

# FAEGRE BAKER DANIELS

2018 Legislative Update #5

Indiana Society of Anesthesiologists



*February 4, 2018*

It's almost halftime for the 2018 "short" session of the Indiana General Assembly. Tomorrow (February 5) is the final day for the House to pass House bills, and Tuesday (February 6) is the deadline for passage of Senate bills in the Senate. Legislators will then take a short break, and return on Monday, February 12, to start taking action on bills adopted by the other chamber.

Even though the General Assembly will be on break, state lawmakers will face an important deadline next week. Friday, February 9, is the deadline to file for election in the May primary. This year, 25 Senate seats and all 100 House seats will be on the ballot, and we're already seeing signs that we can expect a number of new faces when the legislature returns next year for the 2019 budget session.

So far, 13 representatives and two senators have announced that they will not be seeking re-election. In addition, primary election opponents have filed against four senators and six representatives to date, and more challenges are likely in the upcoming week. We'll have a complete list of retirements and primary challenges in a subsequent update, but here's where it stands right now.

## Retiring Legislators

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### *Republicans*

Rep. Jim Baird (R-Greencastle)  
Rep. Greg Beumer (R-Modoc)  
Rep. Wes Culver (R-Goshen)  
Rep. Bill Friend (R-Macy)  
Rep. David Ober (R-Albion)  
Rep. Kathy Richardson (R-Noblesville)  
Rep. Milo Smith (R-Columbus)  
Rep. Tom Washburne (R-Evansville)  
Sen. Doug Eckerty (R-Yorktown)  
Sen. Jim Smith (R-Charlestown)

### *Democrats*

Rep. Charlie Brown (D-Gary)  
Rep. Clyde Kersey (D-Terre Haute)  
Rep. Linda Lawson (D-Hammond)  
Rep. Scott Pelath (D-Michigan City)  
Rep. Steve Stemler (D-Jeffersonville)

## Legislators with Primary Opponents

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### *Republicans*

Rep. Jack Jordan (R-Bremen)  
Rep. Jim Lucas (R-Seymour)  
Rep. Tom Saunders (R-Lewisville)  
Rep. David Wolkins (R-Warsaw)  
Sen. Mike Delph (R-Carmel)  
Sen. Travis Holdman (R-Markle)  
Sen. Joe Zakas (R-Granger)

### *Democrats*

Rep. Terri Austin (D-Anderson)  
Rep. Earl Harris (D-East Chicago)  
Sen. Frank Mrvan (D-Hammond)

On the following page are updated summaries of bills that are still alive at this point in the legislative session. We'll have more detailed information later this week about bills that survived the first half of the 2018 short session, as a well as preview of what to expect in the second half.

As always, please let us know if you have any questions or need additional information.

## SCOPE OF PRACTICE

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### 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 1317 HEALTH MATTERS** (CLERE E) Urges the legislative council to assign to an appropriate interim study committee the task of studying the impact that joining the nurse licensure compact would have on the delivery of nursing services to residents of Indiana.

*Current Status:* 2/5/2018 - House Bills on Third Reading

*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:* Third reading passed; yeas 85, nays 10

*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 online. 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:* 12/5/2018 - Senate Bills on Third Reading

*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:* 2/5/2018 - Senate Bills on Second Reading

*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:* 2/5/2018 - Senate Bills on Second Reading

*State Bill Page:* [SB 419](#)

## **INSURANCE & MEDICAID**

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**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:* 1/30/2018 - Third reading passed; yeas 91, nays 1

*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:* 1/30/2018 - Third reading passed; yeas 49, nays 0

*State Bill Page:* [SB 62](#)

**SB 208 PHYSICIAN MAINTENANCE OF CERTIFICATION (BROWN L)** Does the following:

- Prohibits a hospital from denying hospital staff or admitting privileges to a physician or podiatrist based solely on the decision of the physician or podiatrist not to participate in maintenance of certification.
- Specifies that the medical licensing statute and the podiatrist licensing statute do not require a licensed physician or licensed podiatrist to hold or maintain a board certification in a specialty medical area in order to practice.
- Prohibits a health insurer or HMO from: (1) denying a physician or podiatrist the right to enter into a reimbursement agreement with the insurer; (2) denying a physician or podiatrist reimbursement for a covered service; or (3) setting reimbursement for services provided by a physician or podiatrist at a lower rate; based solely on the decision of the physician or podiatrist not to participate in maintenance of certification.

*Current Status:* 2/5/2018 - Senate Bills on Second Reading

*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:* 2/1/2018 - Third reading passed; yeas 48, 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:* 2/5/2018 - Senate Bills on Second Reading

*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:* 1/30/2018 - Third reading passed; yeas 97, nays 0

*State Bill Page:* [HB 1007](#)

## OPIOIDS

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### **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.

*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) Provides that a pharmacy or pharmacist may not sell or dispense a controlled drug in schedule II unless the pharmacy or pharmacist offers to sell or dispense the drug to the patient or patient's representative in a lockable vial. Provides for immunity from liability for a pharmacy, pharmacy personnel, and pharmacist in certain circumstances.

*Current Status:* 2/5/2018 - Senate Bills on Second Reading

*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:* 2/5/2018 - Senate Bills on Second Reading

*State Bill Page:* [SB 398](#)

## MISCELLANEOUS

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**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:* 2/5/2018 - Senate Bills on Third Reading

*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](#)