



## 2020 LEGISLATURE: IMA STATUS REPORT

Week of January 27 – January 31, 2020

### Top Priority Issues:

#### **URGENT – TAKE ACTION!**

#### **HB 387: Balance Billing Legislation – *OPPOSE* (Replaces HB 341)**

HB 387, like HB 341, is troubling legislation that seeks to address “surprise billing” but does so by imposing government price controls on healthcare services. HB 387 allows insurers to pay whatever network reimbursement rate they decide to pay and forces out-of-network physicians to accept discounted network rates that they have not agreed to. The result is that the bill gives all of the negotiating power to establish rates to insurance companies and gives providers no recourse.

IMA wants to keep patients out of the middle of these disputes, and we are adamantly opposed to price gouging practices. But HB 387 causes more problems than it solves.

HB 387 will hurt access to care in rural settings, as hospitals will struggle to provide on-call physician services for their local communities. This legislation will also disproportionately harm independent physician practices, most of which are small businesses.

Unfortunately, HB 387 has strong support by legislators in the House & Senate, and is highly likely to be approved without amendment despite IMA’s strong efforts to negotiate. We sought consideration of fair market value payments for out of network services, but HB 387 supporters flat-out rejected our compromise. They also rejected IMA’s request to add independent dispute resolution provisions.

**Now our only option is to defeat HB 387, but we need your help! This legislation has significant impact on all physicians. If this bill passes, it will allow insurance companies to set rates unilaterally for all physician services in all specialties.**

**If you did not contact your representatives last week, please do so today and ask them to **OPPOSE HB 387**: <https://www.votervoice.net/IDMA/campaigns/70435/respond>**

Legislators need to know HB 387 will:

- Decrease patient access to care in rural areas
- Impose government price controls on physicians and hospitals
- Allow insurers to set physician reimbursement rates unilaterally
- Drive physicians out of independent practice

**Status:** *This bill is awaiting a hearing in the House Health & Welfare Committee.*

---

## **Idaho Patient Act (Melaleuca Legislation)**

Melaleuca is proposing this legislation as a result of questionable debt collection practices, primarily in eastern Idaho. In these cases, significant attorney fees were added to outstanding healthcare bills, sometimes increasing the amount of the debt exponentially.

The proposed legislation seeks to regulate those fees, but it also imposes significant new administrative processes into the realm of physician and hospital billing practices. IMA has met with representatives from Melaleuca on several occasions and requested changes to the bill to lessen the paperwork and cost burden on physician practices. Some of those changes have been accepted, but some have not.

To provide more insight on this issue, the Idaho Medical Group Management Association (IMGMA) was very helpful and completed a survey to give more detailed information about current billing practices and how they would be able to comply (or not) with certain provisions of the proposed legislation.

IMA lobbyists, Idaho Hospital Association and attorneys from Melaleuca spent over six hours in negotiations this week to try to come closer together to an agreement that adequately protects patients but isn't unduly overburdensome to providers. IMA is hopeful that the most troubling aspects of the bill are removed. For example, an earlier version required physicians and hospitals to use registered mail when sending required notices to patients, which would have cost physicians and hospitals millions of dollars statewide.

IMA will have an opportunity to review the revised legislation on Monday, and we believe it will be introduced next week.

**Status:** *Negotiations are ongoing, and a new bill is expected to be presented next week.*

---

## **HB 386: Pharmacy Benefit Managers (PBM) - *SUPPORT***

This legislation helps regulate pharmacy benefit managers (PBMs). PBMs are companies that manage prescription drug benefits on behalf of health insurers, Medicare Part D drug plans, large employers, and other payers. By negotiating with drug manufacturers and pharmacies to control drug spending, PBMs have a significant behind-the-scenes impact in determining total drug costs for insurers, shaping patients' access to medications, and determining how much pharmacies are paid.

PBMs have faced growing scrutiny about their role in increasing prescription drug costs and spending and, in fact, face very little regulation and, therefore, are not required to be transparent about their activities.

This legislation regulates PBMs in four ways:

1. Adds transparency by requiring PBMs in Idaho to register annually with the Department of Insurance

2. Prohibits gag clauses so that pharmacists can inform patients how they can pay less for prescriptions
3. Requires PBMs to be transparent in how they determine the maximum allowable cost (MAC) they reimburse pharmacies for prescriptions and to regularly update MAC changes
4. Prohibits PBMs from retroactively denying or reducing a claim for reimbursement, except for legitimate reasons.

**Status:** This bill is awaiting a hearing in the House Health & Welfare Committee.

---

## **Graduate Medical Education (GME) - SUPPORT**

On January 21, legislators on the Joint Finance & Appropriations Committee (JFAC) listened to a budget briefing by Ted Epperly, MD, coordinator of the Idaho State Board of Education's Graduate Medical Education (GME) Committee. Dr. Epperly shared the exciting news that Idaho has risen from 49<sup>th</sup> in the nation for primary care doctors per capita to 45<sup>th</sup>. Plus, Idaho moved from 49<sup>th</sup> to 47<sup>th</sup> for the number of GME positions per capita. Idaho is only three years into a ten-year GME expansion plan, so these improvements are very encouraging.

For over a decade, IMA's top legislative priorities have included expanding medical education and residency training positions. Over the years, we worked hard to increase the number of Idaho medical student seats in the WWAMI and University of Utah School of Medicine programs (from 20 to 40 and from 8 to 10, respectively). After successfully increasing access to undergraduate medical education, IMA is now focusing on expanding GME training opportunities across Idaho through the implementation of the ten-year plan.

The budget proposal supported by the Governor for the third year of GME expansion asks for \$1.25M to build out 25 residency positions and keeps the amount of funding for existing programs at current levels. IMA's lobby team is actively working with JFAC members to advocate for full funding of the Governor's proposal.

**Status:** *JFAC is currently scheduled to set budgets for health education programs in late February.*

---

## **HB 317: Surgical Authority for Optometrists – OPPOSE**

IMA and the Idaho Society of Ophthalmologists have worked with the Idaho Optometric Association for more than two years to try to reach a consensus on legislation that would allow optometrists to expand their scope of practice to a level that matches their current education and training. Unfortunately, the optometrists have repeatedly rejected the concerns of Idaho ophthalmologists and are seeking legislation that will give them a scope of practice expansion with surgical authority. This is particularly concerning because there is no standardized curriculum for schools of optometry, especially when it comes to advanced surgical procedures.

The Vermont Office of Professional Regulation (OPR), with the Vermont Secretary of State's office, recently issued a comprehensive report on expanding the scope of practice for optometric advanced procedures. Their conclusion states:

At this time, OPR recommends against the expansion of the optometric scope of practice to include the proposed advanced procedures. This conclusion is affected significantly by our inability to confirm that clearly established and appropriately-tailored didactic and in vivo education and training in specified procedures is universal to accredited educational programs.

We couldn't have said it better ourselves.

**Status:** *This bill passed out of the House Health & Welfare Committee and is now awaiting a vote on the floor of the House.*

---

### **Liability Protection for Volunteer Healthcare Providers - *SUPPORT***

Idaho has existing laws to protect certain types of healthcare professionals from liability when they volunteer to provide free medical care. Some providers who are not covered by existing statutes include counselors, social workers, psychologists, physical therapists, pharmacists and dietitians. IMA will work to amend Idaho Code 39-7702 (4) to provide immunity from liability for all properly licensed, certified and registered healthcare professionals while they are volunteering their services in free clinics. The change will also include students in these same professional fields, provided they are supervised by one of the previously mentioned professionals who is present in the facility while they provide care.

**Status:** *This legislation has been drafted and will be introduced next week.*

---

### **HB 342: Weakening of Telehealth Laws – *OPPOSE***

The Idaho Telehealth Council was created in 2014 and worked to develop the original Idaho Telehealth Act legislation that was passed in 2015. IMA was a member of that council and worked with other council members to painstakingly craft the bill. Every section of the bill was carefully reviewed, debated and word-smithed. IMA, the Idaho Board of Medicine and other health organizations were in lockstep in their positions on the legislation, primarily that telehealth providers with patients in Idaho would have to hold an Idaho license to practice and that a physician/patient relationship can only be created through a two-way audio-visual connection.

If enacted, HB 342 would allow for a telephone call, as well as secure voicemail or email, to establish a physician/patient relationship and for a patient to receive an evaluation, diagnosis and treatment, including prescription medication. IMA physician leaders do not believe this upholds the Idaho standard of care.

IMA is a member of the newly-formed Telehealth Task Force under the Healthcare Transformation Council of Idaho. The TTF is taking a comprehensive look at the existing Idaho Telehealth Act and doing an intensive six-month review to determine if changes are necessary to our state's telehealth infrastructure. HB 342 is being proposed by a commercial telehealth provider, whose purpose is not in alignment with a holistic review of Idaho's telehealth system.

IMA opposes HB 342 as written. We believe HB 342 is premature given the work just now underway to improve Idaho's telehealth access through the Telehealth Task Force.

**Status:** This bill passed out of the House Health & Welfare Committee and is now awaiting a vote on the floor of the House.

---

**To view a list of ALL healthcare-related bills and their statuses, visit the IMA Bill Tracker**

**Click Here to View the IMA Bill Tracker**

## **Support IMPAC the IMA's Political Action Committee!**



**Give \$220 to Make a Difference in 2020**

**Or become a Diamond Club member! There are three membership levels—Silver/\$250; Gold/\$500; and Gem/\$1,000. Diamond Club members receive special IMA recognition.**

**\*Gem members also receive a special IMA gift\***

**Make your IMPAC donation [HERE](#)**

The IMA Political Action Committee (IMPAC) Board uses your contributions to support a variety of bi-partisan candidates based on the best interests of Idaho physicians and their patients. The 2020 election year is going to be interesting and, as the voice of medicine in Idaho, it is critical that IMA has the resources to support legislators who will listen to our concerns.

IMPAC needs your contributions now to support the house of medicine in Idaho!

If you would like to update your email address or subscribe an additional email to receive these reports, please send your information to [membership@idmed.org](mailto:membership@idmed.org) or call us at (208) 344-7888. For more frequent legislative updates, follow the IMA on [Facebook](#) or [Twitter](#)!