

2010 INA Legislative & Regulatory Issues

Legislative Issues

1. Support the authority of the Iowa Board of Nursing to define the scope of nursing practice.

The bills listed below seek to override the authority of the Board of Nursing to regulate nursing practice.

INA is opposed to their passage. The “No Action Taken” favours the nursing position.

- a) **SSB 3085** defines chronic interventional pain management as practice limited to physicians, dentists and podiatrists. Also bans use of fluoroscopy by other health professionals. Subcommittee Jan 28; no action to recommend passage. NO ACTION TAKEN
- b) **HF 2136** companion bill to SSB 3085 but adds rulemaking authority and a penalty. Subcommittee held Feb 3. NO ACTION TAKEN
- c) **HJR 2006** A joint resolution to nullify administrative rules of the Board of Nursing concerning advanced registered nurse practitioners and providing an effective date. Referred to House Judiciary Committee. NO ACTION TAKEN
- d) **SJR 2003** A joint resolution to nullify administrative rules of the Board of Nursing concerning advanced registered nurse practitioners and providing an effective date. Referred to Senate Judiciary Committee. NO ACTION TAKEN

2. Support initiatives to provide safe, portable and accessible health care to all Iowans.

BILLS THAT PASSED

- a. **Nurse Aide Background Checks** HSB 514 now HF 2338 and SSB 3052 now **SF 2149**. The Senate passed SF 2149 and sent it to the House. The House took up HF 2338 and substituted the Senate bill and passed it 94-0 on Feb 16. Governor signed February 24.
- b. **IOWACARE PLUS** SF 2092 now **SF 2356** the IowaCare Plus program. This updates Iowa Health Care Reform of 2008 and 2009. It calls for a study on assistance with insurance premiums for those between 19-64 years of age who have incomes of 200% but not in excess of 300% FPL; expands the population provider network, review of medical transportation costs for IowaCares, diabetes care coordination and extends the Iowacare waiver. The Insurance Information Exchange would provide information about health care coverage, costs and comparisons and assistance for the uninsured. Recommended for passage by House Human Resources. Amended to add a Health Insurance Exchange and passed House 93-0. Governor signed April 14

BILLS THAT FAILED

- a. **RN circulator nurse SF 394** remained in subcommittee; did not make it to the full House Human Resources Committee for consideration because of a lack of a majority vote. FAILED PASSAGE
- b. **Midwife Licensure: HF 781, HF 2297 now HF 2494 and SF 2070** HF 2494 died on the House calendar. Amendments filed did not address INA's request for completion of an academic education program prior to licensure. It died in the Second Funnel. March 9 it was referred to House Appropriations. A fiscal note estimated a cost of \$75,000 which the House Appropriations would have to find in the budget to move the bill forward. INA staff asked for an amendment to the bill to again seek desired language. (See March 12 issue for five points requested for amendment) FAILED PASSAGE

3. Promote and support core public health functions (pandemic/mental health/etc.)

MENTAL HEALTH

BILLS THAT PASSED

- a. **Mental Illness and Substance Abuse Treatment Coverage for Veterans SF 2201** (Section 15)
Provides for coverage for veterans for mental disorders to be defined by the Insurance Commissioner and consistent with the most recent edition of the APA DSM manual of mental disorders. Amended (H.8625) by Rep. Zirkelbach late Thursday, March 25 by voice vote; Senate retained language. Governor signed April 9.
- b. **No Closure of a Mental Health facility: SF 2088** Final bill does not close a Mental Health Institute. Governor signed March 10.
- c. **Mental Health drugs for Medicaid** (in State Government Reorganization Bill) **SF 2088**. INA has been worked with NAMI and other interested parties to assure access for clients. Acceptable language on medications remained in the bill. Governor signed March 10.
- d. **SF 2352 Emergency Hospitalization of Persons with impairment** (Parkersburg incident) Amended and passed House; Senate concurred; Governor signed March 24
- e. **Domestic Abuse and Guns SF 2357** Governor signed March 22
- f. **Military Mental Health Board SF 2175** (Governor wants this passed)- Governor signed April 6.
- g. **Enticing a Minor-HF 2438-** Governor signed April 12
- h. **Autism Spectrum Disorder Coverage 514C.26 -SF 2349 amended into HF 2531** (Standings Bill)

BILLS THAT FAILED

- i. **Mental Health & Substance Abuse Coverage HF 234** and **HSB 590** failed.
- j. **Domestic Abuse – Strangulation – SF 2351-** died on House calendar

PUBLIC HEALTH

BILLS THAT PASSED

- k. Local Board of Public Health bills- HSB 518 now HF 2194 (withdrawn) and SSB 3046 **now SF 2266** with H.8208 filed. House passed March 1 98-0; Governor signed March 10.
- l. State Board of Public Health bills HSB 519 **now HF 2183** and SSB 3047 now SF2148 (withdrawn)

Senate passed 46-0 Feb 15; House substituted HF 2183 and passed; to Senate, amended and passed 46-0. Governor signed March 22.

4. Support funding to increase nursing faculty in Iowa and to address the serious shortage of nurses across all practice areas.

BILLS THAT PASSED

- a. Iowa Needs Nurses Now SF 2168 > SF 2255 >**SF 2384** and HSB 634> HF 2445 with H.8206 filed>HF 2533. Consensus reached between the INNN coalition, House legislator and College Aid Commission regarding the scholarship program by creating two; one that is a clear scholarship program and a scholarship-in-exchange-for service program.

The agreement assures there are five “receptacles” for receipt of private or federal funds to support the programs to support the preparation of additional nurse educators. Passed Senate and House March 25. Governor signed April 21.

- b. Monitoring of the Education Appropriations Subcommittee and the Iowa College Aid Commission funding. SSB 3248>**SF 2376** approved by Senate Appropriations. Section 2 item 8 of the bill has the RN and Nurse Educator Loan program funded at \$86,736, a decrease from 2008 (\$100,000) and 2009 (\$90,000). Governor signed April 22.

OTHER BILLS OF INTEREST TO NURSING

Appropriations

Health & Human Services- HF 2526- Appropriates \$942.6 million from the General Fund to the Dept of Aging, Dept of Public Health, Dept of Human Services and Veterans Affairs. Numerous programs are funded including provisions in Community Capacity in Dept of Public Health: Governor signed April 29.

- Establishment of a Board of Direct Care Workers within the Dept of Public Health by July 1, 2014 contingent upon the availability of funds to establish and maintain the board.
- Appropriation of \$135,000 for the Direct Care Worker Association with a requirement of submission of a completed copy of the Association’s Federal 990 Tax Form to
- Appropriation of \$180,000 for the Direct Care Worker Task Force
- Appropriation of \$63,000 for scholarships or other forms of subsidized direct care worker educational conferences, training, or outreach activities.
- Appropriation of \$55,214 for local public health modernization and redesign.
- Appropriation of \$184,050 for mental health professional shortage programs
- Appropriation of \$74,517 for local board of health medical home pilot programs
- Appropriation of \$63,592 for a child vision screening program through the University of Iowa Hospitals and Clinics in collaboration with Community Empowerment areas
- Appropriation of \$129,741 for a University of Iowa initiative to expand and improve the mental health treatment and services workforce and \$117,142 for a similar initiative at the Mental Health Institute at Cherokee.

Dept of Aging

- Authorizes implementation of the certified retirement communities program but defers until the Dept of Aging has the resources for implementation.
- Authorizes implementation of dementia training and education programs but defers until the Dept of Aging has the resources for implementation.

Dept of Human Services

- Requires DHS to request and implement, if approved, a federal waiver to add assisted living services to the home and community-based services for the elderly under the Medicaid program.
- Requires the FY 2010 reimbursement rates for providers to remain at the rate in effect June 30, 2010.

Administration & Regulation- SF 2367- Appropriates \$63.56 million to the Departments of Inspections & Appeals, Administrative Services, Human Rights, Management, Revenue, Governor, Treasurer, Auditor, Secretary of State, IPERS and others.

- House amendment included \$250,000 to the Dept of Inspections & Appeals if SF 2333 is passed; the Senate removed the language with S-5315
- House amendment required the Dept of Administrative Services to issue an RFP for a contract for a manager for the medication therapy program and sunset the program as of December 2011; the Senate removed with S-5315.
- House amendment raised the fee per covered employee on health insurance plans to \$4 from July 2010 to December 2011; the Senate removed the language with S-5315. Governor signed April 29.

Standings Bill – HF 2531

Division III several sections- State salaries

Section 83- Pharmaceutical collection and disposal program \$150,000; costs for autism spectrum disorder coverage \$140,000; Insurance exchange, \$150,000

Section 87- Medicaid Fraud Unit - \$250,000

Section 90- Medical Assistance (additional funds) - \$187,800,000

Section 107- Impasse Procedures and Mediation

Section 132- Genetic Testing definitions

Section 166- Medication Therapy Management

Section 201-Expansion Population provider network (249J.7)

Section 207 Hospital Health Care Access Trust Fund \$39,406,000

BILLS THAT PASSED

Due Process Rights of Persons to be placed on child abuse or dependent adult abuse registry (Health Facility Regulations): HSB 612 SSB 3103 now **SF 2333** Adds provisions for requirements for inspectors of Dept. of Inspections & Appeals for hospital inspections that mirror the 2008 legislative changes for nursing homes. Modifies the appeals process for child and dependent adult abuse. Senate passed SF 2333 47-0 and sent to the House. HF 2149 now HF 2451 Amendment filed to HF 2451 which makes the bill comparable to the Senate bill. Senate File substituted for House File and passed. Governor signed April 29.

Clean Claims Payment for ARNPs –SF 2201 (Section 16). The Insurance Commissioner is directed to adopt rules to provide for the retrospective payment of clean claims for covered services provided by a physician **adding ARNPs and PA's** to Iowa Code section 514F.6 Governor signed April 9.

Air Quality -HF 2418 – Requires convening of a task force every five years to review emission standards and related matters and making reports. Governor signed April 7.

Green Cleaning in schools and state agencies – HF 823 Recognizes sensitivity of some people to products. Allows for depletion of existing supplies. Governor signed April 23.

Health Insurance Mandate Cost Review – SF 2201 (Section 5) Adds a new subsection 505.8 that the Insurance Commissioner shall annually convene a work group to consider ways to reduce the cost of providing health insurance coverage. Governor signed April 9.

(Section 32) Amends 2009 Iowa Acts, chapter 118, section 1 to add a new subsection. New requirement is placed on the Commission for an annual review of the cost of health insurance mandates currently imposed on health insurance regulated by the state and to provide projections of the cost of any mandate.

Health Insurance Rate Increases – SF 2201(Section 7) calls for an Annual Report with findings of health spending costs for insurance plans in the state. (Section 8) Adds a new section in 505.19 requiring public hearing and comment about health insurance rate increases. Governor signed April 9.

Injury Treatment Notice – HF 674 Includes EMS workers in provisions for reporting of serious wounds, but suspends the rules on confidential information to allow reporting of serious wounds. Governor signed April 12.

Physician Assistant Limited Liability Corporations (LLC)- SF 153- Amended to remove advanced practice nurses (who already have the ability to form such corporations. Governor signed April 13.

BILLS THAT FAILED

Assisted Living Programs HF 2463: Defines services provided by a certified assisted living center and provides that an assisted living program is prohibited from ceasing operation if the program provides or continues to provide services which meet the definitions of an assisted living program.

Lactation in the Workplace: SF 2112 now **SF 2270** Requires employers to give an employee reasonable time at work to express milk, and to make reasonable efforts to give her a private place. Passed Senate 29-15 February 18; awaiting House debate. Was amended into **HF 2531 Standings** bill by Sen. Jochum (S.5344); Sen. Boettger attempted to strike (S.5383) and make no more stringent than federal regulation- Failed; in House, Rep. Tymeson amended (H. 8647) and removed from the bill.

Regulatory Issues

Final Rules as of September 1, 2010

Chronic Interventional Pain Management (653-13)

The rule establishes standards of practice for interventional chronic pain management. The stated purpose of the rule is to assist physicians who consider interventional techniques to treat patients with chronic pain. It could exclude advanced practice nurses from offering due to phrasing. Effective August 4, 2010.

Controlled Substances – Designation of Imitation (657-10)

Adopts a new rule which identifies four synthetic cannabinoids as imitation controlled substances subject to regulation. Effective July 22, 2010.

Dependant Adult Abuse in Facilities and Programs (481-52)

Chapter 52 relates to civil findings of dependent adult abuse in health care facilities and programs. Specifically, the rules provide definitions; specify who must report and the reporting procedures, and set forth the process for evaluating reports and gathering evidence. Effective January 1, 2010

Emergency Dependent Adult Abuse (441-176.1)

Extends the retention period for dependent adult abuse information that is determined to be unfounded from one year to five years and requires the Department to keep records of dependent adult abuse reports that are rejected for evaluation or assessment for three years from the rejection date. Effective August 13, 2009

Health Care Facilities (481-50)

This rule making is intended to implement 2009 Iowa Acts, Senate File 433. The amendments to Chapter 50 include new requirements for exit interviews, plans of correction, and revisits; set forth the process for handling complaints and self-reported incidents; update requirements for service; and include inspector conflict of interest provisions. The amendments to Chapter 56 add waiver provisions for violations, self-identification procedures, procedures for the 35 percent reduction, and provisions for double class I fines for intentional violations and update the appeals and informal conference portions to conform with the new law. The amendment to Chapter 58 adds training requirements for nursing facility inspectors to conform with the new law. Effective February 3, 2010

In-home health related care-health assessment (441-177)

Provides that an ARNP or physician assistant may certify a prospective care provider's ability to provide services under State Supplementary Assistance (SSA) in-home health related care program. Effective September 1, 2010.

Immunizations-Vaccination Schedule (641-7)

Describes the immunization requirements for attendance at elementary or secondary schools or licensed child care centers and requirements for immunization education of students entering institutions of higher education. The amendments change the childhood vaccination schedule, specifically affecting the polio vaccine, based upon a new recommendation from the Centers for Disease Control and Prevention (CDC). The amendments also add a new use of the immunization registry, which allows the Department to track inventory or utilization of pharmaceutical agents to prepare for or respond to an emergency event. Effective May 12, 2010

License Application for reinstatement or suspended or revoked license (655-4)

Amendments change the rule related to applications for reinstatement to meet current office procedures. Effective July 7, 2010.

Licensure By Examination and Endorsement (655-3)

Amendments make the requirements for license by examination of foreign-educated nurses the same for both RNs and LPNs. Effective July 7, 2010.

Prescription Drug Donation Repository in Disaster Emergencies (641-109)

Describes the requirements for medical facilities and pharmacies to accept and dispense donated prescription drugs and supplies and the eligibility criteria for individuals to receive donated prescription drugs and supplies. Effective September 15, 2010.

Psychiatric Medical Institutions for Children-Physical Restraint (481-41)

Makes the restraint standards consistent between the Dept of Inspections & Appeals and the Dept of Education. Effective July 21, 2010

Retrospective Payment of Claims for ARNPs and physician assistants (191-70)

Implements 2010 Iowa Acts, Senate File 2201, section 16 which includes advanced registered nurse practitioners and physician assistants in the provisions addressing retrospective payment of clean claims for covered services during the credentialing period. Effective September 29, 2010.

Supervision of Fluoroscopy by ARNPs (655-7)

These amendments allow the advanced registered nurse practitioner (ARNP) to be permitted to provide direct supervision in the use of fluoroscopic X-ray equipment and define the provisions necessary for supervision. Effective August 5, 2009.

Supervision of Fluoroscopy by ARNPs (641-41)

These amendments clarify the Dept of Public Health rules governing the supervision of fluoroscopic procedures to include ARNPs. Effective May 12, 2010

2010 HISTORY OF ACTION ON CHRONIC INTERVENTIONAL PAIN MANAGEMENT

The Iowa Nurses Association supports the authority of the Iowa Board of Nursing to define the scope of nursing practice in the State of Iowa.

The following is a history of actions taken by the Iowa Society of Anesthesiologists and Iowa Medical Society to minimize the authority of the Board of Nursing to regulate the practice.

- a) **SSB 3085** (2010) defines chronic interventional pain management as practice limited to physicians, dentists and podiatrists. Also bans use of fluoroscopy by other health professionals. Subcommittee Jan 28; no action to recommend passage. **NO ACTION TAKEN *favours the nursing position***
- e) **HF 2136** companion bill to SSB 3085 (2010) but adds rulemaking authority and a penalty. Subcommittee held Feb 3. **NO ACTION TAKEN *favours the nursing position***
- f) **HJR 2006** (2010) A joint resolution to nullify administrative rules of the Board of Nursing concerning advanced registered nurse practitioners and providing an effective date. Referred to House Judiciary Committee. **NO ACTION TAKEN *favours the nursing position***
- g) **SJR 2003** (2010) A joint resolution to nullify administrative rules of the Board of Nursing concerning advanced registered nurse practitioners and providing an effective date. Referred to Senate Judiciary Committee. **NO ACTION TAKEN *favours the nursing position***

- h) Board of Medicine noticed a rule for intended action on Friday February 5, 2010 establishing standards of practice for interventional chronic pain management (ICPM) stating the purpose is to assist physicians who consider interventional techniques to treat patients. BOM stated that it does not bar CRNAs from practice of chronic pain, however the rule states: (3) *Practice of medicine*. Interventional chronic pain management is the practice of medicine.
- i) Board of Health voted 6-3-1 to approve the rule on fluoroscopy/ radiological devices on March 10, 2010
- g) Board of Medicine held Public Hearing on March 30, 2010 for noticed rule “Standards of Practice—interventional chronic pain management” (653-13.9). At hearing Iowa Medical Society is asking for restrictions on “collaboration with other health care providers” so that ICPM is reserved solely for physicians.
- h) Iowa Association of Nurse Anesthetists (IANA) filed a petition April 7, 2010 with the Board of Medicine requesting that the Board declare whether it will interpret the proposed rule ARC 8579B to mean that the practice of chronic interventional pain management is “solely and exclusively the practice of medicine”
- i) Board of Medicine – April 9, 2010 reviewed public comment. Board of Medicine did vote to withdraw the policy statements from their website.
- j) Administrative Rules Review Committee – April 13, 2010 Heard comments on noticed rule of Board of Medicine on interventional chronic pain management
- k) Iowa Medical Society files a petition April 27, 2010 to intervene in the IANA Petition for Declaratory Order by the Iowa Association of Nurse Anesthetists on proposed rule ARC8579B.
- m) Iowa Board of Public Health met by conference call May 4, 2010 to approve a Concise Statement in response to the Iowa Society of Anesthesiologists.
- n) Iowa Board of Medicine met May 6, 2010 and voted to deny the Petition for Declaratory Order that the practice of chronic interventional pain management is “solely and exclusively the practice of medicine”.
- o) The Administrative Rules Review Committee did not grant the request for objection to the supervision of fluoroscopy rule (ARC 8659B) as requested by the Iowa Medical Society and the Iowa Society of Anesthesiologists. The rule goes into effect May 12, 2010.
- p) Board of Medicine on June 11, 2010 voted to notice administrative rule ARC 8918B which states that chronic interventional pain management is the practice of medicine and does not clarify the ambiguity of the rule’s impact on the nursing profession.
- q) June 21, 2010 both the Iowa Society of Anesthesiologists and Iowa Medical Society file a Petition for Judicial Review of ARC 7714B and ARC 8659B rules of the Iowa Board of Nursing and Iowa Dept of Public Health which allow ARNPs to use fluoroscopy.
- r) July 7, 2010 Hearing before the Administrative Rules Review Committee that the Board of Medicine’s rule on chronic interventional pain management. Request made to formally object to the rule. Motion dies for lack of a sixth vote to object.
- s) August 16, 2010. Administrative Rules Review Committee discusses the Motion to Object and in consideration of not setting precedence, does not take action to object to the Board of Medicine’s rule.
- t) August 19, 2010 Motion to Intervene on behalf of the Iowa Nurses Association regarding petitions by Iowa Society of Anesthesiology and Iowa Medical Society filed as drafted by American Nurses Association and Iowa Nurses Association. ANA is providing legal representation for INA’s petition. ANA’s Office of General Counsel drafted the pleadings, and motions are pending for admission to the local courts. INA Legal Counsel, Lynn Boes, is helping ANA in its provision of legal services to INA in this petition.
- u) September 1, 2010 Resistance to INA motion to intervene by Iowa Society of Anesthesiology noticed.