

FAEGRE BAKER DANIELS

2017 Legislative Update #6

Indiana Society of Anesthesiologists



March 4, 2017

The 2017 General Assembly is now at the halfway point. Any bill that did not pass its house of origin is now dead for the session, although its subject matter may be revived in another measure. Of the 1,249 bills filed, approximately 29% (a total of 361 bills) survived the first half of session and are now eligible for consideration in the second chamber.

When lawmakers return to the Statehouse on Monday, the House will begin hearings on bills passed by the Senate, and the Senate will start work on House bills.

Highlights from the first half:

Of the 57 bills introduced this year that we have been tracking for ISA, 38 died in the first chamber, including [HB 1474](#), which would have removed the requirement that an advanced practice nurse enter into a collaborative agreement with a physician, and [HB 1595](#), which provided for licensure of naturopathic physicians.

Other bills that failed to advance included [HB 1483](#) (imposing a \$500 penalty on health care providers that fail to update electronic medical records within 72 hours of a patient encounter), [HB 1138](#) (requiring hospitals to publish Medicare reimbursement amounts), and [HB 1101](#) (requiring providers to publish charges for procedures and services).

So what's left? [HB 1273](#) (surprise billing) passed the House unanimously and now moves to the Senate, where its fate is uncertain as ISA and other stakeholder work to resolve differences and address numerous technical issues in the bill. HB 1273 is sponsored in the Senate by Sen. Mike Crider (R-Greenfield) and Sen. Rod Bray (R-Martinsville).

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.

Looking ahead..

While the House and Senate had nearly two months to hold committee hearings on bills in their house of origin, the second half will move at much faster pace. This year, the legislature will only devote four weeks to committee hearings on bills passed by the other chamber. By the second week of April, conference committees will be underway, and any bill that did not pass the second house will be dead.

Although by law the legislature may remain in session until April 29, House and Senate leaders have set April 21 as the tentative adjournment date because a massive firefighters' convention will evict most lawmakers from their hotel rooms during the final week of April. This means that committee hearings and floor sessions are expected to stretch well into the evenings as legislators try to make up for the lost week.

Following are summaries of bills of interest to ISA that survived the first half of session.

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: 2/21/2017 - Third reading passed; Roll Call 176: yeas 95, nays 0

State Bill Page: [HB 1308](#)

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 provider

providing telemedicine services in the program to prescribe any prescription drug except for certain opioids for a patient that is within the provider's scope of practice for the treatment of the patient's mental health. Specifies that the provider 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 provider is not required to have a prior established provider-patient relationship in order to provide telemedicine services in Indiana.

Current Status: 2/23/2017 - Third reading passed; Roll Call 178: yeas 49, nays 0

State Bill Page: [SB 63](#)

HEALTH INSURANCE

HB 1273 OUT OF NETWORK HEALTH CARE SERVICES (BAIRD J) Specifies patient, state and local government employee health plan, and accident and sickness insurer liability for payment for out of network health care services provided: (1) in an emergency; and (2) when non-emergent and the health care services are arranged by, provided in, or referred by an in network provider. Requires the commissioner of insurance to approve and post on the department of insurance Internet web site: (1) at least one independent data base to be used in establishing payments to out of network providers; and (2) a list of mediators to be used in certain out of network payment disputes between providers and the third party payers. Requires certain notices by the third party payers and out of network providers.

Current Status: 2/27/2017 - Third reading passed; Roll Call 241: yeas 93, nays 0

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

HB 1540 PHARMACY LAW (DAVISSON S) Among other things: 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. 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: 2/23/2017 - Third reading passed; Roll Call 224: yeas 91, nays 0

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 - Third reading passed; Roll Call 141: yeas 39, nays 10

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: 2/21/2017 - Third reading passed; Roll Call 153: yeas 46, nays 1

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 - Third reading passed; Roll Call 146: yeas 49, nays 0

State Bill Page: [SB 408](#)

MISCELLANEOUS

HB 1578 TOBACCO USE (KIRCHHOFER C) Repeals employment protections for individuals who smoke cigarettes or use other tobacco products.

Current Status: 2/27/2017 - Third reading passed; Roll Call 244: yeas 54, nays 38

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 - Third reading passed; Roll Call 108: yeas 38, nays 12

State Bill Page: [SB 15](#)