

2018 IDAHO LEGISLATURE

UPDATE

Week 11

March 19, 2018 through March 23, 2018

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The session drags on as legislators now go into next week waiting for the Governor to sign bills. Last year the Idaho Supreme Court issued a ruling related to the timing for a governor's veto and the ability of the legislature to overturn the veto. So now the legislature waits until all bills are signed so that they can override a bill if necessary. Interim committees will begin their work during this waiting period.

This week has been one filled with hope and disappointment. Monday, at the urging of Representative Perry, the House Health and Welfare Committee sent H464, the Health Care Waiver bill, back to the House floor for a vote. It had previously been up for a vote, but was sent back to the committee in a manner that allowed Representatives to avoid taking a position on the bill. H464 came back to the floor on Wednesday, to again be sent back to the committee, ending any effort this year to address the high cost of health insurance for those in the individual insurance market or to address coverage for 33,000 in the Gap. Justifying the move to send the bill back to committee, the Speaker said there not enough votes to pass the bill.

Then Thursday, in spite of urging by several groups including ANA-Idaho, NLI and the Hospital Association, the Governor signed into law H638 that requires health care providers, including nurses, to report the complications of abortion. The bill lists out many potential complications including infections, hemorrhage, blood clots, even depression, anxiety and sleeping disorders. There is no limit on how long after a procedure complications could occur. The bill requires the reporting of a woman's age, race, number of pregnancies, number of children and if any have died, number of abortions in the past. Only the patient's name is protected. Failure to report is a misdemeanor with changes to the Nurse Practice Act making for disciplinary actions against a nurse's license. The law becomes effective July 1st.

Board of Nursing Bill – SUPPORT – Signed by the Governor, becomes Law July 1st.

S1235 Board of Nursing Educational Requirements – Amends law regarding educational requirements for RN Board of Nursing Members. Current law requires RN Board Members to have specific degrees associated with their position on the Board, AD or BS. This has required board members with an Associate Degree who then complete a Bachelor's Degree to resign their Board position. The change will eliminate the specific degree requirement for RN Board positions.

H638 – Reporting Complications of Abortion – OPPOSE – Signed by the Governor, becomes Law July 1st.

House Bill 638 requires health care providers, clinics and hospitals to report the complications of abortions to the Department of Health and Welfare. Patient privacy is protected. The Department would then prepare an annual report on the complications of abortions in Idaho for the legislature and the public. The bill includes a long list of potential complications. Failure to report would be a misdemeanor and would be cause for disciplinary action against the provider's license. This bill not only targets providers of abortion but other health care providers, including nurses and hospitals whenever a complication of abortion is suspected and not reported. The bill alters the nurse practice act to include disciplinary license action for violation.

The Governor was urged by ANA-Idaho and NLI to veto H638.

The Idaho Health Care Plan – SUPPORT – Held in House and sent back to Committee a second time

H464, the bill to allow the State to seek two waivers from the federal government to address health insurance coverage for those caught in the Gap and to help stabilize the individual health insurance market, the same bill that was once up for a vote on the House floor then sent back to committee, was resurrected, came back for a vote on the House floor, and once again sent back to the Committee without a vote. This seals the fate of any effort to address those in the coverage Gap this year. This is the sixth year that the Legislature has considered efforts, and failed, to cover those in the Gap.

Governor's Executive Order on Health Care

Even without H464, the Governor's plan survives. The Governor's proposal is to allow Health Insurers to provide plans that do not fully cover all 10 essential benefits required under the Affordable Care Act. The insurers would be required to continue to offer plans on the Idaho Healthcare Exchange and at least one individual plan that does comply with the requirements of the ACA. The Governor's executive order does not require legislative approval. The Governor had received a letter from CMS indicating that providing ACA non-compliant plans would violate federal law. Lt. Governor Little met with CMS to address those issues raised in their letter. There is still some hope that the Governor's proposal can be approved.

Hospital Licensing Rules – Restraint and Seclusion

In 2017, at the request of NLI, a petition was submitted to the Department of Health and Welfare to amend the rules to allow nurse practitioners to order restraints and seclusion. With NLI and Disability Rights Idaho, the Department conducted the first meeting on February 26th. A second meeting is scheduled for April 4th to finalize the proposed rule. The suggested language is consistent with CMS conditions of participation:

IDAPA 16.03.14 Rules & Minimum Standards for Hospitals in Idaho

05. *Patient Rights. Written Policies and procedures shall be developed regarding patient's rights.*
- a. *Use of any form of physical restraint, forced treatment, chemical restraint or seclusion shall only occur in circumstances where there is established written policy and approved procedures to warrant such action and ~~is~~ is ordered by a physician or other licensed independent practitioner who is responsible for the care of the patient and authorized to order restraints or seclusion by hospital policy.*

H465 Medicaid, Preventive Dental Care – SUPPORT – Signed by the Governor, becomes Law July 1st

The bill to restore Medicaid coverage for dental services finally passed the Senate on Monday, and now is waiting for Governor Otter's signature.

H465 will restore Medicaid coverage for dental services for adults covered under the Basic Medicaid program, approximately 33,000 adults with children who are below 26% of the federal poverty limit (\$4,212/yr for a family of two such as a mother and her child). Dental care is already covered for children and those under the Enhanced and Coordinated Medicaid programs. In 2011, during the economic downturn, the Legislature retracted basic dental coverage with the commitment to restore coverage once the economy recovered. Estimated savings would be \$2.5M for an added cost of \$1.24M **(Net savings of \$1.26M from the Idaho Medicaid Program)**. Several who testified at the House hearing gave examples of those with delayed dental care who ended up receiving emergency and critical medical care that Medicaid fully covers.

H634 – Suicide Prevention Training for Teachers – SUPPORT – Signed by the Governor, becomes Law July 1st

This bill will require two hours of suicide awareness and prevention training each year for teachers that would be incorporated into the existing in-service requirements and could be completed through self review. Training materials will be provided to school districts through the Idaho Office of Suicide Prevention. The law would also requires school districts to adopt suicide prevention policies.

H657 Battery against Health Care Workers – SUPPORT – Not Scheduled for a Committee Hearing – Bill Dies

H657 will not get a hearing. It would have amended the current law that makes it a felony to assault a health care worker when they are in the course of their duties. When this law was initially passed in 2014 to protect health care workers, prosecutors were given discretion in applying the law to those with mental illness. Since 2014, 209 cases have been prosecuted. Many of those cases were against individuals suffering from a mental crisis, some being treated in a mental facility. The consequences of

applying the law to the mentally ill is jail time and a felony conviction permanently on their record, making future employment and housing more difficult. The bill would continue to treat assaults against health care workers as a felony, but exempts patients who are seeking admission to a hospital or mental facility for their mental illness, or have been admitted to a hospital or mental facility and are being treated for their mental illness. Patients who are intoxicated by alcohol, drugs or other substances are not excluded from felony prosecution.

H505 Physical Therapist Dry Needling – Signed by the Governor, becomes Law July 1st

Under H505 physical therapists would be authorized to perform dry needling using thin filament needles to penetrate deep tissue for the relief of pain and tension. Therapists would need to complete 50 hours of education in addition to other licensure requirements approved by the Board of Physical Therapy.

H353 Immunity for Volunteer Healthcare Providers – SUPPORT – Signed by the Governor, becomes Law July 1st

The proposal provides additional immunity for physicians, nurses and other healthcare providers who volunteer for community health screening and events.

H448 Exemption from Obscenity Laws for Breastfeeding – SUPPORT – Signed by the Governor, becomes Law July 1st

The legislation would protect public breastfeeding from laws covering indecent exposure.

H352 Occupational Licensing Exemption for Athletic and Theatrical Events – Signed by the Governor, becomes Law July 1st

This bill will waive Idaho licensure for physicians, physician assistants, dietitians and athletic trainers from other states who come to Idaho for brief periods to provide medical care during athletic or theatrical events.

H354 Opioid Agonists – Add to Prescription Monitoring Program – SUPPORT – Signed by the Governor, becomes Law July 1st

This bill adds Opioid Agonists such as Narcan to the Prescription Drug Monitoring Program.

H410 Cannabidoil Oil – Passed House, to Senate Health & Welfare, Held by Chairman, Bill Dies

The bill would have authorized physicians to prescribe cannabidoil for the treatment of seizure disorders. Idaho currently participates in a federally supervised study on the use of Cannabidoil that involves approximately 30 children with seizure disorders. The chairman of the Senate Health and Welfare Committee held the bill without a hearing.

H393 Immunization Assessment Board – SUPPORT – Signed by Governor, becomes Law July 1st

This bill will extend the sunset date for the Immunization Assessment Board to 2024. The Board provides access to vaccines for providers throughout the state.

H495 Health Care Billing Equity Act – Held in Committee, Dies

Representative Luker from Boise proposed this bill to address balance billing practices by non-network providers who treat patients in a network facility. For example, when a patient presents with an emergency to a hospital and is treated by a physician who is out-of-network, but the hospital is within the insurance network, this bill would prevent the out-of-network provider from balance billing the patient and also provides a formula for payment similar to in-network rates. The bill was strongly opposed by the insurance companies and the medical community. The bill was heard and held in committee.

H494 Immunization Notice – Passed House, to Senate Health & Welfare, Held by Chairman

This bill would require providers to secure a signature each time an immunization is given that would either allow or reject posting the immunization to IRIS, the state common database for immunizations. IRIS already allows individuals and parents to opt-out. This bill extends that opt-out for each individual immunization event. The bill was held by the Committee Chairman and will not get a hearing.

S1227 Immunization Exemption Form – Held by Chairman

S1227 clarifies the manner that a parent may exempt their child from Immunization by allowing any written notice to the school. This was a contentious issue last year where school districts required a specific form for non-immunized students. The bill dies.

S1224 Medicaid Expansion – SUPPORT – Held by Chairman

This bill would fully expand Medicaid under the Affordable Care Act to cover those in the Gap between Medicaid qualification and subsidy eligibility under the ACA. Expansion was a component of the ACA as originally designed. Idaho and other states sued the federal government and won in a U.S. Supreme Court decision that allowed states to opt out of expanding Medicaid. Under the plan the federal government would initially cover 90% of expansion costs but obligates states to federal intrusion that the Idaho legislature has resisted. The bill is being held by the Chairman of the Senate H&W Committee.