

2018 IDAHO LEGISLATURE

UPDATE

Week 8

February 26, 2018 through March 2, 2018

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All bills have been introduced and committees are feverishly working to meet transmittal deadlines. With the demise this week of House Bill 464 that would have partially addressed health coverage for the Gap and the passage of the Governor's tax bills (the two most controversial proposals), it being an election year and an early Easter, the legislature will likely adjourn by the third week of March, possibly as soon as the 21st.

The Idaho Health Care Plan – SUPPORT – Held in House and sent back to Committee – Bill Dies

Tuesday, the House voted to send H464 back to committee, effectively killing the bill. With all legislative seats up for reelection this year, members avoided taking a position and possibly risking voter backlash. Any chance of addressing the Gap is now in the unlikely chance that Senator Jordan's bill, **S1224** to expand Medicaid, will be heard, or that the voter initiative to expand Medicaid will get enough support to be on the November ballot. To qualify the initiative must get 56,000 voter signatures from 18 legislative districts within the next two months. Currently, the effort has 25,000 signatures.

At the November election, voters can hold their Representatives accountable for not taking a vote on H464. The vote to send the bill back to committee was 53 – 15 with Democrats all voting against sending the bill to committee along with Republican Representatives Christy Perry, Eric Redman, Caroline Nilsson Troy and Jarod Wagoner. All other members voted to return the bill to committee and avoid the floor vote.

H464 would have allowed the state to apply to the Federal Government for two waivers. The first waiver, the **State Innovation 1332 Waiver**, would have allowed individuals with incomes under 100% of the federal poverty limit (\$12,060/year) to receive tax credits to purchase health insurance on the Idaho Health Insurance Exchange. H464 included a work requirement for able-bodied adult recipients of Medicaid.

The second waiver, **Medicaid 1115 Waiver**, would have allowed individuals on private insurance who have medically complex diagnoses to move into the Medicaid program where the cost is shared 70%/30% between the state and the federal government. 2% (approximately 2,500 people) of those covered on the individual insurance market consume 40% (\$200M) of health care costs. Shifting these people out of the individual market into the Medicaid program, would relieve 40% of the cost and lower premiums by approximately 20% for those remaining in the individual health insurance market. The federal Secretary of Health and Human Services indicated interest in approving both waivers.

Governor's Executive Order

The third piece of the plan proposed by the Governor 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. Preexisting conditions would be covered under the plan so long as there is continuity of insurance within a 61 day period. The objective is to reduce premium costs and stabilize the individual health insurance market. The Governor's executive order does not require legislative approval. Blue Cross is the first insurer to submit policies for approval by the Department of Insurance under the Governor's plan.

H615 Non-ACA Health Plans – Failed in Committee

This bill proposed by the conservative House Freedom Caucus would codify in law health insurance plans that do not fully comply with the Affordable Care Act. The bill would also allow Direct Primary Care for Medicaid participants. Direct Primary Care is the independent practice of primary care that excludes health insurance where patients pay directly to the provider at a much lower cost. H615 also included a work requirement for Medicaid recipients and sets a lifetime maximum benefit for Medicaid Medical Assistance. Individuals under 19 years of age, parents of children under six, students over 19 years old attending high school and pregnant women would be excluded from the 5 year limit.

Board of Nursing Bill – SUPPORT – Passed Senate, Scheduled for House H&W Committee on Thursday, March 8th

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 proposed change would eliminate the specific degree requirement for RN Board positions.

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. The proposed 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.*

The first meeting with the Department occurred on Monday and included Disability Rights Idaho, a group advocating for the disabled. The plan is to meet every two weeks to refine the rule, then the Department to conduct notices through the summer and prepare for the final rule hearings and adoption during the 2019 legislative session.

H638 – Reporting Complications of Abortion – Introduced House Judiciary and Rules Committee

House Bill 638 would require health care providers, clinics and hospitals who are authorized to conduct abortions 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.

H465 Medicaid, Preventive Dental Care – SUPPORT – Passed House, Scheduled for Senate Floor Vote week of March 4th

H465 would 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. Those who oppose the bill have concerns of adding \$1.24M to Medicaid and not realizing the benefit suggesting that those on Basic Medicaid may be unable or incapacitated by mental illness of accessing dental services. They also expressed concerns about adding more demand on dentists, many who refuse Medicaid.

H570 Battery against Health Care Workers – SUPPORT - Introduced House Local Government Committee

H570 amends 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 – Passed House, Passed Senate
H&W Committee, to Senate Floor**

Under H505 physical therapists would be authorized to perform dry needling similar to acupuncture 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. Dry needling is authorized for physical therapists in several other states. Strong objection came from practitioners of acupuncture and the Board of Acupuncture which requires 100 hour of education plus additional supervised practice.

H353 Immunity for Volunteer Healthcare Providers – SUPPORT – Passed House, Passed Senate, to Governor

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

H448 Exemption from Obscenity Laws for Breastfeeding – SUPPORT – Passed House Unanimously, to Senate Judiciary & Rules Committee

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

H352 Occupational Licensing Exemption for Athletic and Theatrical Events – Passed House, Passed Senate, to Governor

This bill would 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 – Passed House & Senate, 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

The legislation would allow the possession and use of Cannabidoil prescribed by a physician. Cannabidoil is primarily used to treat seizure disorders in children.

H393 Immunization Assessment Board – SUPPORT – Passed House, Passed Senate, to Governor

This would extend a 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

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.

S1227 Immunization Exemption Form

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.

S1224 Medicaid Expansion - SUPPORT

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.