

## 2020 IDAHO LEGISLATURE

### UPDATE

February 24, 2020 through February 28, 2020

*Michael McGrane, RN*

Week 8 – Leadership is still pushing hard to finish the session by March 20<sup>th</sup>. There are now 786 bills in the queue. 45 have passed both houses. Next Monday, March 2<sup>nd</sup> is the transmittal date when bills need to be transmitted from one house to the other. Both chambers are now meeting twice per day, morning and afternoon to meet the deadline. As bills are rapidly being considered, there are several controversial bills up for debate including those on property taxes, transgender issues and affirmative action. 2020 is an election year where every House and Senate seat is up for reelection. This creates an opportunity for some to take positions that satisfy certain interest groups and their district constituents. Our system of government, however, makes it very difficult for controversial bills to pass both chambers and the Governor to become law. On the other hand, it also makes it difficult for any bill to get passed. This week's example is H436, the effort to move the Advance Care Directive Registry from the Secretary of State's office to the Department of Health and Welfare. An effort that has benefit, fails.

#### **H0340 – Residential Substance Abuse Treatment for Teens – Amended – to House Floor**

Good Samaritan Rehabilitation in Coeur d'Alene, a faith-based adult treatment center operated by Pastor Tim Remington (recently appointed to the House), has a successful record in treating adults. Idaho has no adolescent residential treatment programs forcing parents to seek treatment out-of-state. Senator Souza in her presentation highlighted the state's failure to do anything to help adolescents who are barred from crisis centers and adult treatment centers for drug and alcohol treatment. This bill would allow the Good Samaritan Rehabilitation Center in Coeur d'Alene to operate an unlicensed pilot program to treat teens 13-17. There has been an outpouring of concern by counselors, social workers, disability rights advocates and others who question the faith only approach to drug and alcohol treatment and the safety of youth in an unlicensed residential facility with adults. House vote is scheduled for Monday, March 2<sup>nd</sup>.

#### **S1354 – Hospital Regulations CMS, Health Facility Rules – Passed Senate 34-0**

Since the passage of the Restraint and Seclusion rules last year, nurses and hospitals have voiced great objection to the 15-minute observation requirement, along with other onerous requirements that all hospitals are subject under the "Rules and Minimum Standards for Hospitals in Idaho." In addition to state requirements, CMS requires hospitals to meet "Conditions of Participation" in order to accept Medicare patients and receive Medicare payments. A stated objective of the revisions to the state rules last year was to comply with the federal requirements, however in some instances the Idaho rules became much more stringent than the federal rules. S1354 would state that any rules in the Idaho

Minimum Standards for Hospitals that are more restrictive than CMS do not apply to hospitals that are certified by CMS. With the the exception of North Idaho Hospital, operated by the state, all hospitals in Idaho are certified by CMS. If passed, this bill would become effective July 1<sup>st</sup> and remove the strict observation requirements.

#### **H0436 – Health Care Directive Registry – Dies on House Floor 30-38**

Currently, anyone with an advanced care directive can submit it to the Idaho Secretary of State’s office where it is maintained in a stand-alone registry for access by health care providers. There is no automatic link to medical records or the Idaho Health Data Exchange. H-436 would move the Health Care Directive Registry from the Secretary of State to the Department of Health and Welfare, integrate it with the Data Exchange and allow 24-hour web-based access to health care providers. The cost is a one-time \$250,000 cost (\$25,000 state/\$225,000 federal) for technology design and implementation, and \$500,000 (\$250,000 state/\$250,000 federal) for ongoing operations, much of which was working with hospitals and providers to build program awareness and patient enrollment. During the hearing on Thursday, opposition was related to the ongoing costs of operation, calling out “further bloating of the Department of Health and Welfare’s budget.”

#### **H0531 Telehealth Medication Assisted Treatment (MAT) – Passed House H&W, to House Floor**

This bill would allow drugs used for Medication Assisted Treatment for drug abuse to be ordered via telehealth. This would allow prescribing providers to remotely monitor patients and oversee remote clinics to collect urine samples and issue MAT drugs without direct supervision.

#### **S1348 – Controlled Substances; Review of Prescription Drug History – Passed Senate 34-1, to House H&W**

Current law requires prescribers to register with the Prescription Drug Monitoring Program (PDMP) but does not require them to use it. A study by the Board of Pharmacy showed that the 100 top prescribers used the PDMP only 37% of the time. This bill would require prescribers to check the PDMP prior to writing opioid or benzodiazepine prescriptions.

#### **S1240 – Global Signature Bill – Signed by the Governor, becomes Law**

S1240 extends signature authority to APRNs (Nurse Practitioners, Nurse Anesthetists, Nurse Midwives and Clinical Nurse Specialists) for items that currently require physician signatures such as disabled parking permits, athletic physicals and mental health declarations. Nurse Practitioners are the sole providers in 11 Idaho communities where patients currently must travel to other locations to seek physician’s authorization.

#### **H0392 - Liability Protection for Healthcare Volunteers – Passed House 69-0, Senate Floor**

This bill expands liability protection to any licensed, certified or registered healthcare professional when providing volunteer services.

#### **H0455a - Child Protection – Limits Mandatory Reporting of Abuse and Neglect – Amended, to House Floor**

H455 has been amended to mandate reporting within 24 hours by anyone who observes abuse, neglect or abandonment of a child. It also provides immunity from liability for anyone reporting. H455 as originally proposed would have reduced requirements for mandatory child abuse reporting.

#### **H0519 - Life Sustaining Treatment – Simon’s Law – Passed House H&W, to House Floor**

Simon’s law would prevent children from being denied life-sustaining treatment without parental knowledge or consent. It would require a parent be notified 48 hours prior to a decision to withhold life-sustaining treatment and allow the parent up to 15 days to make alternative arrangements for the child to be transferred to another facility where life-saving care could be continued. This is a national effort following a 2010 case in Missouri of a 3-month-old with trisomy 18 who unknowingly had a DNR order in the medical record.

#### **H0385 – Certified Medication Assistants – Passed House 66-0, Passed Senate H&W, to Senate Floor**

This bill updates and clarifies the requirements for Certified Medication Assistants and provides an avenue for Certified Nurses Aides to become Certified Medication Assistants. The bill is proposed by the Idaho Health Care Association that represents long-term care facilities. Requirements for training, an exam and certification remain under the Board of Nursing.

#### **H0485 - Student Nurses Loan Repayment – House Transportation Committee**

This bill would create a nursing student loan repayment program for nurses who work at the State Veterans Home. It is a way to recruit and retain nurses for the Veterans Home.

#### **H0506 – Surprise Medical Billing – House H&W**

This is the third version of the bill, previously H341 and H387. There has been increasing public outrage when a person seeks care at an in-network hospital, but unknowingly is treated by an out-of-network provider resulting in charges that are not covered by their insurance. H0506, if passed, would make surprise medical bills void but allow out-of-network providers to be reimbursed at the same rate negotiated for the facilities’ contracted providers. The bill has been revised to allow a patient to knowingly choose to use an out-of-network provider.

#### **H0515 – Idaho Patient Act – Passed House 49-20, to Senate**

This bill targets medical bill collectors and attorney fees. It would set time to allow a patient to pay their bill or to dispute the charges before any collection activity. It also requires notices to be filed, and limits the collection, attorney fees and interest charges that can accumulate exponentially. Frank VanderSloot, CEO and founder of Melaleuca in Idaho Falls is pushing this bill to counter medical bill collectors. It follows a case where one of Melaleuca’s employees had a \$294 debt that escalated to over

\$5,000 after interest, collection and attorney fees were added. Last year VanderSloot created a \$1M legal defense fund to represent people in medical debt cases.

#### **H0342a – Telehealth – Passed House 68-0, Amended, to Senate Floor**

Teledoc Health is a national telemedicine company offering virtual care through a variety of telecommunication technologies. This bill broadens the ways patients, especially those in rural communities without broadband and the ability for face-to-face, two-way audio or visual communication to receive medical care. The bill, if passed, would allow patients to connect with a physician via telephone, e-mail and other technologies to establish a provider/patient relationship without face-to-face audio and visual connection to receive a medical evaluation, diagnosis and prescriptions.

#### **S1295 – Teledentistry – Passed Senate 30-4, to House H&W**

S1295 is scheduled for a hearing on Tuesday, March 10<sup>th</sup>. It tightens requirements for teledentistry in the Dental Practice Act to establish a referral relationship with a dentist accessible to the patient's location in Idaho prior to providing any teledentistry services, provide advanced notification to the patient that in-person treatment may be required at an additional cost, require the review of patient records and x-rays from an in-patient exam conducted within the prior six months, and ensure the patient retains the ability to file a complaint with the Board of Dentistry.

#### **H0351 – Medicaid Reimbursements to Hospitals and Nursing Facilities – Passed House 44-24, Passed Senate 32-3, to Governor**

As a result of the Governor's directive to cut state agencies budgets 1% this year and another 2% next year, the Medicaid Division in the Department of Health and Welfare has been working with hospitals and nursing facilities to realign Medicaid payments to move from cost-based to value-based reimbursement that incentivizes quality and improved health outcomes. This would reduce state Medicaid costs by \$4.9M in FY2020 and \$13.7M in FY2021. The bill is supported by the Idaho Hospital Association and the Idaho Health Care Association.

#### **H0318 – Division of Occupational and Professional Licenses – Passed House 43-24, Passed Senate Business & Commerce Committee, to Senate Floor**

This bill renames the Bureau of Occupational Licenses to the Division of Occupational and Professional Licenses and adds full authority for the Governor to reorganize the many commissions, trade councils, and professional boards, including the Boards of Nursing, Medicine, Dentistry and Pharmacy. The objective is to streamline operations; however, the concern is that it could place too much authority under the Division of Occupational and Professional Licenses and the professional boards could eventually lose their independence and identity. This follows a trend in other states to consolidate boards and create umbrella oversight.

#### **H0509 – Gender Identity, Birth Certificates – Passed House 53-16, to Senate**

Three bills deal with Transgender issues. H509 passed the House in defiance to a federal court order to recognize a person's altered gender on their birth certificate. The bill requires birth certificates to only recognize the biological sex of the person at birth.

#### **H0465 – Transgender Treatment – House Judiciary and Rules Committee – Held**

The bill would make it a felony for a provider to perform surgery or prescribe hormone or other therapy to alter a child under 18's sexual identity.

#### **H0500 – Participation in Sports – Passed House 52-17, to Senate**

H500 Prohibits transgender females from participating in school sports and allows female genetic and genital examinations to establish gender based upon accusations.

#### **Religious Exemption to the Child Protection Act – To be Introduced**

A bill to narrow the religious exemption to the Child Protection Act is being introduced by Representative John Gannon of Boise. For several years, attempts to eliminate the exemption have failed. Idaho law requires parents to *"furnish necessary food, clothing, shelter, and medical attendance for his or her child or children"* except for allowing parents to refuse medical care based upon religion. The law was enacted in 1972 under pressure from the federal government to support religious rights. Religious exemptions survive in only a handful of states. Since the law was enacted, nearly 200 Idaho children have died from treatable illnesses where parents have chosen prayer over treatment. The bill introduced this year would require parents to seek medical attention for their child specific to serious illnesses that could cause disability or death. The bill faces a difficult hurdle in the Senate. Monday is the last day for bill introduction.

**Familiarize yourself with the Idaho Legislature website:** [www.legislature.idaho.gov](http://www.legislature.idaho.gov)

The site includes information on who your legislators are (you can search by your address), and how to contact them. In addition is information on House and Senate Standing Committees, with photos and background information on each legislator. The site also has links to Committee agendas and meeting minutes.