

## 2018 IDAHO LEGISLATURE

### SESSION WRAP-UP

March 29, 2018

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The 2018 Idaho Legislative Session finished on Wednesday, March 28th. The Session moved more bills than any other session in recent history. This was driven by year where every senate and representative position is up for reelection. Many are seeking higher office or retiring. Those running for reelection are occupied with campaigns in advance of the primary election on May 15th. It has also been a highly organized session. Senate and House leadership have moved bills more efficiently through the convoluted process of bill introduction, committee and floor hearings in both houses, then to the Governor's office. Even factions within the legislature were more organized and strategic this year. Following an Idaho Supreme Court decision on the deadline for the Governor's veto of a bill, the legislature stayed an extra week for the Governor to complete signing bills. A total of 558 bills were introduced.

H464, the bill that would allow the state to apply to the federal government for two waivers to the Affordable Care Act and was sent back to committee earlier in the session essentially killing the bill without a vote, was resurrected late in the Session when the House Health and Welfare Committee voted 7 – 5 to send the bill back to the House floor for a vote. This followed a rally by hundreds of Idahoans to push for a solution for those excluded from Medicaid or coverage through the Idaho Exchange. Regrettably the House again sent the bill back to the committee without a vote. Once again, now six years in a row, the Idaho legislature fails to address those caught in the health insurance Gap.

Another rally that drew media attention this year were those who used small coffins to protest the religious exemption to the Child Welfare Act. The exemption allows parents to deny life-saving medical care to their children on the basis of religious beliefs. It was the focus of a legislative committee in 2016, and a bill in 2017 that would have allowed court intervention that failed. In spite of the rally and the attention it received, the legislature again failed to address a child's right to life versus the religious beliefs of parents.

All the rules and bills proposed by the Board of Nursing easily passed including a bill to eliminate specific degree requirement for RN Board of Nursing positions and rules streamlining the process for issuing a limited license and broadening the requirements for APRN faculty and nursing education program administrators.

In May, 2017, Lt. Governor Brad Little issued an executive order directing state departments and licensing boards to review the necessity of professional and occupational licenses. The legislature also created an interim committee to review occupational license requirements in an effort to reduce

barriers and determine if licensing is necessary, in the public interest and non-competitive. The state is interested in hearing from nurses. You may submit comments to the Board of Nursing or [freedomact@lgo.idaho.gov](mailto:freedomact@lgo.idaho.gov)

### **Occupational Licensing – Executive Order 2017-06**

Under the review process, the report from each Executive agency will include:

- The timeframe in which a license is either granted or denied
- Prerequisites for a license
- Renewal requirements
- Requirements for accepting or denying an application and license renewal
- Qualifications for suspension, revocation or other disciplinary action
- The cost to apply for an application or renewal of a license
- The cost for administering the licensing and renewal process

### **BILL SUMMARY**

Bills that passed become effective July 1, 2018. Rules, unless otherwise stated, become effective immediately upon adjournment of the Legislature.

#### **Board of Nursing Rules – SUPPORT - Passed**

##### Change in the Process for Issuing Limited Licenses

Under previous rules, nurses suffering from substance use or mental health disorder, surrendered their license to the Board before receiving a limited license. The new rule allows the Board to convert a regular license to a limited license making the process more efficient.

##### Qualifications for Nursing Program Faculty

The new rule broadens the qualifications for APRN faculty, allowing a graduate or post-graduate degree and national certification appropriate to the area of practice, and qualifications for non-clinical nursing course faculty requiring preparation appropriate to the content being taught.

#### **Board of Nursing Bill – SUPPORT – Passed**

**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.

#### **H464 The Idaho Health Care Plan – SUPPORT – Held in Committee, Failed**

An effort to bring **H464** out of committee for a vote to allow Idaho to seek waivers from the federal government to address health coverage for those in the Gap failed just before the Legislature adjourned. Hundreds, including members of ANA-Idaho and NLI, descended on the capitol to pressure legislators to take action this year. The Governor described H464 as the “last best effort to address healthcare for Idahoans.” Without a last minute move to vote on H464, the legislature, once again, failed to address the needs of Idaho families who cannot afford health coverage.

#### **Executive Order 2018-02 Restoring Health Insurance Choice**

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. A final determination by CMS is pending.

#### **H615 Non-ACA Health Plans – Failed in Committee**

The bill would have codified in law the Governor's executive order to allow ACA non-compliant health plans.

#### **Board of Pharmacy Rules - Pharmacist Prescribing Authority**

During the 2017 Session, the Legislature passed H191 which allows the Board of Pharmacy to determine which drugs and devices pharmacists may prescribe. The law sets four criteria:

1. Do not require a new diagnosis;
2. Are minor and self-limiting;
3. Have a CLIA-waived test, or
4. Threaten the health or safety of the patient if not treated immediately

Under the rules approved by the legislature, effective July 1, 2018, pharmacists can prescribe

- Drugs approved by the FDA for
  - Lice,
  - Cold Sores,
  - Motion Sickness Prevention, and

- Uncomplicated Urinary Tract Infections
- Devices:
  - Inhalation Spacers,
  - Nebulizers,
  - Diabetes Blood Sugar Testing Supplies,
  - Pen Needles, and
  - Syringes
- CLIA Waived Testing:
  - Influenza,
  - Group A Strep Pharyngitis
- Drugs approved but the FDA for the purpose of closing a gap in clinical guidelines:
  - Statins for patients with a diagnosis of diabetes, and
  - Short-acting Beta Agonists for patients with asthma who have had a prior prescription for SABA, and who have a current prescription for a long-acting asthma control medication.

The Board of Pharmacy has been working with the Idaho Medical Association to create guidelines for prescribing pharmacists.

#### **S1262 Patient Caregiver Support Act – Failed**

The Patient Caregiver Support Act is a national initiative by AARP to require hospitals to document a patient's selection of a caregiver and notify them upon the patient's discharge or transfer. It would also have required the live instruction of the caregiver on post-discharge care including medication management, injections and wound care, tasks that do not require a licensed professional.

#### **H342 Hospitalization of Criminal Mentally Ill – Restore to Competency – 30-day notice to 10-day notice – Held in Committee, Failed**

This bill was an effort by the Department of Health and Welfare to more quickly move incarcerated mentally ill patients out of the state hospital once competency is restored.

#### **H465 Medicaid, Preventive Dental Care – SUPPORT – Passed**

H465 restores dental coverage that was removed in 2011 for those under the Basic Medicaid program, approximately 33,000 adults with children who are below 26% of the federal poverty limit (\$4,212/year for a family of two such as a single mother and child). Children and those covered under the Enhanced and Coordinated Medicaid programs already receive dental services.

#### **H638 – Reporting Complications of Abortion – OPPOSE - Passed**

House Bill 638 requires health care providers, clinics and hospitals to report the complications of abortions to the Department of Health and Welfare. Patient identity is protected. The Department will 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.

#### **H634 – Suicide Prevention Training for Teachers – SUPPORT – Passed**

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 also requires school districts to adopt suicide prevention policies.

#### **S1271 Health Care Organization – Passed**

The definition of Health Care Organization was broadened to include Residential Care Facilities for the purpose of peer review privilege.

#### **H657 Battery against Health Care Workers – SUPPORT – Held in Committee, Failed**

H657 did 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 or are admitted to a hospital or mental facility for their acute mental illness. Patients who are intoxicated by alcohol, drugs or other substances are not excluded from felony prosecution.

#### **H505 Physical Therapist Dry Needling – Passed**

Under H505 physical therapists are 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 – Passed**

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 – Passed**

The legislation protects public breastfeeding from laws covering indecent exposure.

### **H352 Occupational Licensing Exemption for Athletic and Theatrical Events – Passed**

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 – Passed**

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

### **H410 Cannabidoil Oil – Failed**

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 – Passed**

This bill extends 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, Failed**

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.

### **H494 Immunization Notice – Held by Chairman, Failed**

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 did not get a hearing.

### **S1227 Immunization Exemption Form – Held by Chairman, Failed**

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.

**S1224 Medicaid Expansion – SUPPORT – Held by Chairman, Failed**

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 was held by the Chairman of the Senate H&W Committee.