



Idaho Medical Association

2019 LEGISLATURE: IMA STATUS REPORT *Week of February 4 – February 8, 2019*

BIG WIN FOR IMA AND THE STATE OF IDAHO IN MEDICAID EXPANSION LAWSUIT

Just one week after hearing oral arguments, the Idaho Supreme Court rejected the claim that the voter-passed Medicaid expansion initiative is unconstitutional, instead finding the arguments on that point “without merit.” Idaho legislators must now grapple with various funding options and whether or not to add waiver options to place conditions or restrictions on the new Medicaid recipients. There are a variety of options being discussed and these are some of the most commonly heard:

- Mandatory work requirements: participation in a work or training program, as well as having a job, or some combination of the two
- Co-pays in the \$10-\$20 range:
 - Co-pay in effect if patient makes an appointment with a provider and is a no show
 - Co-pay in effect if patient goes to ER for a non-emergent condition
 - Co-pay for Medicaid recipients who earn between 100 and 138 percent of federal poverty limit
- Lifetime limits: restrict the amount of time an individual could remain on Medicaid
- Two-year review: Medicaid recipients would have to requalify every two years
- Claw-back limitation: shortening the length of time the program retroactively covers treatment costs for newly enrolled patients
- Sunset option: a provision to give the legislature an opportunity to revisit the program if the federal matching rate changes (it is currently 90:10)
- Private mental hospital waiver: private mental facilities are currently prohibited from accepting Medicaid payments

IMA has not yet formally taken a position on any of these individual waiver options but, as a general policy, opposes unnecessary and costly barriers to coverage in Idaho. Experience in other states shows that restrictions are very expensive for the state and do not prove to be effective at doing anything other than endangering the very coverage Idahoans voted to provide. The IMA Board of Trustees meets on Friday, February 8 and will evaluate these proposals.

TOP PRIORITY ISSUES

Graduate Medical Education ~ *SUPPORT*

IMA strongly supports full implementation of the State Board of Education’s 10-Year Strategic Plan for GME Expansion, which will create 19 new slots for residents and fellows in the next year. It also increases the per-resident funding amount that the state provides to our existing GME programs, which is critical to their sustainability. This year is the second year of funding

for the ten-year plan and we anticipate programs will receive an additional amount of \$1,657,500 over and above existing funding for residency programs in Idaho.

Status: Presentations to JFAC are complete; budget setting will begin in February.

HB 109: Maternal Mortality Review Committee ~ **SUPPORT**

IMA has finalized legislation to create a Maternal Mortality Review Committee (MMRC) within the Idaho Department of Health and Welfare. The US has experienced an increase in maternal deaths in recent decades that far exceeds the rates in other comparable countries. For example, the US has a maternal death rate of 26.4 per 100,000 live births compared to other countries such as UK (9.2), Germany (9), France (7.8), Canada (7.3), Spain (5.6), Italy (4.2) and Finland (3.8). (Source: *The Lancet*). Idaho had six maternal deaths in 2017 (27.1 deaths per 100,000 live births) and has had an average of just over five maternal deaths per year from 2008 to 2017 for a total of 49 maternal deaths among Idaho women in that nine-year period. (Source: *IDHW 2017 Mortality Report by Idaho Vital Statistics*).

The majority of maternal deaths are preventable and the MMRC would be created to study why maternal deaths are happening in Idaho and what can be done to improve outcomes. The MMRC would cover all deaths, regardless of provider type or birth setting. The purpose is education, not punishment, and all MMRC work would be under the protection of state peer review statutes.

Status: This legislation was introduced and is awaiting a hearing in the House Health & Welfare Committee.

OTHER ISSUES

SB 1034: Access to Oral Chemotherapy

This legislation creates co-insurance parity for anti-cancer medications regardless of the route of administration so that oral medications are no costlier than those that are injected or administered intravenously.

Status: Awaiting a hearing in the Senate Health & Welfare Committee.

SB 1049: Partial-Birth Abortions

According to the bill sponsors, it is the purpose of this legislation to update the Idaho partial-birth abortion ban so it is consistent with the federal law that bans the performance of a partial-birth abortion except when necessary to save a mother's life.

Status: Awaiting a hearing in the Senate State Affairs Committee.

HB 9: Board of Medicine Statute and Administrative Rules Updates ~ **SUPPORT**

The Idaho Board of Medicine has undertaken a rewrite of their statutes and rules to modernize the language and to ensure that what is in law reflects the processes and procedures BOM currently follows. There are, however, a few new provisions:

New Grounds for Medical Discipline. BOM has added unprofessional or disruptive behavior to the list of acts that are considered grounds for medical discipline. The language in the new law addresses a physician who is: Engaging in a pattern of unprofessional or disruptive behavior or interaction in a healthcare setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; provided that such behavior does not have to have caused actual patient harm to be considered unprofessional or disruptive.

Changes to PA Supervision Ratios. BOM is increasing the number of PAs a supervising physician or alternate supervising physician may supervise from three to four. The

provision enabling a physician to petition the board to supervise up to six PAs will remain in place.

New PA Position on Board of Medicine. BOM is adding a PA position to their full board. The board will now consist of eleven members: seven physicians, one PA, two public members, and one representative of law enforcement.

Status: *The rules passed the House and Senate Health & Welfare Committees and will go into effect on July 1, 2019. HB 9, the statute change, passed the House by a vote of 69-0 and is now awaiting a vote of the Senate.*

HB 12: Expanded Access to Opioid Antagonists

Current law states only “prescribers or pharmacists” may prescribe an opioid antagonist. HB 12 revises the language to state that any health professional licensed or registered under this title may prescribe and dispense an opioid antagonist. The bill sponsor reports that some public health programs have been hindered by the original language.

Status: *Passed the House on a 69-0 vote and is awaiting a vote of the Senate.*

HB 58: Expansion of Idaho Legend Drug Donation Act

This legislation adds donation repositories to the current statute, including community health centers, free clinics, regional behavioral health centers, state charitable institutions and drug outlets. It also expands the definition of qualified donors.

Status: *Awaiting a hearing in the House Health & Welfare Committee.*

HB 59: Age for Self-Identifying as an Organ Donor on Driver’s License

This legislation clarifies that 15-year-old drivers are able to volunteer as organ donors on their driver’s licenses.

Status: *Awaiting a hearing in the House Health & Welfare Committee.*

HB 64 (previously HB 29): Reporting on Abortion Complications

HB 64 adds to and revises the legislation passed last year that requires reporting on abortion complications. The bill sponsor states that, “It is the intent of the State of Idaho to enact this statute to protect the health of women and advance Idaho’s medical knowledge about the frequency and nature of abortion complications in Idaho. The data collected as a result of this legislation will provide statistical information about actual patients who receive treatment because of an abnormal or a deviant process or event arising from the performance or completion of an abortion.”

Status: *Passed the House on a 54-16 vote and is awaiting a hearing in the Senate State Affairs Committee.*

HCR 4: Rejecting IDHW Rules Mandating Immunizations for Idaho School Students ~

OPPOSE

HCR 4 would reject (repeal) the entire docket of administrative rules of the Idaho Department of Health and Welfare requiring any immunizations for Idaho school students. The rationale is that these requirements “are not consistent with legislative intent.”

Status: *In House Ways & Means Committee – unlikely to receive a hearing this session.*

Rule Docket 16-0215-1802. Requiring Meningitis Vaccination for High School Seniors ~

SUPPORT

The Idaho Department of Health & Welfare has submitted an administrative rule that adds a new school entry immunization requirement. It requires a second dose of meningococcal (MenACWY) vaccination before a student enters the 12th grade in Idaho, or a first dose if the student was not previously vaccinated, starting with school year 2020-2021. If a student received their first dose of the vaccine at 16 years of age or older, they will not be required to receive the second dose before entry into the 12th grade.

Status: *This rule was adopted and will go into effect July 1, 2019.*

Rule Docket 27-0104-1802: Pharmacist Prescriptive Authority

In the 2017 and 2018 legislative sessions, the legislature passed laws to greatly expand pharmacist prescribing in Idaho. This year, pharmacist prescribing for allergic rhinitis, mild acne, and mild cough has been approved. Due to the efforts of the IMA, we were able to get some sideboards put into the rule (see underlined language below):

- Allergic Rhinitis. Prescribing is limited to intranasal drugs only.
- Mild Acne. Prescribing is limited to topical drugs only.
- Mild Cough. Only benzonatate may be prescribed for cough suppression. (We were also able to get them to change from acute cough as originally proposed to mild cough.)

The Idaho Legislature has made it clear that they support expansion of pharmacist prescribing and we expect additional conditions to be added in the coming years.

Status: *These rules were adopted and will go into effect July 1, 2019.*

Rules Docket 18-0130-1801: Insurance Coverage for Hearing Aids and Speech Therapy for Idaho Children ~ SUPPORT

Rep. Ilana Rubel (D-Boise) is leading the charge to require insurers to cover medically necessary hearing aids and speech therapy sessions for approximately 1,000 Idaho children who are deaf or hard of hearing. Under the new rules, insurers must cover new hearing devices once every three years, as well as 45 hours of speech therapy during the first year after receiving the hearing aid.

Status: *These rules were adopted and will go into effect July 1, 2019.*

NEW EXECUTIVE ORDERS FROM GOVERNOR BRAD LITTLE

On Thursday, January 31, Governor Brad Little signed two executive orders aimed at streamlining and reducing state occupational licensing rules and regulations. The first order creates “sunrise and sunset” processes for future licensing laws that will require them to face additional scrutiny to ensure they’re necessary. It also requires the state to review a portion of all licensing laws each year to determine if there are provisions that are no longer necessary and can be eliminated. The second order requires state agencies that issue new administrative rules to identify at least two existing rules to be repealed or significantly simplified for every new rule they propose. This is the so-called “Red Tape Reduction Act.”

Governor Little stated that none of the moves to reduce regulation will happen if they would compromise public safety. The IMA adopted a resolution at our 2018 House of Delegates aimed at this very subject. Resolution 202(18) states:

RESOLVED, Idaho Medical Association adopts policy in support of its ongoing involvement in the changes to scope of practice and licensure laws, rules and regulations proposed by non-physician healthcare providers and their licensure and regulatory boards for the purpose of protecting the health and safety of Idaho patients; and be it further

RESOLVED, Idaho Medical Association will work with stakeholders, including health profession advocacy groups, licensure and regulatory boards, legislators, individual providers and patients to uphold the highest education and quality standards for all healthcare providers to ensure the health and safety of Idaho patients.

NEW DOLLARS FOR IDAHO'S SUICIDE PREVENTION PLAN

Governor Little has recommended a \$1 million increase in funding for Idaho's Suicide Prevention Plan. The new five-year state plan has the goal of reducing suicide rates in Idaho at least twenty percent by 2025. The Idaho Department of Health and Welfare estimates that the current year's efforts have saved 52 lives and that this increased funding will allow them to do even more. The program includes creation and distribution of educational materials and tools, prevention packets to gun shops, distribution of free gun locks, training of nearly 5,000 professionals, students and community members, public service media announcements and school prevention programs.

Status: Presentations to JFAC are complete; budget setting will begin in February.

WEEKLY REPORTS ON LEGISLATIVE ACTIVITY

As always, the IMA will provide weekly electronic legislative reports during the session. If you have questions or concerns on any of the issues discussed in our reports, please contact us. We are always happy to provide context, additional information, or background on how IMA legislative policies are developed.

If we don't have your current email address you could miss out on important legislative news. If you would like to receive the reports, please send your current email address to membership@idmed.org or call us at (208) 344-7888. For more frequent legislative updates, follow the IMA on Facebook!

ADDITIONAL LEGISLATION

It is not possible for us to report on all legislation that is introduced in a legislative session. Go to this link for a complete list of 2019 legislation:
<https://legislature.idaho.gov/sessioninfo/2019/legislation/minidata/>.

SUPPORT IMPAC, THE IMA'S POLITICAL ACTION COMMITTEE!

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. Even though there was just an election in late 2018, please consider donating to IMA's political action committee (IMPAC). Campaign contributions are made during election years (every two years in Idaho) and it is important that the PAC coffers get refilled in the non-election years.

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

Go here to donate: [IMPAC](#)