

FAEGRE BAKER DANIELS

2017 Legislative Update #5

Indiana Society of Anesthesiologists



February 19, 2017

Legislators are heading into the final week of committee hearings on bills in their house of origin. Tuesday (February 21) is the deadline for House bills to clear committee, and Thursday (February 23) is the Senate deadline. Last week was packed with lengthy committee hearings and floor sessions as lawmakers worked long hours to meet the pending deadlines.

Tomorrow morning promises to be hectic as well, with two controversial health care measures up for vote and amendment in House committees.

At 9 a.m. in the House Insurance Committee, committee chair Martin Carbaugh is expected to offer an amendment to [HB 1273](#) that addresses the “surprise billing” issue. Under the proposed language – which Rep. Carbaugh has described as a “starting point” – an in-network provider would be required to provide certain information to a patient before making a referral to an out-of-network provider. If a patient receives care from an out-of-network provider and does not know the provider is out-of-network, the patient would only be responsible for deductibles and co-payments. In those circumstances, the out-of-network provider would receive direct payment from the patient’s insurer at a rate based on the 60th percentile of payments to the same specialty for the same service in the same geographic area in accordance with an independent database such as FAIR Health. This level of reimbursement is not consistent with model legislation developed by Physicians for Fair Coverage, which calls for reimbursement at the 80th percentile.

At 10 a.m., the House Public Health Committee will amend and vote on [HB 1474](#), which would allow advanced practice nurses to prescribe without entering into a collaborative agreement with a physician. Although the bill does not expand the scope of practice for CRNAs, it is part of model legislation developed by the National Council of State Boards of Nursing that calls for independent practice by CRNAs. ISMA has been working with legislators on potential amendments that would limit the circumstances under which an APN could prescribe without entering into a collaborative agreement, and to also require that APNs be clearly identified as such to patients.

Following are summaries of bills of potential interest that have been granted a committee hearing this session and are moving through the legislative process. You can read both the bill and its fiscal note by clicking on the link in the bill number.

SCOPE OF PRACTICE

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: 2/20/2017 - House Bills on Second Reading

State Bill Page: [HB 1308](#)

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: 2/20/2017 - House Public Health, (Bill Scheduled for Hearing); **Time & Location:** 10:00 AM, House Chamber

State Bill Page: [HB 1474](#)

SB 51 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).

All Bill Status: 1/30/2017 - House sponsor: Representative Davisson
1/30/2017 - Third reading passed; Roll Call 32: yeas 46, nays 3

State Bill Page: [SB 51](#)

SB 63 COMMUNITY MENTAL HEALTH CENTER TELEMEDICINE PILOT (HEAD R) Establishes a two year community mental health center telemedicine pilot program (program) to be administered by the division of mental health and addiction (division). Provides that the purpose of the program is to provide mental health counseling and services to children through the use of telemedicine. Sets forth requirements for the program and for participation in the program. Requires the reporting of certain information. Allows a physician providing telemedicine services in the program to prescribe any prescription drug for a patient that is within the physician's scope of practice for the treatment of the patient's mental health. Specifies that the physician may not prescribe an abortion inducing drug. Requires the division to submit a report to the general assembly concerning the effectiveness of the program. Specifies that a physician is not required to have a prior established physician-patient relationship in order to provide telemedicine services in Indiana.

Current Status: 2/20/2017 - Senate Bills on Second Reading

State Bill Page: [SB 63](#)

HEALTH INSURANCE

- 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: 2/20/2017 - House Insurance, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 156-B
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.
All Bill Status: 1/30/2017 - House sponsor: Representative Davisson
1/30/2017 - Third reading passed; Roll Call 33: yeas 49, nays 0
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 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: 2/14/2017 - House sponsor: Representative Kirchhofer
All Bill Status: 2/14/2017 - Third reading passed; Roll Call 114: yeas 50, nays 0
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: 2/6/2017 - House sponsor: Representative Speedy
All Bill Status: 2/6/2017 - Third reading passed; Roll Call 72: yeas 47, nays 1
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 drug or device. Requires that the standing order, prescription, or protocol be posted on the Internet web site of the board of pharmacy (board). Allows: (1) more than four members of the same political party; and (2) individuals who are full-time members or professors at a school of pharmacy; to serve on the board. Removes the requirement that a pharmacy permit and pharmacist's license be prominently displayed at the pharmacy. Removes the requirement that a prescriber be notified when there is a change in the quantity filled of certain prescriptions. 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 use a daily cost sharing rate and provide for synchronized refill schedule coordination for chronic prescription medications.

Current Status: 2/20/2017 - House Public Health, (Bill Scheduled for Hearing); **Time & Location:** 10:00 AM, House Chamber

State Bill Page: [HB 1540](#)

OPIOIDS

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, 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.

All Bill Status: 2/7/2017 - House sponsor: Representative Clere
2/7/2017 - Third reading passed

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: 2/20/2017 - Senate Bills on Third Reading

State Bill Page: [SB 226](#)

SB 243 SUBSTANCE ABUSE PROGRAMS (CRIDER M) Provides that the chairperson of the Indiana commission to combat drug abuse (commission) is a member appointed by the governor who is either the executive director for drug prevention, treatment, and enforcement or a member of the governor's staff. (Current law provides that the chairperson is a member of

the governor's staff.) Specifies that the Indiana commission to combat drug abuse: (1) shall meet at the call of the chairperson, but at least four times in a calendar year; and (2) shall approve requests for substance abuse treatment and prevention programs. Subject to the approval of the commission, establishes the physician waiver training reimbursement pilot program (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. Subject to the approval of the commission, establishes the maternal neonatal opioid addiction project (project) within the division of mental health and addiction (division). Requires 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: 2/20/2017 - Senate Bills on Second Reading

State Bill Page: [SB 243](#)

SB 408 INSPECT PROGRAM (HOUCHIN E) Requires, as part of the renewal of a license, certain practitioners to certify that the practitioner has access to the INSPECT data base and allows for discipline for false certification. 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 the office of the secretary of family and social services, in collaboration with the Indiana board of pharmacy, to apply for and distribute grants for the integration of the INSPECT data base and electronic health records. Requires the board to report, before December 1, 2017, to the legislative council concerning the integration of the INSPECT program data base with electronic health records and specifies requirements for the report. Requires, beginning July 1, 2018, a practitioner to obtain information about a patient from the INSPECT data base before prescribing ephedrine, pseudoephedrine, or a controlled substance to the patient and sets forth exceptions. Requires the board to establish procedures for a patient or a patient's authorized representative to obtain the patient's INSPECT program report. (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: 2/20/2017 - Senate Bills on Third Reading

State Bill Page: [SB 408](#)

MISCELLANEOUS

HB 1578 CIGARETTE TAX AND SMOKING AGE (KIRCHHOFER C) Increases the cigarette tax by \$1.50 to \$2.495 per pack of regular size cigarettes and a corresponding increase for larger cigarettes. Raises the age from 18 to 21 years of age for prohibitions and crimes concerning the sale, purchase, and possession of cigarettes and other tobacco products. Makes a corresponding change to the laws concerning e-cigarettes, tobacco retailer permits, and admission to establishments where smoking is permitted. Repeals employment protections for individuals who smoke cigarettes or use other tobacco products. Appropriates for each year of the 2017-2019 biennium \$35,000,000 from the tobacco master settlement agreement

fund to the tobacco use prevention and cessation trust fund for the state department of health to implement the long range state plan for the prevention and reduction of the usage of tobacco and tobacco products in Indiana.

Current Status: 2/20/2017 - House Ways and Means, (Bill Scheduled for Hearing); **Time &**

Location: 10:00 AM, Rm. 404

State Bill Page: [HB 1578](#)

SB 15 CANNABIDIOL FOR THE TREATMENT OF EPILEPSY (TOMES J) Defines cannabidiol and establishes a cannabidiol registry for certain physicians, nurses, individuals, and caregivers for the use of cannabidiol in the treatment of a person with intractable epilepsy. Establishes a pilot study registry for physicians who want to study the use of cannabidiol 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 and nurses in the use of cannabidiol in the treatment of intractable epilepsy if certain requirements are met. Exempts physicians, caregivers, nurses and individuals from criminal penalties for possession or use of cannabidiol under certain conditions. Permits a pharmacy to dispense cannabidiol subject to specific requirements. Encourages state educational institutions to research the use of cannabidiol in the treatment of other intractable diseases.

All Bill Status: 2/14/2017 - House sponsor: Representative Friend

2/14/2017 - Third reading passed; Roll Call 108: yeas 38, nays 12

State Bill Page: [SB 15](#)