

2018 IDAHO LEGISLATURE

UPDATE

Week 9

March 5, 2018 through March 9, 2018

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Both the House and the Senate are moving quickly to process bills. This week all House bills need to be decided and moved to the Senate, and Senate bills likewise to the House. A total of 474 bills, plus many resolutions, have been introduced. With Taxes and Health Care, the two major issues, resolved, there are less strategic bills remaining, some for the sake of defining political posturing prior to the May primary election. Bills that have not made it to committee hearings are likely dead. Some have predicted this year's session will finish the week of March 18th.

The Idaho Health Care Plan – Round Two

An effort is being made next Thursday, March 15th to push **H464**, the bill that would allow the state to request two health insurance waivers to the federal government, to a floor vote in the House. The House previously voted not to vote on the bill, sending it back to committee.

There will be a Rally, Thursday, March 15th beginning at 11:30 in the First Floor Rotunda of the Capitol then at noon moving to the 4th Floor outside the House Chambers.

There is a chance that intense public pressure could move **H464** out of committee and this year make health insurance affordable for Idahoans. Here is more information on **H464** and what it would do if passed:

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

H464 would allow the state to apply to the Federal Government for two waivers. The first waiver, the **State Innovation 1332 Waiver**, would allow 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 includes a work requirement for able-bodied adult recipients of Medicaid.

The second waiver, **Medicaid 1115 Waiver**, would allow 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. The Governor's executive order does not require legislative approval. Thursday, the Governor received a letter from CMS indicating that providing ACA non-compliant plans would violate federal law.

Board of Nursing Bill – SUPPORT – Passed Senate, Passed House H&W Committee, to House Floor Vote

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 ~~for~~ 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 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 – Passed House 56 – 13, to Senate State Affairs 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 March 12

This bill has now been pushed back several times on the Senate calendar. It is now scheduled for Monday, March 12th, but could continue to be put at the end of the calendar making it unlikely to see a vote before adjournment.

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.

H634 – Suicide Prevention Training for Teachers – SUPPORT – Passed House, to Senate Education Committee

This bill if passed would 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 would be provided to school districts through the Idaho Office of Suicide Prevention. The law would also require school districts to adopt suicide prevention policies.

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

H570 was originally assigned to the House Judiciary and Rules Committee. It was reintroduced as H657 as reassigned to the House Ways and Means Committee. Ways and Means is a committee that rarely hears bills and is essentially a repository for dead bills. H657 will not get a hearing.

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 and Senate, signed by 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 – Passed House Unanimously, awaiting Senate Floor Vote

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

H352 Occupational Licensing Exemption for Athletic and Theatrical Events – Passed and Senate, signed by Governor. Becomes Law July 1st

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, Held by Chairman

H410, generated the week's controversy. On Monday in Senate Health and Welfare, Senator Potts from Idaho Falls made a motion to pull H410 into committee for testimony and a vote. He went on to say to how important this bill is to the public and his personal experience with his son who has undiagnosed seizures where Cannabidoil might help. Chairman Heider interrupted Senator Potts with the gavel and asked committee members to meet in his office. During that closed door meeting, committee members could be heard yelling. Melissa Davlin from Idaho Public TV knocked on the Chairman's door to say that they were violating the open meeting law. After a few minutes the committee returned to the hearing room and voted to hold H410 without hearing in committee. After much media attention and criticism, on Tuesday Chairman Heider informed the committee that due to a violation of the open meeting law their vote to hold the bill in committee was void. However the Chairman is continuing to hold the bill without a hearing. A similar bill was vetoed by the Governor last year. The objection to Cannabidoil is a sense that it could be a precursor to legalizing marijuana. Proponents say that it could help in the management of seizure disorders, especially in children. Idaho currently participates in a federally supervised study on the use of Cannabidoil that involves approximately 30 children with seizure disorders. Unless Chairman Heider releases the bill, it will not receive a hearing and will die.

H393 Immunization Assessment Board – SUPPORT – Passed House and Senate, signed by the Governor. Becomes Law July 1st

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 – Held by Chairman

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

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.