

FAEGRE BAKER DANIELS

2018 Legislative Update #3

Indiana Society of Anesthesiologists



January 21, 2018

The 2018 General Assembly is heading into its last full week of committee hearings on bills in their house of origin. Tuesday, January 30, is the deadline for House bills to pass out of House committees, and Thursday, February 1, is the final day for Senate bills to clear Senate committees. Any bill that hasn't been posted for a committee hearing by the end of next week is likely dead for the year, although its subject matter may be amended into another measure during the second half of session.

Two bills addressing prior authorization are moving through the process. [Senate Bill 210](#), authored by Sen. Liz Brown, was heard in the Senate Insurance & Financial Institutions Committee on January 11, and [House Bill 1143](#), authored by Rep. Donna Schaibley, was heard last week in the House Insurance Committee. Both bills were held for potential amendment, and will be brought back to the respective House and Senate insurance committees for further consideration in the upcoming week.

Other bills of potential interest to ISA set for hearing this week include:

- [Senate Bill 208](#), authored by Sen. Liz Brown, would prohibit a hospital from denying privileges to a physician based solely on the physician's decision not to participate in maintenance of board specialty certification. In addition, insurers would be prohibited from preventing a physician from entering into a provider contract and from paying a physician a lower reimbursement rate based solely on the physician's decision against participation in maintenance of specialty certification.
- [Senate Bill 223](#), authored by Sen. Randy Head, would require physicians and other licensed health care providers to provide information with their license renewal applications concerning the total number of Medicaid patients treated by the provider over the past two years and the percentage of the provider's patients that are enrolled in Medicaid.

Although House Public Health Committee chair Rep. Cindy Kirchhofer has not posted an agenda for the upcoming week, it's possible that she will schedule a hearing for [House Bill 1302](#) (advanced practice nurses). Authored by Rep. Ron Bacon, the proposed legislation would change the term "advanced practice nurse" to "advanced practice registered nurse" in the Indiana code, add two APRNs to the Board of Nursing, require the BON to adopt rules concerning educational and certification requirements that an APRN must meet to prescribe legend drugs, and allow an APRN to practice without a collaborative agreement subject to

certain requirements. CRNAs are expressly excluded from the sections addressing prescription drugs and collaborative agreements.

Looking ahead, on Tuesday (January 23), members of the Indiana Association of Nurse Anesthetists will converge on the Statehouse for their [annual CRNA Lobby Day](#). The day's events include a breakfast for legislators. The following Tuesday (January 30), both the Indiana Society of Anesthesiologists and the Coalition of Advanced Practice Nurses will be holding their respective lobby days at the Statehouse. CAPNI will host a luncheon for legislators, and ISA will have a meet-and-greet from 10-2 on the 3rd floor between the House and Senate chambers.

Following are summaries of bills of interest to ISA.

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.
- 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: 1/22/2018 - House Bills on Third Reading

State Bill Page: [HB 1119](#)

HB 1130 PROFESSIONAL LICENSING AGENCY MATTERS (ZENT D) Among other things:

- 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.)

Current Status: 1/22/2018 - House Bills on Third Reading (amended in committee)

State Bill Page: [HB 1130](#)

HB 1153 INTERSTATE MEDICAL LICENSURE COMPACT (ZIEMKE C)

- 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.
- Authorizes the creation of the interstate medical licensure compact commission (commission) by the member states to administer the compact.
- 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.
- 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.
- Specifies that the compact supersedes any state law that is in conflict. Makes a conforming change.

Current Status: 1/8/2018 - Referred to House Public Health

State Bill Page: [HB 1153](#)

HB 1302 ADVANCED PRACTICE REGISTERED NURSE COLLABORATION (BACON R)

- 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.
- Requires that two members of the Indiana state board of nursing be advanced practice registered nurses with different specialty areas and addresses transition of current membership.

- Allows an advanced practice registered nurse to operate without a collaborative agreement with a practitioner if specified conditions are met, and requires these advanced practice registered nurses to attend additional continuing education.
- Requires the commissioner of insurance to review the impact of allowing an advanced practice registered nurse to operate without a collaborative agreement on an advanced practice registered nurse's annual surcharge for the patient's compensation fund.

Current Status: 1/18/2018 - added as coauthor Representative Wesco

State Bill Page: [HB 1302](#)

HB 1317 HEALTH MATTERS (CLERE E) Among other things specifies requirements for participation by the state in a multistate nurse licensure compact, including provisions concerning: (1) nurse qualifications, practice, and participation; (2) a compact commission; (3) interstate commission and state board of nursing authority and rulemaking; (4) a coordinated licensure information system; (5) oversight and enforcement; and (6) termination or withdrawal from the compact.

Current Status: 1/16/2018 - Referred to House Public Health

State Bill Page: [HB 1317](#)

HB 1384 CHIROPRACTORS (BEUMER G) Among other things: Amends the definition of "chiropractic". Removes certain acts that a chiropractor is prohibited from practicing. Allows a chiropractor to perform certain acts and functions to the extent the chiropractor was taught in an accredited chiropractic college or university or an approved postgraduate program.

Current Status: 1/23/2018 - House Employment, Labor and Pensions, (Bill Scheduled for Hearing); **Time & Location:** 8:30 AM, Rm. 156-A

State Bill Page: [HB 1384](#)

HB 1427 LICENSURE OF NATUROPATHIC PHYSICIANS (LEHE D) Provides for the licensure of practitioners of naturopathic medicine. Specifies certain individuals who are not required to be licensed. Establishes the board of naturopathic medicine (board). Establishes license requirements. Requires licensed naturopathic doctors to obtain continuing education for license renewal. Requires a licensed naturopathic doctor, licensed health care provider, health care facility, state agency, and state or local law enforcement agency to file a complaint with the board if the person, based on personal knowledge or information, reasonably believes that a naturopathic doctor is or may be violating certain standards of practice. Provides that an individual who is not licensed may not use certain descriptions, titles, or initials to indicate or imply that the individual is a licensed naturopathic doctor.

Current Status: 1/16/2018 - Referred to House Public Health

State Bill Page: [HB 1427](#)

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: 1/24/2018 - Senate Health and Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

State Bill Page: [SB 223](#)

SB 410 ADVANCED PRACTICE REGISTERED NURSES (CHARBONNEAU E) 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.

Current Status: 1/10/2018 - Referred to Senate Health and Provider Services

State Bill Page: [SB 410](#)

SB 419 ORDINANCES AFFECTING PROFESSIONAL LICENSES (DORIOT B) Provides that a unit does not have the power to license, register, or certify a person to practice the person's profession or occupation within the unit if the occupation or profession is subject to licensure, registration, or certification under the Indiana Code.

Current Status: 1/25/2018 - Senate Commerce and Technology, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 125

State Bill Page: [SB 419](#)

INSURANCE

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

All Bill Status: 1/17/2018 - House Insurance, (Bill Scheduled for Hearing); **Time & Location:** 10:30 AM, Rm. 156-B

State Bill Page: [HB 1108](#)

HB 1143 PRIOR AUTHORIZATION FOR HEALTH CARE SERVICES (SCHAIBLEY D) Specifies requirements for prior authorization of health plan coverage and claim payment, including provisions requiring electronic transmission of prior authorization requests and responses or, in certain circumstances, use of a standard prior authorization form established by the department of insurance.

Current Status: 1/24/2018 - House Insurance, (Bill Scheduled for Hearing); **Time & Location:** 10:30 AM, Rm. 156-B

All Bill Status: 1/17/2018 - House Insurance, (Bill Scheduled for Hearing); **Time & Location:** 10:30 AM, Rm. 156-B

State Bill Page: [HB 1143](#)

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: 1/24/2018 - Senate Health and Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

All Bill 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: 1/24/2018 - Senate Health and Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

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: 1/25/2018 - Senate Insurance and Financial Institutions, (Bill Scheduled for Hearing); **Time & Location:** 10:00 AM, Rm. 130

All Bill 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](#)

HB 1007 HEALTH AND HUMAN SERVICES AND INSURANCE MATTERS (KIRCHHOFER C) Among other things:

- Allows the division of mental health and addiction to grant approval for nine additional opioid treatment programs that: (1) are operated by a hospital; and (2) meet other specified requirements; if the division determines that there is a need for the program in the proposed location.
- Requires: (1) the office of the secretary of family and social services, a contractor, or a managed care organization for purposes of the Medicaid program; (2) an accident and sickness insurer; and (3) a health maintenance organization; to provide provisional credentialing to a provider for which a credentialing determination is not completed in at least 30 days if certain requirements are met, and requires reimbursement for the services provided during the period of provisional credentialing.
- Requires certain policies of accident and sickness insurance to provide coverage for substance abuse or chemical dependency treatment provided by an addiction counselor.

Current Status: 1/8/2018 - Referred to House Public Health

State Bill Page: [HB 1007](#)

OPIOIDS

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.
- 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.
- Allows a practitioner to request a waiver from the requirement of checking the data base before prescribing an opioid or benzodiazepine if the practitioner does not have access to the Internet at the practitioner's place of business.
- Requires the Indiana state board of pharmacy to: (1) establish a process for a practitioner to request a waiver; (2) determine whether to grant a practitioner's request for a waiver; and (3) issue a waiver when the board determines a waiver is warranted.

Current Status: 1/22/2018 - Senate Bills on Second Reading (amended in committee)

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: 1/18/2018 - added as coauthors Senators Crider, Zay, Charbonneau

All Bill Status: 1/18/2018 - added as coauthor Senator Randolph

1/18/2018 - House sponsor: Representative Kirchhofer

1/18/2018 - Third reading passed; Roll Call 27: yeas 49, nays 0

State Bill Page: [SB 225](#)

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: 1/18/2018 - Senate Civil Law, (Bill Scheduled for Hearing); **Time &**

Location: 8:30 AM, Rm. 130

State Bill Page: [SB 339](#)

MISCELLANEOUS

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: 1/24/2018 - Senate Health and Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

State Bill Page: [SB 28](#)

SB 230 SUICIDE PREVENTION (HEAD R) Among other things, 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 Council.

Current Status: 1/18/2018 - added as coauthors Senators Crider, Zay, Breaux

All Bill Status: 1/18/2018 - added as coauthor Senator Randolph

1/18/2018 - House sponsor: Representative Olthoff

1/18/2018 - Third reading passed; Roll Call 28: yeas 49, nays 0

State Bill Page: [SB 230](#)