

# 2020 IDAHO LEGISLATURE

## Legislative Highlights

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*With several legislators leaving early due to concerns over coronavirus and the threat of a veto on several controversial bills, the legislature reluctantly adjourned on Friday, March 20<sup>th</sup>. Many important matters remained unresolved. The leading issues were administrative rule authority, property tax relief, ongoing funding for Medicaid Expansion, blocking affirmative action, challenging Idaho college and university diversity programs, restricting transgender birth certificates and participation in sports, and rejecting federal education standards. All state Senators and Representatives are up for election in November.*

*Administrative rules become effective upon adjournment of the Legislature. Bills, signed by the Governor, become law July 1<sup>st</sup>.*

### **Rules**

The Idaho Constitution requires the legislature approve all administrative rules, a process that is typically done in one final “omnibus” bill at the end of the session. Rules then become effective upon adjournment. In 2019, however, the legislature failed to approve rules over a fight on how much scrutiny each body of the legislature should take. This year, the legislature allowed all administrative rules to continue as temporary, without approval, until 2021.

#### Board of Dentistry Rules

- Eliminated sections of rule that were unnecessary, redundant or overly restrictive.
- The Dental Therapy Rules were rejected.

#### Department of Health and Welfare Rules

Except for rules that would have complied with a federal court order to allow transgender individuals to change their birth certificate to reflect their revised gender, the rules of the Department of Health and Welfare were adopted including immunization and parental exemption rules, mandatory second meningitis vaccination prior to high school graduation, newborn screening and child protection investigation rules.

In defiance to the court order, **H509**, requiring birth certificates to only recognize the biological sex at birth, passed both houses and was signed by Governor Little.

### **Practice**

#### **Dental Hygienist Extended Access**

IDHA drafted legislation to expand the ability for Dental Hygienists to provide preventive treatments in extended access settings without restrictions that are currently in the law. It would have allowed hygienists to evaluate patients, provide treatments that are allowed under general supervision and care for Medicaid and underserved populations. It was held back to work with the Board of Dentistry and the Dental Association as part of the Board’s Extended Access Workgroup.

**H616 - Health Care Directive Registry – Passed, Becomes Law**

After some pushback on the state's cost to move the Health Care Directive Registry from the Secretary of State to the Department of Health and Welfare, **H616** passed and was signed by the Governor. With the Department of Health and Welfare, the Health Care Directives become integrated with the Idaho Health Care Data Exchange and will be immediately accessible to providers.

#### **H458 – Battery Against Health Care Workers - Failed**

It is currently a felony in Idaho to assault a health care worker. The law allows for consideration of the circumstances and prosecutor discretion on filing charges. **H458** would have exempted anyone having been treated for a mental illness from felony charges, not just those under acute treatment or seeking treatment.

#### **H392 – Liability Protection for Healthcare Volunteers – Passed, Becomes Law**

H392 extends volunteer liability protection to any licensed, certified or registered healthcare professional.

#### **S1348 – Controlled Substances; Review of Prescription Drug History – Passed, Becomes Law**

Current law requires prescribers to register with the Prescription Drug Monitoring Program (PDMP) but does not require them to use it. This bill will require prescribers to check the PDMP prior to writing opioid or benzodiazepine prescriptions.

#### **S1252 – Idaho Injectable Cosmetics Safety Act – Withdrawn**

The “Injectable Cosmetics Safety Act” would have required head, facial and neck injections of Botox and soft tissue fillers be performed by physicians, PAs, RNs, dentists or pharmacists, and prohibit the delegation to any non-licensed persons.

### ***Licensing***

#### **H318 – Division of Occupational and Professional Licenses – Passed, Becomes Law**

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.

#### **S1351 – Occupational Licensing Review Committee – Passed, Becomes Law**

This bill establish a licensing review committee for a three year period in order to 1) determine the necessity for health, safety and welfare; 2) determine the least restrictive means of regulation; 3) determine why the public cannot be protected by other means; 4) weigh the cost versus benefit of licensing, and 5) determine whether the regulation will have a negative impact on job creation, retention or wages, or place an undue burden on an individual to practice their profession.

### ***Child Protection***

#### **H340 – Exempt Pilot Program for Adolescent Residential Drug & Alcohol Treatment**

If signed by the Governor, H340 will allow Good Samaritan Rehabilitation, a private, faith-based adult treatment center in Coeur d'Alene to provide temporary residential treatment for teens. The bill exempts Good Samaritan from meeting state licensing requirements, but does stipulate separation from adults, that girls and boys have separate living arrangements and that individuals providing care pass background checks.

#### **H519 – Life Sustaining Treatment – Simon’s Law – Passed, Becomes Law**

Simon’s law is national effort that would prevent children from being taken off life support without parental knowledge or consent. It requires that a parent be notified prior to a decision to withhold life support and provide an opportunity for parents to transfer the child to an alternate facility for life sustaining treatment.

#### **H455 - Child Protection – Limits Mandatory Reporting of Abuse and Neglect – Failed**

H455 required reporting within 24 hours by anyone who observes abuse, neglect or abandonment of a child, but would have also provided immunity from liability for anyone who failed to report abuse.

#### **Religious Exemption to the Child Protection Act – No Action**

Any effort to limit the “Religious Exemption to the Child Protection Act” did not progress this year. 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.

### ***Education***

Idaho’s college and university diversity programs were challenged as part of a broader attack on affirmative action, transgender recognition, and “add the words” human rights protections. After several rounds, university budgets were narrowly approved.

### ***Medicaid Expansion***

Enrollment in the Medicaid Expansion program began on January 1<sup>st</sup> with 63,000 currently enrolled. Funding for the program consists of 90% federal dollars and 10% state dollars. Funding for the 2020 fiscal year was designated by the legislature last session. However ongoing funding has been in limbo with recommendations from a legislative interim committee and wrangling over funding sources this year. In the past, indigent medical expenses for those not covered under Medicaid came from the counties that paid the first \$11k of each claim. The remaining coverage came from the state Catastrophic Health Care Fund. The county funds will expire this year, and the Catastrophic fund is set to expire in June 2021.

Several bills were introduced but failed that would take some county indigent funds and reassign them to cover the state’s ongoing cost of Medicaid Expansion. While the legislature did approve the Medicaid budget for 2021, it remains short \$8.5M (the county share) presumably to be covered by a supplemental appropriation by the 2021 Legislature.

## ***Surprise Billing***

### **H506 – Surprise Medical Billing – Held**

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. H506 would have made surprise medical bills void while allowing out-of-network providers to be reimbursed at the same rate as contracted providers.

### **H515 – Idaho Patient Act – Passed, Becomes Law**

This bill targets medical bill collectors and attorney fees. It allows time for a patient to pay their bill or to dispute the charges before any collection activity can take place. It also requires notices to be filed, and limits the collection, attorney fees and interest charges that can accumulate,

## ***Telehealth***

### **H531 - Telehealth Medication Assisted Treatment (MAT) – Held**

This bill would have allowed drugs used for Medication Assisted Treatment for drug abuse to be ordered via telehealth allowing prescribing providers to remotely monitor patients and oversee unlicensed staff at remote clinics to collect urine samples and issue MAT drugs without direct supervision. The bill was held by the Senate Health and Welfare Committee over concerns brought by the Board of Medicine.

### **H342 – Telehealth – Passed, Becomes Law**

This bill broadens the ways patients, especially those in rural communities without broadband to receive medical care. The bill allows 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 – Vetoed**

S1295 was vetoed by Governor Little noting that it was too restrictive and teledentistry should be regulated by rule rather than statute. It would have required dentists providing treatment via telehealth to review patient records and x-rays and notify the patient that additional in-person treatment may be necessary, requires that the patient has access to a local dentist who can provide in-person treatment if necessary and preserves the patient's right to file a complaint with the Board of Dentistry.