



# Idaho Medical Association

## 2019 LEGISLATURE: IMA STATUS REPORT *Week of March 18 – March 22, 2019*

### **MEDICAID EXPANSION UPDATE – DUELING PROPOSALS**

There has been considerable activity on Medicaid Expansion this week, but there is still no clear direction from the legislature. There are now two primary proposals:

- **House Bill 277 ~ *OPPOSE***
  - Kicks people off coverage for failure to file paperwork to prove that they are working.
  - Eliminates coverage for 10,000 people in 100-138% FPL who are disqualified from purchasing plans on the exchange, creating a new gap.
  - Creates unnecessary costs and administrative burdens. At a time when we need our physicians to use their time providing health care, this bill may instead force them to use their time to process paperwork to help patients comply with work requirements or exemptions.
  - Requires a primary care referral to seek family planning services outside of the patient's medical home, which inflicts needless costs and fees on the patient.
  - HB 277's fiscal note is approximately \$7 million. None of this money goes towards patient care -- it all goes towards government bureaucracy.
  
- **Senate Bill 1204 ~ *SUPPORT***
  - Allows people eligible for Medicaid expansion to keep their coverage without restrictions.
  - It offers optional work training assistance to interested individuals without conditioning coverage on their participation. These work training assistance programs have been very successful in other states.
  - Contains a provision that eligibility for Medicaid expansion will move forward as planned even if CMS does not act in a timely manner on Idaho's waivers.
  - While SB 1204 does increase some costs when compared to "clean" implementation of Medicaid expansion, they are very modest and do not require several new layers of government bureaucracy.

HB 277 passed the House on a 45-25 vote with 14 Democrats and 11 Republicans voting no. There was passionate debate on both sides. The bill will now head to the Senate but there is no indication yet whether the Senate Health & Welfare Committee will hold a hearing on the bill.

SB 1204 passed the Senate Health & Welfare Committee yesterday on a 5-4 vote. That bill will now head to the Senate floor for a vote of the full Senate.

The Idaho Medical Association Board adopted three principles for IMA to evaluate potential legislation of this nature, and directed us to oppose any bills that would:

- Take away coverage from eligible individuals or are punitive in nature

- Add administrative burdens and costs to the state in implementing Medicaid expansion
- Lead to delayed implementation of Medicaid expansion

Our evaluation of HB 277 shows that it clearly violates the first two principles and possibly the third, resulting in IMA's opposition. SB 1204 does not violate any of our principles, which led to our support position.

There will undoubtedly be continued activity on Medicaid expansion next week and we will alert you to any significant developments. Thank you very much to all who have sent messages to your legislators on this important issue – we appreciate your involvement!

## CHALLENGE TO CURRENT IDAHO VOTER INITIATIVE PROCESS

### **SB 1159: Revise Ballot Initiative Requirements**

This legislation seeks to change Idaho's current voter initiative laws as follows:

<b>Current Law</b>	<b>If SB 1159 Passes</b>
18 months to gather voter signatures	180 days to gather voter signatures
Signatures of six percent of voters	Signatures of ten percent of voters
Signatures from voters in 18 legislative districts	Signatures from voters in 32 legislative districts
No fiscal impact statement requirement	Fiscal impact statement required
No funding source requirement	Identification of funding source

One of the purported reasons for this legislation is to get more voter inclusion in the process by increasing the requirements for signatures from voters in legislative districts. Another is to ensure that there is not an increase in the number of voter initiatives that make the ballot, such as the current environment in Oregon and California. Legislators have repeatedly stated this bill is not a reaction to the passage of Prop 2, the Medicaid expansion initiative.

Passage of SB 1159 will significantly shorten the time allowed to gather signatures, will significantly increase the number of signatures needed, and will significantly increase the number of counties from which signatures will be required. In addition, it requires a fiscal impact statement and identification of a funding source, which are very difficult requirements for the general public to fulfill. Generating a financial analysis of legislation and identifying funding sources requires not only knowledge of, but access to, state budgeting processes and numbers that are not usually known to the public.

There have been 15 successful initiatives over the last approximately 100 years of Idaho history. Those who worked on Prop 2 know how difficult it is to meet the current requirements to get initiatives on the ballot. Stringent requirements are a good thing because it is important for ideas to be vetted by a large number of voters before they are placed on the ballot. IMA urges caution and hopes the legislature will give careful consideration to the ramifications of such legislation.

**Status:** *The Senate State Affairs committee heard two days of public testimony last week and voted to hold the bill in committee at the call of the committee chair. This means the chair can revive the bill and bring it before the committee for a vote. If the chair does not act, the bill is dead for the session.*

*The committee chair brought the bill up for a vote this week and it passed and was sent to the Senate floor for a vote. The Senate voted 18-17 to pass the bill and it will move to the House State Affairs Committee for a hearing.*

## TOP PRIORITY ISSUES

**SUCCESS! SB 1165: Graduate Medical Education ~ SUPPORT**

IMA lobbyists have been advocating for full funding of the Governor's recommendation to bring state funding for existing GME programs up to \$40K/position, and the creation of 19 new positions at \$60K. However, JFAC's proposal shaved \$215,000 off of the budget request and funds the new GME positions at \$50K. IMA expressed concern that it might not be possible for programs to stand up expansion seats for less than \$60K. JFAC then recommended the \$215K be allocated to the University of Idaho ECHO program, which the Governor did not include in his original budget recommendation.

*Status: LAW.*

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

IMA sponsored a bill to create a Maternal Mortality Review Committee (MMRC) within the Idaho Department of Health and Welfare. 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 be a multi-disciplinary group made up of physicians, nurses, midwives and other health professionals. MMRC proceedings would be completely confidential and the privacy of affected individuals is strictly protected and not divulged. The purpose is education, not punishment, and all MMRC work would be under the protection of state peer review statutes. There are no state funds required to develop the MMRC, as CDC grant funds are available to cover the cost. The bill has a four-year sunset to coincide with the duration of the grant funds.

*Status: LAW.*

**NEW BILLS THIS WEEK**

**HB 275: Short-Term Health Insurance Plans**

This bill, sponsored by the Idaho Department of Insurance, defines and provides for the purchase of enhanced short-term health insurance plans. On August 3, 2018, the U.S. Departments of the Treasury, Labor and Health and Human Services issued new rules to amend the definition of short-term, limited-duration insurance to lengthen the maximum duration of short-term health insurance. This bill defines enhanced short-term health insurance and brings Idaho in compliance with new federal rules that went into effect on October 2, 2018.

Enhanced short-term plans will have an initial period of less than twelve (12) months and allows an individual to renew the policy for up to the number of months established by the Idaho Department of Insurance. This bill establishes a new section of code to allow the director of the Idaho Department of Insurance to adopt rules and standards for enhanced short-term health insurance plans.

*Status: Passed the House Business Committee and is awaiting a vote on the House floor.*

**FUNDING FOR THE OFFICE OF HEALTHCARE POLICY INITIATIVES (OHPI) ~ SUPPORT**

The Healthcare Transformation Council of Idaho (HTCI) – the successor to the Idaho Healthcare Coalition (IHC) – and the Office of Healthcare Policy Initiatives (OHPI), are seeking to continue promoting the advancement of patient-centered healthcare delivery transformation in Idaho. These entities have been critical to the implementation of the SHIP grant project, which has been a major success for Idaho.

Guided by the IHC and administered by OHPI, SHIP facilitated the transformation of 162 primary care practices across the state to patient-centered medical homes; engaged payers to evolve their payment models from paying for volume of services to paying for improved health outcomes; and through their work, the state bent the cost curve by \$90M (i.e., avoided additional spending).

These achievements are the result of a four-year effort aimed at implementing targeted healthcare reforms in Idaho. Now in order to keep that momentum, support for the HTCI and the OHPI is essential to continue Idaho's efforts to achieve improved health, improved healthcare delivery, and lower costs. IMA supports sustaining this work of the HTCI and the budget request necessary for the OHPI to continue playing their essential role in implementing future reform.

**Status:** *An appropriations bill will be introduced for a vote of the House and Senate.*

## **EXPANSION OF PHARMACIST PRESCRIBING SIGNED INTO LAW**

### **HB 182: Expansion of Pharmacist Prescribing ~ *OPPOSE***

Eighteen out of the 22 members of both the House and Senate Health & Welfare Committees are co-sponsoring a bill that will greatly expand our existing pharmacist prescribing laws, which are already the most liberal in the country.

This legislation will allow pharmacists to prescribe any medications they choose to treat any conditions that, in the pharmacist's judgment:

- Do not require a new diagnosis;
- Are minor and generally self-limiting;
- Have a test that is used to guide diagnosis or clinical decision-making and are waived under the federal clinical laboratory improvement amendments of 1988; or
- Threaten the health or safety of the patient should the prescription not be immediately dispensed.

The bill says pharmacists must prescribe in accordance with FDA product labeling and existing language in the statute says they cannot prescribe controlled, compounded or biological drugs or products. The Board of Pharmacy will no longer be required to develop administrative rules to authorize specific drugs or conditions allowed for use or treatment by pharmacists.

HB 182 is counter to Idaho's preferred method of healthcare delivery through patient-centered medical homes and coordination of care. Pharmacists do not have access to patient medical records and patients might not be able to provide complete information about their specific conditions and medications. Supporters of the bill assured committee members that the bill will improve access to care and that pharmacists will be conservative in their prescribing habits.

Despite IMA testimony expressing serious concerns with the bill, both the House and the Senate Health & Welfare Committees passed the bill unanimously. The Idaho legislature remains convinced that non-physician providers need to have a much larger role in patient care than has traditionally been seen in practice.

**Status:** *LAW.*

## **OTHER ISSUES**

### **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:** LAW.

### **HB 12: Expanded Access to Opioid Antagonists ~ SUPPORT**

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:** LAW.

### **HB 58: Expansion of Idaho Legend Drug Donation Act ~ SUPPORT**

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:** LAW.

### **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:** LAW.

### **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:** LAW.

### **HB 114: Female Genital Mutilation**

This legislation makes female genital mutilation of a minor a felony.

**Status:** LAW.

### **HB 133: Notice of Immunization Requirements**

This legislation requires daycares and schools to notify parents or guardians of their right to opt out of immunizations at the same time they provide information about immunization requirements.

***Status:** Passed the House on a 52-17 vote. The Chair of Senate Health & Welfare Committee, Fred Martin (R-Boise) has announced he will not schedule the bill for a hearing and that the bill is dead for the session.*

### **HB 172: Hospital Districts**

This legislation amends existing law to provide that a person shall not simultaneously serve as both a trustee for a hospital district and on the board of directors for a hospital within the same district.

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

### **HB 180: Syringe and Needle Exchange Act ~ SUPPORT**

This legislation allows the Department of Health & Welfare, a government entity, or a private organization to operate a syringe and needle exchange program in Idaho. The administrator of such a program is responsible for giving instructions on methods for preventing Hep C and HIV, as well as options for obtaining substance use disorder treatment, testing for blood-borne diseases, and opioid antagonists.

***Status:** Passed the House on a 47-20 vote and the Senate on a 22-11 vote and is awaiting a vote of the Senate.*

### **HB 181: Child Abuse**

This legislation broadens the definition within child abuse statutes to remove the term “subdural hematoma” and replace it with the term “head injury.” This change will help to identify potential abuse situations by allowing the consideration of various types of head injuries.

***Status:** LAW.*

### **HB 244: Licensing Naturopaths Under the Idaho Board of Medicine ~ NEUTRAL**

This legislation would create state licensure for naturopathic physicians with 4-year post-graduate training from accredited naturopathic colleges. Neither the Board of Medicine nor the IMA are opposing this legislation because it would give the Board of Medicine oversight and regulatory authority over these practitioners rather than creating a regulatory board made up of other naturopaths. (This bill replaces HB 152 and HB 196.)

***Status:** Passed the House on a 64-3 vote and the Senate on a 32-2 vote and will go to the Governor for signature into law.*

### **HB 266: Provider Reporting of Sexual Assaults**

This legislation states that hospital staff and providers are not required to report sexual assaults to law enforcement when rape kits are collected. It clarifies that victims can assert their right to privacy and hospital staff and providers will not include the victim’s name, address or other personally identifying information in the report accompanying the rape kit.

***Status:** Passed the House on a 67-0 vote and will now go to the Senate Judiciary & Rules Committee for a vote.*

### **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: Will not proceed.*

**SB 1003: Human Trafficking – Diversion of Minor Victims ~ *SUPPORT***

This bill provides a safe harbor provision to protect minor victims of human trafficking from criminal prosecution or juvenile proceedings for nonviolent offenses where committing the offense was a direct result of being a victim of human trafficking. The bill allows for diversion of minor victims into a program that provides comprehensive case management, integrated recovery services, education and employment training, and off-site specialized services. The bill also provides an affirmative defense for identified nonviolent offenses for adult victims of human trafficking where the nonviolent offense was committed as a direct result of being a victim of human trafficking.

*Status: Passed the Senate unanimously and is awaiting a vote of the House.*

**SB 1005: Human Trafficking - Prosecution ~ *SUPPORT***

This bill makes changes in definitions of trafficking and requires additional training for law enforcement to allow them to better identify traffickers. It also makes trafficking an independent crime. In effect, this legislation makes it easier for prosecutors to charge traffickers.

*Status: LAW.*

**SB 1034: Access to Oral Chemotherapy ~ *SUPPORT***

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: Passed the Senate on a 27-8 vote and is awaiting a hearing in the House 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: LAW.*

**SB 1068: Requirements for Pharmacy Benefit Managers (PBMs) ~ *SUPPORT***

This legislation creates registration for PBMs under the Idaho Department of Insurance and requires transparency of PBM activities in Idaho.

*Status: Passed the Senate on a 32-2 vote and failed in the House Health & Welfare Committee. Will not proceed.*

**SB 1097: Coverage During Clinical Trials ~ *SUPPORT***

This legislation ensures that health benefit plans cover the costs for the same standard of care a patient would receive if they were not in a clinical trial, while not being required to pay for the costs of the trial itself.

*Status: LAW*

**SB 1098: Bone Marrow Donors ~ *SUPPORT***

Allows physicians to inquire whether patients ages 18-45 are bone marrow donors and to provide information about bone marrow donor registration.

**Status:** *Passed the Senate on a 34-0 vote and is awaiting a hearing in the House Health & Welfare Committee.*

### **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 12<sup>th</sup> grade.

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

### **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](mailto: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!**

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