eligible for concurrence or conference committee

*State Bill Page:* [SB 243](#)

**SB 408    INSPECT PROGRAM (HOUCHIN E)** Urges the legislative council to assign to the appropriate study committee the topic of potential improvements to the INSPECT program.

*Current Status:* 4/3/17 – Senate bills on Second Reading

*State Bill Page:* [SB 408](#)