

FAEGRE BAKER DANIELS

2018 Legislative Update #1

Indiana Society of Anesthesiologists



January 7, 2018

State lawmakers returned to Indianapolis last Wednesday (January 3) to gavel in the 2018 “short” legislative session. By law, a short session must adjourn no later than March 14, which means the next 10 weeks will be a whirlwind of activity as legislators work their way through hundreds of bills and amendments.

As of Friday, a total of 400 Senate bills and 107 House bills had been filed and released to the public. Thursday was the final day for Senate members to file bills, and Tuesday is the deadline for House bill filing. Under the legislature’s rules, bills are not released to the public until they are assigned to a committee by either the Speaker of the House or the President Pro Tem of the Senate. This process can take up to a week after the filing deadline.

No House hearings have been scheduled to date. The following bills of potential interest to ISA are scheduled for hearing next week in the Senate Health & Provider Services Committee.

- SB 62 HOSPICES AND MEDICAID (BECKER V)** Requires the office of Medicaid policy and planning to move a recipient who participates in the Medicaid risk based managed care program to the Medicaid fee for service program if the recipient is approved to receive hospice services without losing Medicaid coverage. Requires the office to reimburse the hospice provider through the fee for service program.

- SB 210 PRIOR AUTHORIZATION (BROWN L)** Specifies requirements for prior authorization of health plan coverage and claim payment, including provisions concerning electronic transmission of prior authorization requests and responses or, in certain circumstances, use of a paper form. Requires that at least one member of a grievance review panel must have the same specialty as the treating provider.

- SB 225 CONTINUING EDUCATION REQUIREMENTS (HEAD R)** Establishes continuing education requirements for licensed health care practitioners who apply for a controlled substances registration.

- SB 230 SUICIDE PREVENTION (HEAD R)** Provides that the division of mental health and addiction is responsible for the development and provision of a research based training program for health care providers concerning suicide assessment, training, and management that is: (1) demonstrated to be an effective or promising program; and (2) recommended by the Indiana Suicide Prevention Network Advisory Committee.

Following are summaries of all bills of interest to ISA that have been filed and released to date.

SCOPE OF PRACTICE

HB 1119 PHYSICIAN ORDER FOR SCOPE OF TREATMENT AND CONSENT (KIRCHHOFER C) Provides that the definition of "cardiopulmonary resuscitation" (CPR) that applies to a do not resuscitate declaration also applies to a physician order for scope of treatment (POST) form. Adds licensed dentists, home health aides, and physician assistants to the definition of "health care provider" for purposes of a POST form. Establishes a priority order for who may provide consent if an adult is incapable of providing consent to health care. Provides exceptions to the priority order. Provides that if the individuals at the same priority level disagree as to the health care decisions on behalf of the patient, a majority of the available individuals at the same priority level controls. Provides that if an individual is incapable of consenting to the individual's own health care, the health care provider shall make a reasonable inquiry as to the availability of individuals who are able to provide health care consent. Specifies that the POST laws do not create a duty for a person to perform CPR on a declarant if the declarant's POST form indicates the declarant is not to be resuscitated. Allows a treating physician, advanced practice nurse, or physician assistant to execute and exercise certain responsibilities concerning a POST form. Allows a qualified person or representative to use an electronic signature on the POST form. Permits a representative to revoke a POST form if the declarant is incapable of making health care decisions and the representative acts: (1) in good faith; and (2) in accordance with the qualified person's intentions, if known, or in the qualified person's best interests, if the intentions are not known. Allows a POST document that was executed in another state and that meets certain conditions to be honored in Indiana. Requires the state department of health to maintain on the department's Internet web site a list of, or a link to the Internet web sites of, other states that may honor an Indiana POST form.

Current Status: 1/4/2018 - Referred to House Public Health

State Bill Page: [HB 1119](#)

SB 160 CHIROPRACTIC LICENSURE (MESSMER M) Amends the definition of "chiropractic". Allows chiropractors to perform certain procedures and functions that chiropractors are currently prohibited from performing. Provides that a member of the board of chiropractic examiners (board) may not serve for more than four consecutive terms. Allows the board to adopt rules concerning peer review. Provides that accreditation of a chiropractic college for licensure purposes may be by a successor organization of the Accreditation Commission of the Council on Chiropractic Education. Requires that after June 30, 2021, an applicant for a license to practice chiropractic must have completed at least 90 semester hours of education. Prohibits an individual from using certain titles or abbreviations to indicate or imply that the individual is a chiropractor unless the individual is a licensed chiropractor. Allows a chiropractor to perform certain therapies to the extent the chiropractor was taught the therapy in an accredited chiropractic college or university or an approved postgraduate program.

Current Status: 1/3/2018 - Referred to Senate Health and Provider Services

State Bill Page: [SB 160](#)

SB 175 PRACTICE AND LICENSURE OF NATUROPATHIC MEDICINE STUDY (NIEZGODSKI D) Urges the legislative council to assign to an interim study committee the task of studying issues related to the creation of a license to practice naturopathic medicine in Indiana.

Current Status: 1/8/2018 - Authored By David Niezgodski

SB 399 OCCUPATIONAL REGULATION OVERSIGHT AND REVIEW (HOLDMAN T) Provides that the small business ombudsman (ombudsman) shall review a proposed rule that is an occupational regulation and imposes requirements or costs on persons subject to the occupational regulation. Requires the attorney general to disapprove a proposed rule if it violates federal antitrust laws. Requires that a statement must be filed concerning the economic impact of the proposed occupational regulation on persons who are subject to the occupational regulation. Requires a regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed occupational regulation, including the establishment of the least restrictive regulation that is necessary to regulate the occupation or protect consumers. Establishes guidelines to analyze an occupation regulation to determine if it is the least restrictive regulation. Makes conforming changes to include regulated occupations in the laws that affect adoption of rules that affect small businesses. Allows an individual who has a criminal record to submit a petition to the board that issues a license, certificate, or permit that an individual is required by law to hold to engage in a business, profession, or occupation to determine if the individual's criminal record will disqualify the individual from obtaining a license, certificate, or permit. Establishes criteria and procedures to determine if an individual's criminal record disqualifies the individual from obtaining a license, certificate, or permit.

Current Status: 1/8/2018 - Authored By Travis Holdman

State Bill Page: [SB 399](#)

INSURANCE

HB 1103 CHRONIC PAIN MANAGEMENT COVERAGE (ZENT D) Requires that state employee health plans, Medicaid, policies of accident and sickness insurance, and health maintenance organization contracts must provide coverage for chronic pain management. Requires the office of Medicaid policy and planning to apply for any Medicaid state plan amendment necessary to provide the coverage.

Current Status: 1/4/2018 - Referred to House Insurance

State Bill Page: [HB 1103](#)

HB 1108 SMALL HOSPITAL CHARGE NOTICES (CARBAUGH M) Requires certain small hospitals to post certain notices concerning charges. Makes conforming amendments.

Current Status: 1/4/2018 - Referred to House Public Health

State Bill Page: [HB 1108](#)

SB 62 HOSPICES AND MEDICAID (BECKER V) Requires the office of Medicaid policy and planning (office) to move a recipient who participates in the Medicaid risk based managed care program to the Medicaid fee for service program if the recipient is approved to receive hospice services without losing Medicaid coverage. Requires the office to reimburse the hospice provider through the fee for service program. Specifies that the Medicaid recipient remains in the fee for service Medicaid program through the recipient's Medicaid eligibility.

Current Status: 1/10/2018 - Senate Health and Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

State Bill Page: [SB 62](#)

- SB 208** **PHYSICIAN MAINTENANCE OF CERTIFICATION** (BROWN L) States that a hospital may not deny a physician hospital staff or admitting privileges solely because the physician refused to participate in maintenance of certification. Specifies that the medical licensing statute does not require a licensed physician to hold or maintain a board certification in a specialty medical area. Prohibits an accident and sickness insurer or a health maintenance organization from taking specified actions against a physician solely because the physician decided not to participate in maintenance of certification.
Current Status: 1/3/2018 - Referred to Senate Health and Provider Services
State Bill Page: [SB 208](#)
- SB 210** **PRIOR AUTHORIZATION** (BROWN L) Specifies requirements for prior authorization of health plan coverage and claim payment, including provisions concerning electronic transmission of prior authorization requests and responses or, in certain circumstances, use of a paper form. Requires that at least one member of a grievance review panel must have the same specialty as the treating provider.
Current Status: 1/11/2018 - Senate Insurance and Financial Institutions, (Bill Scheduled for Hearing); **Time & Location:** 10:00 AM, Rm. 130
State Bill Page: [SB 210](#)
- SB 378** **MEDICAID BASED STATEWIDE HEALTH PLAN** (LANANE T) Establishes the Indiana statewide health plan within the Medicaid program. Sets forth requirements of the plan. Requires the office of the secretary of the family and social services administration to apply for any federal waivers required for the plan.
Current Status: 1/8/2018 - Authored By Timothy Lanane
State Bill Page: [SB 378](#)

OPIOIDS

- HB 1131** **OPIATE RISK INFORMATION** (DAVISSON S) Provides that before issuing an initial prescription for an opiate, a practitioner shall specifically discuss with the patient who is at least 18 years of age or the patient's parent or guardian certain information concerning opiates. Requires the practitioner to include a note of the conversation in the patient's medical record. Creates an exception for patients receiving hospice care.
Current Status: 1/4/2018 - Referred to House Public Health
State Bill Page: [HB 1131](#)
- SB 107** **INSPECT REGISTRATION FOR DISPENSERS OF CONTROLLED SUBSTANCES** (MERRITT J) Requires certain registered dispensers of controlled substances to be registered with the INSPECT program.
Current Status: 1/3/2018 - Referred to Senate Health and Provider Services
State Bill Page: [SB 107](#)
- SB 219** **INSPECT PROGRAM REPORTING AND REVIEW** (HOUCHIN E) Requires the medical director of the law enforcement agency or an emergency medical services agency supervising an emergency medical services provider to transmit certain information to the INSPECT program when an emergency medical services provider administers an overdose intervention drug to a patient. Removes lapsed provisions. Establishes the INSPECT peer

review subcommittee.

Current Status: 1/3/2018 - Referred to Senate Health and Provider Services

State Bill Page: [SB 219](#)

SB 221 INSPECT PROGRAM (HOUCHIN E) Allows a dispenser of ephedrine, pseudoephedrine, or a controlled substance to transmit certain information to the INSPECT program by any electronic method that meets specifications prescribed by the state board of pharmacy (board). Provides that, to the extent considered appropriate by the board, the INSPECT data base must be interoperable with other similar registries operated by federal and state governments. Requires the following practitioners to obtain information about a patient from the data base before prescribing an opioid or benzodiazepine to the patient: (1) A practitioner who has had the information from the data base integrated into the patient's electronic health records. (2) Beginning January 1, 2019, a practitioner who provides services to the patient in the emergency department of a hospital or a pain management clinic. (3) Beginning January 1, 2020, a practitioner who provides services to the patient in a hospital. (4) Beginning January 1, 2021, all practitioners. Removes lapsed provisions. Provides that beginning January 1, 2019, a practitioner who is permitted to distribute, dispense, prescribe, conduct research with respect to, or administer ephedrine, pseudoephedrine, or a controlled substance in the course of the practitioner's professional practice or research must be certified to receive information from the INSPECT program.

Current Status: 1/3/2018 - Referred to Senate Health and Provider Services

State Bill Page: [SB 221](#)

SB 225 CONTINUING EDUCATION REQUIREMENTS (HEAD R) Establishes continuing education requirements for licensed health care practitioners who apply for a controlled substances registration. Provides that the continuing education requirements expire July 1, 2025.

Current Status: 1/10/2018 - Senate Health and Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

State Bill Page: [SB 225](#)

SB 307 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. Provides that a person commits possession of marijuana only if the person possesses or cultivates more than two ounces of marijuana. Makes conforming amendments.

Current Status: 1/4/2018 - Referred to Senate Judiciary

State Bill Page: [SB 307](#)

SB 335 PRESCRIBING OF CONTROLLED SUBSTANCE (GROOMS R) Requires that a controlled substance prescription be issued electronically after June 30, 2019, and establishes a Class B infraction for a prescriber who fails to comply. Requires a prescriber to obtain three hours of continuing education every two years on the prescribing of opioid medication in order to continue issuing prescriptions for opioid medication and establishes a Class B infraction for failure to comply. Requires the medical licensing board of Indiana to study

and determine, before November 1, 2018, whether a waiver is necessary for the electronic prescription requirement and to report back to the general assembly. Sets forth requirements for the report.

Current Status: 1/4/2018 - Referred to Senate Health and Provider Services

State Bill Page: [SB 335](#)

SB 339 CONTROLLED SUBSTANCE DISPENSING (MERRITT J) Requires a pharmacy and pharmacist to sell or dispense a controlled drug in schedule II (controlled drug) in a lockable vial and bill the controlled drug manufacturer for the cost of the lockable vial. Prohibits billing the patient for the cost of the lockable vial. Provides for immunity from liability for a pharmacy, pharmacy personnel, and pharmacist in certain circumstances.

Current Status: 1/4/2018 - Referred to Senate Civil Law

State Bill Page: [SB 339](#)

SB 389 INSPECT PROGRAM REPORT (ZAY A) Requires the Indiana professional licensing agency to prepare an annual report concerning INSPECT information, submit the report to the general assembly, and post the report on the agency's Internet web site.

Current Status: 1/8/2018 - Authored By Andy Zay

State Bill Page: [SB 389](#)

SB 398 OFFICE BASED OPIOID TREATMENT PROGRAMS (HOUCHIN E) Establishes requirements for office based opioid treatment program providers in order to operate in Indiana. Requires the division of mental health and addiction (division) to: (1) oversee the office based opioid treatment programs; and (2) establish a central registry containing specified information concerning patients of office based opioid treatment programs. Allows a city, town, or county to adopt an ordinance or a township to adopt a resolution that: (1) establishes reporting requirements for office based opioid treatment programs that are more stringent or detailed than the statute; or (2) bans, after January 1, 2018, the establishment of an office based opioid treatment program.

Current Status: 1/8/2018 - Authored By Erin Houchin

State Bill Page: [SB 398](#)

MISCELLANEOUS

HB 1087 TANNING FACILITIES (ZENT D) Exempts physicians who, in the practice of medicine, use or prescribe a phototherapy device for a patient from the tanning facility regulatory requirements. (Current law exempts a medical treatment facility that uses ultraviolet radiation in the treatment of disease.) Prohibits an individual less than 18 years of age from using a tanning device in a tanning facility. Requires the operator or owner of a tanning facility to include a statement in the written information required to be signed before an individual may use a tanning device that individuals less than 18 years of age may not use a tanning device. Requires a tanning facility operator to prohibit an individual who is less than 18 years of age from using a tanning device. Requires a tanning facility operator to check a specified government issued photo identification to confirm that an individual is at least 18 years of age before the individual uses a tanning device.

Current Status: 1/3/2018 - Referred to House Public Health

State Bill Page: [HB 1087](#)

HB 1130 PROFESSIONAL LICENSING AGENCY MATTERS (ZENT D) Amends provisions regarding the acupuncture courses and institutions that are approved to provide training to qualify for an acupuncture license. Allows a person who is enrolled in an architecture degree program to take the architect registration examination. Provides that the dietitians certification board is required to hold one regular meeting each year. (Current law requires two meetings.) Removes and repeals provisions concerning the application for and administration of the dietitian certification examination. Allows an individual to fit and dispense hearing aids while under the supervision and direction of a certified hearing aid dealer. Provides that certain duties of the medical licensing board are now duties of the committee of hearing aid dealer examiners. Requires that a person who applies for a massage therapist license must submit to a national criminal history background check. (Current law requires a limited criminal history.) Requires a massage therapist who applies for license renewal to submit proof of professional liability insurance. Removes provisions that: (1) permit a student in medical school to take the medical licensure examination; and (2) concern grading examinations and how often the exam is administered. Changes a reference to a postgraduate training program that allows a permit to be issued to a foreign medical graduate. Requires a physician to make a personal appearance before the medical licensing board to establish the physician's work history if the physician has been inactive for more than three years. (Current law requires an appearance if the inactivity period is more than four years.) Allows the board of pharmacy to issue a provisional wholesale drug distributor license to an applicant that is located in Indiana and is in the process of obtaining accreditation or certification. Repeals provisions: (1) concerning the administration of the podiatrist licensure examination; (2) that allow reciprocity for podiatrists licensed in another state or territory; and (3) that allow licensing of podiatrist's assistants. Conforms the podiatrist license reinstatement provisions with statutory reinstatement requirements. Provides that certain information from the previous two years must be reported to renew a podiatrist license. (Current law requires information to be reported from the previous four years.) Makes technical and conforming changes.

Current Status: 1/4/2018 - Referred to House Employment, Labor and Pensions

State Bill Page: [HB 1130](#)

SB 28 NURSING FACULTY LOAN REPAYMENT GRANT PROGRAM (BECKER V) Establishes the nursing faculty loan repayment grant program (program) to increase the number of nursing faculty in Indiana. Requires the commission for higher education to administer the program. Establishes the nursing faculty loan repayment grant fund. Sets forth requirements for an individual to participate in the program. Funds the program using 10% of nursing licensure fees. (The introduced version of this bill was prepared by the interim study committee on public health, behavioral health, and human services.)

Current Status: 1/3/2018 - Referred to Senate Health and Provider Services

State Bill Page: [SB 28](#)

SB 223 HEALTH PROFESSIONAL LICENSE RENEWAL SURVEYS (HEAD R) Requires a licensed health practitioner to provide certain information related to the practitioner's work with Medicaid patients when renewing the practitioner's professional license. Requires the Indiana professional licensing agency to: (1) compile the information collected into an annual report; (2) post a copy of the report on the agency's Internet web site; and (3) submit the report to the office of Medicaid policy and planning, the department of workforce development, and the legislative council.

Current Status: 1/3/2018 - Referred to Senate Health and Provider Services

State Bill Page: [SB 223](#)

SB 230 SUICIDE PREVENTION (HEAD R) Provides that the division of mental health and addiction is responsible for the development and provision of a research based training program for health care providers concerning suicide assessment, training, and management that is: (1) demonstrated to be an effective or promising program; and (2) recommended by the Indiana Suicide Prevention Network Advisory Committee. Requires emergency medical technicians to complete a research based training program concerning suicide assessment, treatment, and management that is: (1) demonstrated to be an effective or promising program; and (2) recommended by the Indiana Suicide Prevention Network Advisory Committee. Requires that teachers and other school employees receive at least two hours of research based youth suicide awareness and prevention training from a program that is: (1) demonstrated to be an effective or promising program; and (2) recommended by the Indiana Suicide Prevention Network Advisory Committee.

Current Status: 1/10/2018 - Senate Health and Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

State Bill Page: [SB 230](#)

SB 408 INTERSTATE MEDICAL LICENSURE COMPACT (KOCH E) Requires the medical licensing board of Indiana (board) to administer the interstate medical licensure compact (compact). Adopts the compact. Grants eligible physicians an expedited license to practice medicine in compact member states. Requires a physician to designate a member state as the state of principal license for purposes of registration. Establishes application and issuance procedures. Allows the board to establish fees for the issuance and renewal of licenses. Authorizes the creation of the interstate medical licensure compact commission (commission) by the member states to administer the compact. Provides for two voting members on the commission from each member state. Requires the commission to establish a data base of all physicians who have applied for or been granted an expedited licensure. Allows a member board to participate with other member boards in joint investigations. Allows the commission to collect an annual assessment from each member state. Provides civil liability immunity to officers and employees of the commission for certain acts, errors, or omissions. Allows the commission to adopt rules to achieve the purposes of the compact. Requires each member state to enforce the compact. Specifies that the compact does not override the state's authority to regulate the practice of medicine. Allows the commission to enforce the compact against member states. Requires the commission to adopt rules that provide mediation and binding dispute resolution. Establishes the procedure to withdraw from the compact. Specifies that the compact supersedes any state law that is in conflict. Makes a conforming change.

Current Status: 1/8/2018 - Authored By Eric Koch

State Bill Page: [SB 408](#)