

# FAEGRE BAKER DANIELS

## 2017 Legislative Update #7

### Indiana Society of Anesthesiologists



*March 12, 2017*

State lawmakers returned to Indianapolis on Monday for the second half of the 2017 session. Although floor sessions were brief last week, committee work ramped up quickly, with several committees holding marathon hearings on bills passed by the other chamber.

#### **Looking ahead:**

[HB 1273](#) (surprise billing) is scheduled for a hearing on Thursday in the Senate Insurance & Financial Institutions Committee. The bill is sponsored in the Senate by Sen. Mike Crider (R-Greenfield) and Sen. Rod Bray (R-Martinsville). Under the proposed language, 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 that could not exceed 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 to be no less than the 80th percentile. ISA and ISMA have voiced opposition to the 60th percentile language, which House Insurance Committee chairman Martin Carbaugh has described as a "starting point."

In an effort to resolve differences and address numerous technical issues in the bill, Rep. Carbaugh convened a meeting of stakeholders last week. There was little progress made during the nearly two hour meeting, however, and the group will meet again on Monday (3/13). At this point, there seems to be little appetite among the insurers to make substantive changes to state insurance law light of the looming changes to health insurance under proposed federal legislation.

Following are summaries of bills of interest to ISA that passed one chamber and are now eligible for consideration in the second house.

## 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:* 2/23/2017 - Referred to Senate Commerce and Technology

*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 for telemedicine services who meets certain requirements. 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. Adds certain providers to the definition of "provider" for purposes of telemedicine services. Gives a telemedicine services provider 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. Removes a limitation on prescribing controlled substances through the use of telemedicine except for the prescribing of opioids. Allows the use of a partial agonist to treat or manage an opioid dependence.

*Current Status:* 3/8/2017 - Senate Health and Provider Services, **Time &**

**Location:** 10:00 AM, Rm. 431

### **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).

*Current Status:* 2/28/2017 - Referred to House Public Health

*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:* 2/28/2017 - Referred to House Public Health

*State Bill Page:* [SB 63](#)

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## HEALTH INSURANCE

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**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:* 3/16/2017 - Senate Insurance and Financial Institutions, **Time &**

**Location:** 8:30 AM, Rm. 130

*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:* 2/28/2017 - Referred to House Insurance

*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:* 2/28/2017 - Referred to House Insurance

*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) 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:* 3/9/2017 - Committee Report do pass, adopted

*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, 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:* 2/28/2017 - Referred to House Public Health

*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:* 2/28/2017 - Referred to House Public Health

*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:* 2/28/2017 - Referred to House Public Health

*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:* 2/28/2017 - Referred to House Public Health

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

## MISCELLANEOUS

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

*Current Status:* 3/1/2017 - Referred to Senate Commerce and Technology

*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.

*Current Status:* 2/28/2017 - Referred to House Courts and Criminal Code

*State Bill Page:* [SB 15](#)