

FAEGRE BAKER DANIELS

2018 Legislative Update #4

Indiana Society of Anesthesiologists



January 28, 2018

The pace picked up at the Statehouse last week as state lawmakers worked long hours to move their bills through the committee process before next week's deadlines. Tuesday (January 30) is the cut off for House bills to pass out of House committees, and Thursday (February 1) is the final day for Senate bills to clear Senate committees. This means we've reached the point in session where any bill that hasn't been scheduled for a hearing is likely dead for the year, although its subject matter may be amended into another measure during the second half of session.

Last week, nearly two dozen members of the Indiana Association of Nurse Anesthetists converged on the Statehouse for their [annual CRNA Lobby Day](#). The day's events include a breakfast for legislators. Below is a photo from INANA's Facebook page.



This 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. So far, 10 ISA members have indicated that they will attend.

Other highlights from last week include:

- Both the House Insurance Committee and the Senate Insurance & Financial Institutions Committee approved legislation addressing prior authorization by health insurers and HMOs. [House Bill 1143](#), authored by Rep. Donna Schaibley, was amended in committee to expand the definition of prior authorization to include prospective or utilization review procedures conducted before a health care service is rendered. On the Senate side, the definition of prior authorization in [Senate Bill 210](#) was amended to mirror the expanded definition in House Bill 1143.
- [Senate Bill 223](#) was amended and approved by the Senate Health & Provider Services Committee. The bill 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.
- Sen. Eric Koch filed a motion to withdraw [Senate Bill 408](#) from further consideration. The bill would have required the Medical Licensing Board to participate in the interstate medical licensing compact.

Looking ahead, the following bills are set for hearing in the upcoming week:

- [Senate Bill 208](#), authored by Sen. Liz Brown, will be heard on Wednesday in the Senate Health & Provider Services Committee. The bill was originally set for hearing last week, but was postponed due to weather issues. Under the proposed legislation, a hospital would be prohibited 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.
- Proposed legislation that would change "advanced practice nurse" references to "advanced practice registered nurse" will also be heard on Wednesday. [Senate Bill 410](#) would also require 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. The bill is currently opposed by ISMA, and is expected to pick up additional opposition when it heads to the House, where Rep. Ron Bacon is expected to amend it provisions from [House Bill 1302](#) that would allow an APRN to practice without a collaborative agreement subject to certain requirements.
- [House Bill 1317](#), an omnibus proposal that covers a wide range of health issues, is set to be heard tomorrow in the House Public Health Committee. In its current form, the bill authorizes Indiana's participation in the interstate nurse licensure compact; however, this language is expected to be removed in by the committee.

Following are summaries of bills of interest to ISA that are moving through the legislative process. You can read the latest version of the bill by clicking on the highlighted link.

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.

All Bill Status: 1/22/2018 - Senate sponsor: Senator Crider
1/22/2018 - Third reading passed; yeas 95, nays 0

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.)

All Bill Status: 1/22/2018 - Senate sponsor: Senator Messmer

1/22/2018 - Third reading passed; yeas 94, nays 1

State Bill Page: [HB 1130](#)

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.

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

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: 1/29/2018 - House Public Health, (Bill Scheduled for Hearing); **Time & Location:** 10:00 AM, House Chamber

State Bill Page: [HB 1317](#)

HB 1384 CHIROPRACTORS (BEUMER G) Among other things:

- Removes certain acts that a chiropractor is prohibited from practicing.
- Requires that an applicant for a license to practice chiropractic must complete at least 90 semester hours of education after June 30, 2021.
- Allows a chiropractor to perform certain acts and functions to the extent the chiropractor was taught the procedure in an accredited chiropractic college or university or an approved postgraduate program.

Current Status: 1/29/2018 - House Bills on Third Reading

State Bill Page: [HB 1384](#)

SB 223 HEALTH PRACTITIONER LICENSE RENEWAL SURVEYS (HEAD R) Requires specified licensed health practitioners to provide certain information related to the practitioner's work, including 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, the commission on improving the status of children, and the legislative council.

Current Status: 1/29/2018 - Senate Bills on Second Reading

All Bill Status: 1/25/2018 - Committee Report amend do pass, adopted

1/24/2018 - DO PASS AMEND Yeas: 10; Nays: 2

State Bill Page: [SB 223](#)

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: 1/25/2018 - Withdrawn

State Bill Page: [SB 408](#)

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: 1/31/2018 - Senate Health and Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

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 & MEDICAID

- 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:* 1/29/2018 - House Bills on Second Reading
- All Bill Status:* 1/25/2018 - added as coauthor Representative Lehman
1/25/2018 - Committee Report amend do pass, adopted
1/24/2018 - DO PASS AMEND Yeas: 12; Nays: 0
- State Bill Page:* [HB 1143](#)
- SB 62 HOSPICES AND MEDICAID** (BECKER V) Requires the office of Medicaid policy and planning (office) to retain a recipient who participates in the Medicaid risk based managed care program (program) on the program if the recipient is approved to receive hospice services without losing Medicaid coverage. Requires reimbursement of the hospice provider through the program if the recipient participates in the program.
- Current Status:* 1/29/2018 - Senate Bills on Second Reading
- All Bill Status:* 1/25/2018 - Committee Report amend do pass, adopted
1/24/2018 - DO PASS AMEND Yeas: 10; Nays: 0
- 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:* 1/31/2018 - 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, except in certain circumstances.
- Current Status:* 1/29/2018 - Senate Bills on Second Reading
- All Bill Status:* 1/25/2018 - Committee Report amend do pass, adopted
1/25/2018 - DO PASS AMEND Yeas: 8; Nays: 0
- State Bill Page:* [SB 210](#)
- SB 433 HEALTH CARE COST AND VALUE STUDY** (SPARTZ V) Urges the legislative council to assign the issue of health care cost and value to an appropriate interim study committee for study during the 2018 interim of the general assembly. Requires the interim study committee to study the issue and make recommendations not later than November 1, 2018.
- Current Status:* 1/31/2018 - Senate Health and Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431
- State Bill Page:* [SB 433](#)

HB 1007 EXPANDING MENTAL HEALTH ACCESS (KIRCHHOFER C) Among other things:

- Requires the office of Medicaid policy and planning to implement a centralized credentials verification organization and credentialing process.
- Provides for temporary permits to certain individuals who are pursuing required clinical supervisory hours needed for licensure. Provides that the temporary permits are not renewable.
- Requires: (1) an accident and sickness insurer; and (2) 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.

Current Status: 1/29/2018 - House Bills on Second Reading

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: 1/25/2018 - House sponsor: Representative Smaltz

All Bill Status: 1/25/2018 - Third reading passed; yeas 47, nays 1

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.

All Bill Status: 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: 1/29/2018 - Senate Civil Law, (Bill Scheduled for Hearing); **Time & Location:** 10:00 AM, Rm. 130

State Bill Page: [SB 339](#)

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: 1/31/2018 - Senate Health and Provider Services, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

State Bill Page: [SB 398](#)

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.

Current Status: 1/30/2018 - Senate Tax and Fiscal Policy, (Bill Scheduled for Hearing); **Time & Location:** 9:00 AM, Rm. 431

All Bill Status: 1/25/2018 - Committee Report amend do pass adopted; reassigned to Committee on Tax and Fiscal Policy
1/24/2018 - DO PASS AMEND Yeas: 10; Nays: 0

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.

All Bill Status: 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](#)