

FAEGRE BAKER DANIELS

2017 Legislative Update #3

Indiana Society of Anesthesiologists



January 22, 2017

The past week at the Statehouse was short but hectic, highlighted by Governor Eric Holcomb's State of the State address on Tuesday evening and Chief Justice Loretta Rush's State of Judiciary address on Wednesday. In between the speeches, lawmakers managed to pack in a few hours of committee meetings and floor activity, but the Statehouse was cleared out by noon on Thursday as Democrats left for home and Republicans headed to D.C. for the presidential inauguration.

On Tuesday, legislators were treated to breakfast at the Statehouse by the Coalition of Advanced Practice Nurses. According to their lobbyist, more than 150 APNs plus 30 students showed up for the day, all clad in white coats. After breakfast, the group scattered for meetings with their individual legislators. CAPN recently hired a new lobbyist and is aggressively pursuing legislation to repeal the requirement that APNs enter into collaborative agreements with physicians.

Although IANA is not a member of CAPN, nurse anesthetists are having their day at the Statehouse next Tuesday. The event will include a coffee and dessert bar for legislators. None of the bills filed to date address CRNA scope of practice.

As you know, ISA has set Monday, January 30 as Physician Anesthesiologist Day at the Statehouse. Given the strong turnout by APRNs, it's important that ISA make a good showing. If you haven't done so already, please sign up to participate.

To date, 518 Senate bills and 537 House bills have been filed and assigned to committees. We believe that all of the Senate bills have been released, but anticipate that House Speaker Brian Bosma will release more House bills when the legislature reconvenes on Monday.

Following are summaries of bills of potential interest to ISA that were filed and released to the public as of January 20. You can read both the bill and its fiscal note by clicking on the link in the bill number.

Additional bills are expected to be released throughout the upcoming week and will be included in next week's legislative update. In the meantime, up-to-date summaries and real-time information about every bill on the tracking list may be found by clicking on this [link](#).

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

SCOPE OF PRACTICE & LICENSING

- HB 1221 OCCUPATIONAL LICENSING AND CRIMINAL CONDUCT (WASHBURNE T)** Provides that a license that an individual is required by law to hold to engage in a profession may not be denied, revoked, or suspended solely because the applicant has been convicted of an offense. Provides that a conviction may be considered to determine if the applicant or licensee should be entrusted to serve the public in a specific capacity. Allows a board to suspend, deny, or revoke a license issued under the professional licensing laws solely based on the conviction of a felony that has a direct bearing on the practitioner's ability to continue to practice competently or that demonstrates that the practitioner is a threat or may cause harm to the public.
Current Status: 1/10/2017 - Referred to House Employment, Labor and Pensions
State Bill Page: [HB 1221](#)
- 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 of a license.
 - Removes from the boards under the authority of the agency the requirements to establish prescribing norms and dispensing guidelines.
- Current Status:* 1/10/2017 - Referred to House Employment, Labor and Pensions
State Bill Page: [HB 1308](#)
- HB 1409 ADVANCED PRACTICE NURSES (WESCO T)** Removes the requirements that an advanced practice nurse have a practice agreement with a collaborating physician. Repeals law concerning the audit of practice agreements.
Current Status: 1/17/2017 - Referred to House Public Health
State Bill Page: [HB 1409](#)
- HB 1474 ADVANCED PRACTICE REGISTERED NURSES (KIRCHHOFER C)** Changes "advanced practice nurse" references to "advanced practice registered nurse". Requires the Indiana state board of nursing to adopt rules concerning educational and certification requirements that an advanced practice registered nurse must meet to prescribe legend drugs. Repeals provisions concerning advanced practice nurse practice agreements.
Current Status: 1/18/2017 - Referred to House Public Health
State Bill Page: [HB 1474](#)
- SB 437 CHIROPRACTORS (ALTING R)** Among other things:
- Removes a prohibition on chiropractors taking x-rays of any organ other than the vertebral column and extremities.
 - Allows a chiropractor to perform certain acts and functions to the extent the chiropractor was taught in a chiropractic college or as approved in rules of the board.
- Current Status:* 1/12/2017 - Referred to Senate Health and Provider Services
State Bill Page: [SB 437](#)

- SB 444** **TELEMEDICINE** (MERRITT J) Requires the office of Medicaid policy and planning (office) to reimburse any Medicaid provider (not just specified providers) for Medicaid covered services provided through the use of telemedicine services if certain requirements are met. Prohibits the office from setting any distance restrictions under Medicaid on telehealth services and telemedicine services. Requires reimbursement for telemedicine services under the healthy Indiana plan. Gives a telemedicine services provider the discretion in contacting the patient's primary care provider if the telemedicine services provider has provided care to the patient at least two consecutive times through the use of telemedicine services. Allows a provider to issue a controlled substance prescription to a patient if the provider has previously examined the patient in person.
Current Status: 1/17/2017 - Senator Becker added as third author
State Bill Page: [SB 444](#)
- SB 492** **TELEMEDICINE COVERAGE IN HEALTHY INDIANA PLAN** (BREAUX J) Adds coverage to the healthy Indiana plan for covered services provided through the use of telemedicine.
Current Status: 1/17/2017 - Referred to Senate Health and Provider Services
State Bill Page: [SB 492](#)
- SB 508** **REGULATION OF NATUROPATHIC PHYSICIANS** (NIEZGODSKI D) Provides for licensure of practitioners of naturopathic medicine.
Current Status: 1/17/2017 - Referred to Senate Commerce and Technology
State Bill Page: [SB 508](#)

INSURANCE & HEALTH CARE COSTS

- HB 1011** **HEALTH CARE CHARGES** (CULVER W) Beginning in 2018, requires health care providers to publish and provide to patients the charges for procedures rendered by the health care provider. Beginning in 2020, requires health care providers to publish and provide to patients the charges for each product or service rendered by the health care provider.
Current Status: 1/4/2017 - Referred to House Public Health
State Bill Page: [HB 1011](#)
- HB 1086** **MEDICAL PAYMENT COVERAGE** (FRYE R) Specifies that medical payment coverage is supplemental to coverage under a health plan or public health coverage program. Specifies that: (1) the amount paid under medical payment coverage must not exceed the amount to which the health care provider agreed as payment in full for a health care service under the covered individual's health plan or public health coverage program; and (2) the covered individual is not liable for any amount that exceeds the amount to which the health care provider agreed as described in (1).
Current Status: 1/5/2017 - Referred to House Insurance
State Bill Page: [HB 1086](#)
- HB 1138** **PUBLICATION OF MEDICARE INFORMATION** (BRAUN M) Requires a hospital to publish Medicare reimbursement amounts for health care services provided by the hospital and Medicare quality rating information concerning the hospital.
Current Status: 1/10/2017 - Representatives Lehman and Austin added as coauthors
State Bill Page: [HB 1138](#)

- HB 1140 HOSPITAL PUBLICATION OF CONTRACTS (BRAUN M)** Requires a hospital or a physician practice that is owned by the hospital to make public contracts related to terms and conditions of third party payment for health care services.
Current Status: 1/10/2017 - Representative Lehman added as coauthor
State Bill Page: [HB 1140](#)
- HB 1273 HEALTH PROVIDER NOTICE TO COVERED INDIVIDUALS (BAIRD J)** Requires a health provider that has not entered into a payment agreement with a health carrier and provides health care services to a covered individual in a facility that has entered into a payment agreement with the health carrier to inform the covered individual that payment made to the health provider by the health carrier may not be payment in full. Makes conforming amendments.
Current Status: 1/12/2017 - Representative Heaton added as coauthor
State Bill Page: [HB 1273](#)
- HB 1483 AVAILABILITY OF ELECTRONIC MEDICAL RECORDS (CULVER W)** Requires a health care provider to electronically record information from the examination of or provision of services to a patient into the patient's electronic health record within 72 hours after the patient visit. Sets forth a civil penalty of \$500 per patient visit for a health care provider who fails to update the patient's electronic health record, and requires the state department of health to enforce violations.
Current Status: 1/18/2017 - Referred to House Public Health
State Bill Page: [HB 1483](#)
- HB 1486 HEALTH INSURANCE COVERAGE AND COST INFORMATION (SCHAIBLEY D)**
- Requires health care providers and health plans to provide to covered individuals and patients certain information concerning the cost of health care services.
 - Requires health care providers to publish a payment policy for medically necessary health care services not covered by a third party payment source.
 - Requires the department of insurance to establish, post, and maintain on the department's Internet web site a standardized prior authorization form for notice or authorization for health care services.
 - Requires a state employee health plan, an accident and sickness insurer, and a health maintenance organization to: (1) use only the standardized prior authorization form; (2) allow electronic submission of the form and supporting information; and (3) respond verbally and electronically within 48 hours.
 - Prohibits Medicaid, including risk based managed care organizations, from requiring prior authorization for certain drug testing of recipients enrolled in a drug treatment program.
 - Urges the legislative council to assign issues related to health care prior authorization to an appropriate interim study committee for study and a report during the 2017 interim of the general assembly.
- Current Status:* 1/18/2017 - Referred to House Insurance
State Bill Page: [HB 1486](#)
- SB 69 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: 1/3/2017 - Referred to Senate Health and Provider Services

State Bill Page: [SB 69](#)

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: 1/18/2017 - DO PASS Yeas: 11; Nays: 1

All Bill Status: 1/18/2017 - Senate Health and Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 10:00 AM, Rm. 431

State Bill Page: [SB 73](#)

SB 303 **DIRECT PRIMARY CARE AGREEMENTS** (KOCH E) Specifies that a direct primary care agreement is not insurance and a 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. Specifies justifiable reasons for a primary care provider to discontinue a direct primary care agreement and specifies conditions to be met in order to do so.

Current Status: 1/9/2017 - Referred to Senate Health and Provider Services

State Bill Page: [SB 303](#)

SB 549 **PERSONAL INFORMATION PRIVACY** (SANDLIN J) Amends the definition of "abandoned" for purposes of protection of health records and personal information possessed by certain professionals. Permits the attorney general to file an action against a professional to recover incurred costs related to abandoned records. Applies current law concerning data base security to 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: 1/17/2017 - Referred to Senate Civil Law

State Bill Page: [SB 549](#)

OPIOIDS

HB 1271 **REPEAL OF INSPECT OVERSIGHT COMMITTEE** (GUTWEIN D) Repeals the INSPECT oversight committee. Removes expired language.

Current Status: 1/24/2017 - House Select Committee on Government Reduction, (Bill Scheduled for Hearing); **Time & Location:** 8:30 AM, Rm. 156-D

State Bill Page: [HB 1271](#)

SB 11 **COVERAGE FOR ABUSE DETERRENT OPIOIDS** (MERRITT J) Requires that, if an abuse deterrent opioid analgesic is available with a certain active ingredient, state employee health plans, policies of accident and sickness insurance, and health maintenance organization contracts must provide coverage for at least one abuse deterrent opioid analgesic that provides that active ingredient.

Current Status: 1/3/2017 - Referred to Senate Health and Provider Services

State Bill Page: [SB 11](#)

SB 132 **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.

Current Status: 1/4/2017 - Referred to Senate Corrections and Criminal Law

State Bill Page: [SB 132](#)

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.

Current Status: 1/4/2017 - Referred to Senate Health and Provider Services

State Bill Page: [SB 151](#)

SB 157 **CONTROLLED SUBSTANCES AND REPORTING** (MERRITT J) Requires the professional licensing agency (agency) to establish a workgroup consisting of emergency medical technicians, registered nurses, paramedics, pharmacists, physicians, and law enforcement officers 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: 1/4/2017 - Referred to Senate Health and Provider Services

State Bill Page: [SB 157](#)

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 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 and void the remainder of the unfilled opioid prescription. Requires the pharmacist to document that the opioid prescription was partially filled and that the remainder of the unfilled prescription is void.

Current Status: 1/12/2017 - Senator Ruckelshaus J added as second author

State Bill Page: [SB 226](#)

SB 243 **PHYSICIAN WAIVER TRAINING REIMBURSEMENT PILOT PROGRAM** (MERRITT J) Establishes the physician waiver training reimbursement pilot program to reimburse qualified physicians who undergo certain 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.

Current Status: 1/9/2017 - Referred to Senate Health and Provider Services

State Bill Page: [SB 243](#)

SB 247 **INSPECT PROGRAM CERTIFICATION (HEAD R)** Requires that a practitioner who issues a prescription for a controlled substance must be certified to receive information from the INSPECT program.

Current Status: 1/9/2017 - Referred to Senate Corrections and Criminal Law

State Bill Page: [SB 247](#)

SB 408 **INSPECT PROGRAM (HOUCHIN E)** Requires a dispenser of ephedrine, pseudoephedrine, or a controlled substance to transmit certain information to the INSPECT program on a real time basis beginning January 1, 2018. Provides that, to the extent considered appropriate by the state board of pharmacy (board), the INSPECT data base must be interoperable with other similar registries operated by federal and state governments. Adds an investigator for the state Medicaid fraud control unit to the list of persons who can receive certain confidential INSPECT program information. Requires a practitioner to obtain information about a patient from the INSPECT data base before prescribing ephedrine, pseudoephedrine, or a controlled substance to the patient. Requires the board to establish procedures for a patient or a patient's authorized representative to access the patient's report from the INSPECT program. (Current law allows a patient to access a report that has been included in the patient's medical file by a practitioner.) Provides that if a patient or patient's authorized representative disputes information in the patient's INSPECT report, the board shall investigate the claim and promptly revise any inaccurate information. Requires the board to seek and apply for grants and other money from federal agencies and other entities for the controlled substances data fund.

Current Status: 1/10/2017 - Referred to Senate Health and Provider Services

State Bill Page: [SB 408](#)

MISCELLANEOUS

HB 1061 **LYME DISEASE INFORMATION (SHACKLEFORD R)** Requires a health care provider or health care provider's designee who orders a laboratory test for the presence of Lyme disease to provide the patient or the patient's legal representative with certain written information concerning Lyme disease.

Current Status: 1/9/2017 - Representative Nisly added as coauthor

State Bill Page: [HB 1061](#)

HB 1252 **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: 1/10/2017 - Referred to House Courts and Criminal Code

State Bill Page: [HB 1252](#)

- HB 1303** **MEDICAL MARIJUANA** (CANDELARIA REARDON M) Establishes the medicinal marijuana excise tax, and requires a medicinal marijuana dispensary to transfer the tax to the department of state revenue for deposit in the system for teacher and student advancement grant fund and the local infrastructure revolving fund. Requires the executive board of the state department of health to adopt rules to regulate registered medicinal marijuana cardholders, medicinal marijuana dispensaries, and registered medicinal marijuana dispensary employees. Requires that medicinal marijuana sold in a medicinal marijuana dispensary must be harvested and processed in Indiana. Provides that certain crimes involving marijuana, hash oil, hashish, and paraphernalia do not apply in certain circumstances to medicinal marijuana cardholders, medicinal marijuana dispensaries, and registered medicinal marijuana dispensary employees.
Current Status: 1/10/2017 - Referred to House Public Policy
State Bill Page: [HB 1303](#)
- HB 1316** **MEDICAL MARIJUANA** (BROWN C) 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: 1/10/2017 - Referred to House Public Policy
State Bill Page: [HB 1316](#)
- HB 1320** **CIGARETTE TAXES** (BROWN C) Increases the cigarette tax from \$0.995 per pack to \$2.995 per pack and uses the additional revenue (\$2 per pack) as follows: (1) Transfers \$1 of the additional revenue per pack to the Indiana tobacco use prevention and cessation trust fund to be used for one or more of the following purposes: (A) To emphasize the prevention and reduction of tobacco use by minorities, pregnant women, children, and youth, including youth with serious and emotional disturbances. (B) To encourage smoking cessation. (C) To provide research on issues related to the reduction of tobacco use. (2) Transfers \$1 of the additional revenue per pack to the medical residency education fund.
Current Status: 1/12/2017 - Referred to House Public Health
State Bill Page: [HB 1320](#)
- HB 1446** **FIREARM OWNERSHIP AND MEDICAL RECORDS** (JUDY C) Prohibits a practitioner or medical records custodian from disclosing certain information relating to a patient's ownership of a firearm. Prohibits a political subdivision or the board regulating a practitioner from requiring the practitioner to: (1) inquire whether a patient owns a firearm; (2) document in a patient's medical record whether the patient owns a firearm; or (3) notify any governmental entity of the patient's identification solely on the basis of the patient's ownership of a firearm.
Current Status: 1/18/2017 - Referred to House Public Policy
State Bill Page: [HB 1446](#)
- HB 1490** **CIGARETTE TAX** (BROWN T) Increases the cigarette tax by \$1 to \$1.995 per pack of regular size cigarettes (and a corresponding increase for larger cigarettes) and uses the

additional revenue for reimbursements of Medicaid providers.

Current Status: 1/18/2017 - Referred to House Public Health

State Bill Page: [HB 1490](#)

- SB 15** **HEMP OIL REGISTRY FOR THE TREATMENT OF EPILEPSY (TOMES J)** Establishes a hemp oil registry for certain physicians, individuals, and caregivers for the use of hemp oil in the treatment of a child with intractable epilepsy. Establishes a pilot study registry for physicians who want to study the use of hemp oil in the treatment of intractable epilepsy. Requires the state department of health (state department) to develop and maintain both registries. Provides civil, criminal, and administrative immunity for physicians in the use of hemp oil in the treatment of intractable epilepsy if certain requirements are met. Exempts caregivers and individuals from criminal penalties for possession or use of hemp oil if the caregivers and individuals are registered with the state department and are using the hemp oil for the individual and in the manner approved for registration. Encourages state educational institutions to research the use of hemp oil in the treatment of intractable epilepsy.
- Current Status:* 1/17/2017 - Senators Bassler and Ford added as coauthors
All Bill Status: 1/17/2017 - Senate Corrections and Criminal Law, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Senate Chamber
State Bill Page: [SB 15](#)
- SB 133** **HOSPITAL EMPLOYEE IMMUNIZATIONS (MRVAN F)** Requires a hospital, beginning January 1, 2018, to administer or make available to be administered certain immunizations to hospital employees or contractors who routinely have direct contact with any patient of the hospital. Allows a hospital to elect to annually administer or make available certain immunizations to health care professionals, other employees, and contractors. Provides for exceptions. Requires a hospital to administer or make influenza immunizations available at certain times during the year. Allows a hospital to establish a process for determining whether the tenets of the religion relied upon for an exemption prohibit an individual from receiving an immunization. Authorizes a hospital, if the hospital has a written policy in place before an individual's failure to receive an immunization, to: (1) impose, as a condition of employment or a contract, a requirement that an individual have 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:* 1/4/2017 - Referred to Senate Health and Provider Services
State Bill Page: [SB 133](#)
- SB 255** **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:* 1/9/2017 - Referred to Senate Tax and Fiscal Policy
State Bill Page: [SB 255](#)

- SB 273** **END OF LIFE OPTIONS** (RANDOLPH L) Allows an individual with a terminal illness who meets certain requirements to make a written request to an attending physician for medication that the individual may self administer to end the individual's life. Specifies requirements a physician must meet in order to prescribe the medication to a patient.
Current Status: 1/9/2017 - Referred to Senate Judiciary
State Bill Page: [SB 273](#)
- SB 327** **MEDICINAL USE OF CANNABIDIOL** (HERSHMAN B) Defines "cannabidiol", and provides an affirmative defense to possession of cannabidiol if the person or the person's child has been diagnosed with certain medical conditions, the cannabidiol contains no THC, and other specified conditions are met.
Current Status: 1/9/2017 - Referred to Senate Corrections and Criminal Law
State Bill Page: [SB 327](#)
- SB 538** **HEALTH CARE PROVIDER SHORTAGE** (DELPH M) Urges the legislative council to assign topics to a study committee concerning the shortage of health care providers in Indiana.
Current Status: 1/17/2017 - Referred to Senate Health and Provider Services
State Bill Page: [SB 538](#)