

Idaho Academy of Family Physicians

2021 Legislative Report

Week 8: March 1 – March 5

Virtual Care Act Passes Full Senate

On Tuesday afternoon this week, March 2, the Virtual Care Act (S1126) passed the Senate floor on a vote of 30-5. It is now pending a hearing before the House Health and Welfare committee. It is unclear yet when that hearing will be scheduled. This bill is a high priority for the IAFP and importantly, includes the creation of a Virtual Care Advisory Board. The sponsor, Senator Martin has worked hard to incorporate nearly all of the recommendations of the Telehealth Task Force and the work they had done on the issue through the summer.

Patient Act Implementation Delay Signed by Governor Little.

Governor Little signed into law on Tuesday this week the extension of the Patient Act. It had previously passed both houses without opposition. It becomes effective immediately. This bill would allow for a delay of the provisions of the Patient Act passed last year to July 1, 2021 while maintaining some key protections to patients under existing law. This is good news for physicians and hospitals who have struggled with the effects of the COVID 19 pandemic.

JFAC Approves Graduate Medical Education Funding

The Joint Finance Appropriations Committee on Wednesday this week approved the Graduate Medical Education portion of the state Board of Education budget at the full amount requested by the Governor. An additional \$900,000 is to fund year four of the GME 10-year expansion plan and adds another 15 residency positions across Idaho. This funding item will now be assigned a bill number and must still be approved by both the House and Senate.

New Bills of interest introduced this week:

HJR004: Psychoactive drugs constitutional amendment by Sen Grow (formerly SJR001) Would put on the 2022 ballot a proposal to amend the Constitution to make all drugs currently illegal in the state of Idaho continuously

illegal unless changed by a vote of the people. This new version of the proposal removes the FDA “carve-out” in the first proposal and would allow addition of future FDA-approved Schedule 1 and 2 drugs only by approval of 2/3 vote of both Houses of the Legislature.

Status: Introduced on March 2 in House State Affairs committee, awaiting committee action.

Previously introduced Legislation:

H216: Medicaid Supplemental funding by Appropriations committee

Provides nearly \$370 million of spending authority for the Medicaid budget for the current fiscal year to pay for cost overruns in Medicaid program due to the CORONA virus pandemic. This an authorization to spend both federal and state funds for the program.

Status: To the Governor. Passed Senate 24-5 on March 4. Had passed House 37-31 on Feb 25.

S1126: Virtual Care Act by Senator Martin

Clarifies virtual care practice requirements and expands the ability of citizens in rural and underserved areas of the state to access health care from providers who are not physically present in the patient’s geographical area. It also establishes a virtual care advisory board to coordinate, plan, and conduct outreach to increase utilization of virtual care in Idaho

Status: Passed Senate 30-5 on March 2. To House Health and Welfare Committee for action. Introduced on Monday, February 15.

H179: Interstate Telehealth by Rep. DeMordaunt

Makes permanent the waiver of Idaho state licensure of a medical provider to conduct telehealth services for Idaho citizens. This provision was temporarily waived during the COVID pandemic. This bill would allow any qualified, licensed medical provider to perform telehealth services to Idaho residents even if they are not necessarily licensed to practice in the state of Idaho.

Status: NO ACTION THIS WEEK. Introduced in House Health and Welfare committee on Feb 16, awaiting full committee hearing.

H042: Idaho Patient Act, time extension by Rep. Monks, IMA, IHA

This bill allows for a time extension to July 1, 2021 for implementation of the Act. It originally was to go into effect January 1, 2021, but due to COVID delays and other reasons, effective date has been extended.

Status: LAW. Signed by Governor on March 2. Passed Senate 32-0. Passed House 70-0 on February 1.

H140: Medical Consumer Protection, Vaccines by Rep. Giddings

Specifies that employees and companies that contract with the State of Idaho shall not discriminate against unvaccinated persons.

Status: NO ACTION THIS WEEK. Passed full House 49—21 on Feb 22, to Senate Commerce and Human Resources committee for action. Had passed House Commerce committee on Feb 18. Introduced on Feb 12.

NOTE: There is concern this law may apply to physicians who accept Medicaid, thus making those physician businesses unable to require their employees be vaccinated.

S1060: Public Health Orders by Senator Vick

Requires county-wide or district-wide orders of a public health district to be approved or denied by the county commission in which those orders would be in effect.

Status: NO ACTION THIS WEEK. Passed House Health and Welfare committee on Feb 24, awaiting full House action. Passed Senate 32-1 on Feb. 17. Introduced on Feb. 5.

S1128: Naturopathic Practitioners by Naturopathic Physicians Association of Idaho

Will create a structure to license and regulate naturopathic doctors, doctors of natural health, and naturopathic practitioners who want to be licensed.

Status: NO ACTION THIS WEEK. Introduced in Senate Commerce and Human Resources Committee on Feb 16, awaiting committee hearing.

S1125: National Suicide Hotline by Idaho Suicide Prevention Action Collective

Would assess a \$1 fee per phone line to fund Idaho's participation of a new national hotline number (988) for suicide prevention, which goes live in July 2022. This national number will replace the current ten-digit number currently in use.

Status: NO ACTION THIS WEEK. Introduced in Senate Health and Welfare Committee on Feb 15, awaiting full hearing.

H108: Medical Marijuana by Reps. Rubel and Kingsley

Provides for a regulated system of medically recommended cannabis and would move cannabis to a schedule 2 controlled substance under Idaho law. This is a very narrowly defined use of medical cannabis and if adopted, would be the most restrictive medical marijuana law in the United states.

Status: NO ACTION THIS WEEK. Introduced on Monday February 8 in House Health and Welfare, awaiting full hearing.

S1093: Physicians Assistants by Idaho Academy of Physician Assistants

Offers physician assistants relief from over-regulation. PAs will be better able to meet the needs of patients without delays caused by site registrations, supervising physician availability requirements, and other regulatory requirements.

Status: NO ACTION THIS WEEK. Awaiting action by full House. Passed full Senate 35-0 on Feb 22, passed House Health and Welfare committee on Feb 25. Passed Senate Health and Welfare committee on Feb 17. Introduced Thursday, Feb 11.

H135: Emergency Declarations by Rep. Monks

Formerly H001, H098. Ensures that all Idahoans have the right to work, provide for their families, and contribute to the economy in a disaster declaration. Limits length of disaster declaration to 60 days unless extended by the legislature.

Preserves Constitutional rights during disaster declaration.

Status: NO ACTION THIS WEEK. Passed full House 49-20 on Feb 16, to Senate State Affairs for action. Introduced Friday Feb 12

H149: Coronavirus Limited Immunity Act by Rep. Young

Extends the sunset date of a liability protection provision that had been passed in the August Special session of the legislature to protect certain businesses from liability in relation to coronavirus.

Status: Passed House 62-7 on March 1. To Senate Judiciary and Rules Committee for action. Introduced on Feb 12.

HCR005: Gathering limitations by Reps. Crane and Ehart

States the position of the legislature that they are supportive of removing all barriers to gatherings and participation, including High School Activities Association state tournaments.

Status: NO ACTION THIS WEEK. Passed full House 55-15 on Feb 10, to Senate State Affairs Committee for action. Introduced Feb 5.

H097: COVID Vaccine Distribution by Reps Gannon and Skaug

Provides that 70% of vaccine doses must be distributed within 14 days of receipt, and the administrator of dept of Health and Welfare shall be notified when/if there are leftover doses for distribution. Includes a \$5,000 fine if an entity fails to report.

Status: NO ACTION THIS WEEK. Introduced in House State Affairs Committee on Feb 5, awaiting committee action.

H033: Public Health Districts by Rep. Blanksma

Allows county commissioners to review (and possibly reject) any actions of District Board of Health, makes the first two violations of any public health order an infraction rather than a misdemeanor, specifies that the Director of Health and Welfare may only enforce a quarantine or isolation order for 30 days after which an extension may be granted by the City or County that is affected.

Status: NO ACTION THIS WEEK. Introduced in House Health and Welfare on January 25, awaiting hearing

H034: Health Ordinances, City Limits by Rep. Mitchell

This removes a provision that extends a city's health ordinance application to a geographical area within five miles of city limits. Thus makes any such ordinances effective only within the boundaries of the city limits.

Status: NO ACTION THIS WEEK. Introduced January 25 in House Health and Welfare, awaiting hearing.

H038: Telehealth, Prescribing by Div. of Occupational and Professional Licenses

Clarifies the requirements necessary for prescribing medications via telehealth, expanding beyond the current limitations of the act and in alignment with the current allowances with COVID-19 emergency.

Status: NO ACTION THIS WEEK. Passed out of Senate Health and Welfare on February 11, now before full Senate for action. Passed full House 70-0 on February 3.

H039: Controlled Substances, authority by Div. of Occupational and Professional Licenses

Places the Prescription Drug Monitoring Program into the Division of Occupational and Professional Licenses, streamlining it's use and potentially making it more effective in monitoring the opioid challenges. (Note: a wholesale consolidation effort is underway by a Governor's Executive order that places all oversight boards and commissions under a single state agency – including Board of Medicine, Board of Nursing, etc.)

Status: NO ACTION THIS WEEK. Passed out of Senate Health and Welfare on February 11, now before full Senate for action. Already passed full House 70-0 on February 3.

H040: Pharmacy Act by Div. of Occupational and Professional Licenses

Updates and modernizes the Pharmacy Act removing unnecessary language and making technical corrections. This bill also clarifies the definitions of pharmacist prescribing to make permanent restrictions waived during the COVID-19 pandemic.

Status: NO ACTION THIS WEEK. Passed out of Senate Health and Welfare on February 11, now before full Senate for action. Already passed full House 70-0 on February 3.

S1016: Respiratory Therapy Practice Act – by Division of Occupational and Professional Licenses

Completely re-works and updates the Respiratory Therapy Practices Act which was last updated in 2003. Aligns Act better to current respiratory practice, deletes outdated and redundant language, removes barriers to licensure, and generally cleans up and streamlines the Act.

Status: To Governor. Passed House 67-0 on March 1. Passed full Senate 34-0 on Feb 10. Introduced on Jan. 20.

S1017: Controlled Substances – by Division of Occupational and Professional Licenses

Annual bill to align state law with changes made by the Drug Enforcement Agency changes to controlled substance scheduling.

Status: LAW. Signed by Governor on March 1. Passed 43-27 on Feb 18. Passed Senate 30-3 on Feb 8. Introduced on Jan 20.

Bills Likely Stalled or dead for the session

H209: Medicaid Stabilization Fund by Sen Martin and Rep Wood

This bill creates a dedicated Medicaid stabilization fund into which additional dedicated Federal monies (Federal Medical Assistance Percentage) will be placed for the purpose of supporting Idaho's Medicaid program. Due to the continuation of a 6.2% increase in FMAP, the Medicaid program is estimating a \$55 million surplus. This bill would reserve that surplus to fund the Medicaid program in the future.

Status: FAILED on House floor 25-42 on Feb 25. Passed House Health and welfare Committee on Feb 23.

SJR101: Psychoactive Drugs – by Sen. Grow

This is a proposed Constitutional Amendment to imbed into the Constitution the current state statute outlawing the use of Marijuana, certain opioid drugs, methamphetamine, etc.

Status: Dead. New version introduced March 2 (HJR004) NO ACTION THIS WEEK. Passed Senate 24-11 on Feb 3, to House State Affairs Committee for action.

H056: Abortion by Rep's. Scott and Nate

This proposal ends all legal abortion in the state of Idaho with no exceptions.

Status: NO ACTION THIS WEEK. Introduced in House Ways and Means Committee on January 28, awaiting full hearing.

H063: Vaccinations by Rep. Nichols

This bill proclaims that neither the Governor, nor any agency or political subdivision of the state may adopt or enforce a mandate that orders the vaccination, immunization, genetic modulation, or inoculation of any person. Likewise, the same applies to an order of isolation or quarantine based solely or primarily upon the vaccination status of any person.

Status: NO ACTION THIS WEEK. Introduced in House Ways and Means Committee on January 28, awaiting full hearing.

SCR103: Emergency Declaration restrictions by Sen. Vick

This bill would eliminate the Stage 2 public health restrictions put into place by the Governor's Executive Order and COVID Emergency Declaration. It would repeal limits on gatherings and restrictions in restaurants, bars, etc., put into place to slow the spread of COVID.

Status: NO ACTION THIS WEEK. Returned to Senate State Affairs committee on Feb 3, it is essentially dead.

H0017: Public Funds for Abortion – by Rep. Skaug, Sen. Zito

Ensures that taxpayer money does not support the abortion industry. Prohibits public contracting with an abortion provider, prohibits use of any public asset or employee to procure, counsel in favor, refer to, or perform an abortion. Applies to all units of government in Idaho including State, County, municipal, public health districts and public school districts.

Status: NO ACTION THIS WEEK. introduced in House State Affairs committee on Jan 21, awaiting full hearing.

H0001: Disasters, Governor's Powers, by Rep. Jason Monks

This bill ensures that all Idahoans have the right to work, provide for their families, and contribute to the economy during any emergency disaster declaration. It limits the length of an emergency disaster declarations to 30 days unless extended by a resolution of the legislature. Ensures the right to assemble for worship. And terminates all disaster declarations that have existed for more than 30 days.

Status: DEAD. HELD in committee to be replaced byH016I. Had been introduced in House State Affairs Committee on January 12.

HCR 001*: Disaster Declaration Ended, by Rep. Heather Scott

This concurrent resolution ends the existing state of disaster emergency in the state.

Status: NO ACTION THIS WEEK. Introduced in House State Affairs committee on January 12, awaiting hearing.

HCR 002*: Gatherings, Group size, by Rep. Brent Crane

Eliminates the restrictions of gatherings limited to 10 or more people under the Governor's Emergency Disaster Declaration.

Status: NO ACTION THIS WEEK. Passed House 55-15 on January 25. Now to Senate State Affairs committee for consideration. Passed House State Affairs committee Jan 19. Had been introduced on January 13.

H098: Disaster Emergencies by Rep. Monks

Now H 135. Ensures that all Idahoans have the right to work during an emergency. Limits length of disaster declarations to 60 days without approval of the legislature.

Status: DEAD. Introduced in House State Affairs Committee on Feb 5, awaiting committee action.

S1001: Disaster, definition: by Senate GOP Leadership

Clarifies the definition of the word "disaster", deletes the word "during" and replaces it with "arising out of" in order to address funding allocation into the Disaster Emergency Account.

Status: DEAD. NO ACTION THIS WEEK. Introduced in Senate State Affairs Committee on January 13.

S1002: Disaster, payments: by Senator Chuck Winder

Intent is to ensure an emergency declaration may end while preserving the state's ability to continue receiving funds to assist in the state's recovery to such disaster.

Status: DEAD. NO ACTION THIS WEEK. Introduced in Senate State Affairs committee on January 13, awaiting hearing.

S1003: Martial law, Governor's Authority, by Sen Chuck Winder and Speaker Scott Bedke

Renames extreme emergencies as extreme peril; limits application to human caused conditions; prohibits restrictions on the right to work; limits duration of extreme peril and sets parameters for extension; prohibits limiting or suspending the rights of citizens; prohibits suspension of statutes by the Governor.

Status: DEAD. NO ACTION THIS WEEK. Introduced in Senate State Affairs Committee January 13, awaiting hearing

SCR 101*: **Disaster emergency terminated**, by Sen. Chuck Winder and Senate GOP leadership

Would immediately terminate the COVID-19 Emergency Orders issued by the Governor while maintaining declarations necessary to keep federal funding available for Idaho's military, first responders, health care providers, and communities.

Status: DEAD. Returned to State Affairs committee from the Senate floor on January 21. It is essentially dead for the year. Had passed out of committee on Jan. 19, Had been Introduced in Senate State Affairs Committee January 13.

S1054: Martial law by Sens. Anthon and Winder

Provides limitations on the amount of time the Governor may maintain a declaration of extreme peril without the concurrence of the legislature, declares all Idaho workers as essential, reaffirms legislature's authority to end emergency declarations.

Status: DEAD. introduced in Senate State Affairs Committee on Feb. 5, awaiting full committee debate.

We will continue to track activity of interest to IAFP and provide weekly reports throughout the session. We stand ready to answer any questions you may have.

Thanks,

Ken Burgess, Partner

Veritas Advisors, LLP