

2011 INA Legislative & Regulatory Issues

Legislative Issues

This legislative session was the third longest in history. A point of contention was the funding for education spending.

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

Three bills that would have been detrimental to the work of regulating nursing practice died.

- a) **HF 30 Scope of Practice** (This bill provides that no licensing board can adopt rules affecting the scope of practice of another licensed profession without the approval of the other licensing board.)
- b) **HF 40 Board of Nursing Executive Director** (This bill would require that the members of the board of nursing conduct a performance review of the executive director at least once per year.)
- c) **HF 90 Analysis of Rules proposed by Licensing Boards** (This bill would create two distinct analysis requirements for administrative rules adopted by health-related licensing boards. One: The scope of practice impact statement requires that a health-related licensing board analyze the impact of a rule upon the duties and functions of a licensed health profession and Two: a cost-analysis on specific subjects related to regulation.)

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

BILLS THAT PASSED

- a) Three bills were passed and signed for ARNP signatures of services to Iowans
ARNP Practice: 2000 Resolution #3; 2002 #10; 2003 #6; 2006 #5
 - Sign death certificate **HF 393** Governor **signed April 6**
 - Sign DOT form re unsafe to drive: **SF 149** Governor **signed March 30**
 - Sign all four quarterly reports to the court on commitments: **SF 525** Governor signed July 26
- b) **Mental Health/Substance Abuse Parity. 1999 #9, 2000 #2 & #8, 2002 #4, 2004 #12, 2005 # 16:**
Reforming MH **SF 525**; Governor signed July 26

It is intent of the general assembly to redesign the system for adult disability services to implement all of the following:

- a. Shifting the funding responsibility for the nonfederal share of adult disability services paid for by the Medicaid program, including but not limited to all costs for the state resource centers, from the counties to the state.
- b. Reorganizing adult disability services not paid for by the Medicaid program into a system administered on a regional basis in a manner that provides multiple local points of access to adult disability services both paid for by the Medicaid program and not paid for by the Medicaid program.
- c. Replacing legal settlement as the basis for determining financial responsibility for publicly funded disability services by determining such responsibility based upon residency.
- d. Meeting the needs of consumers for disability services in a responsive and cost-effective manner

Specific nursing provisions are found at:

- ✓ Division III- Section 7 - Psychiatric Medical Institutions for Children (PMICs)-allows that the membership of the team of professionals may include but is not limited to an advanced registered nurse practitioner or a physician assistant.
- ✓ Division V, Section 51 – Iowa Code 226.9C in screening for Dual Diagnosis, it shall be done by a mental health professional as defined in 228.1 means a professional (including nursing) with a masters degree, a current Iowa license and at least two years of post-degree clinical experience assessing mental health needs.
- ✓ Division V, Section 52- Iowa Code 229.1(12) defines a psychiatric mental health ARNP by adding the word “mental” to the definition.
- ✓ Division V, Section 53-Iowa Code 229.1 (12) Strikes the requirement for an annual review by a psychiatrist for quarterly reports to the courts for commitments.

c) **Health Care Reform-State Level**

Electronic health bill: **SSB 1060>SF 404** was amended into HF 649, Division XIV Health Information Technology (HIT) System

BILLS THAT FAILED

- d) **RN Circulators- SSB 1035.** Senate Human Resources: **Died** and **HF 308** House Human Resources **Died** Requested requiring that an RN be present in the operating room.
- e) **Certified Professional Midwife licensure SF 484 Died March 29.** Bill does not address INA concerns for the level of education of the CPM.

INA monitored these bills that also failed:

- Certificate of Merit for Malpractice Insurance: **HSB 27>HF 490** House passed March 14 62-31; Senate Judiciary: Hogg, Jochum and Whitver **Died**
- Insurance Coverage Repeal-payment ARNPs – HF 15 **Died**
- Healthcare Professional Lien Act: **HF 540**

f) **School Nurses Issues**

- Vision Screening: **HSB 30 Died** and **SSB 1054 Died** *ISNO and INA supported*
- Remove School Nurses from school districts **SF 171 Died** and **HF 372 Died** *ISNO and INA opposed*

g) **Insurance Coverage**

- Exchanges: **SF 235>SF 391** (Commerce) **SF 117>SF 480** (Hatch) Passed Senate 26-22; House Human Resources **Died**; **HSB159>HF 559** (Commerce) calendar/fiscal note **Died**
- Iowa Cares Coverage: **SF 313 Signed by Governor**
- Insurance-Health Care-Not require purchase: **HF 2>HF 111** House passed 59-39 Feb 2; Senate H.R. **Died**

3. Promote and support core public health functions.

- Omnibus IDPH Bill: **HF 467**; Governor signed Apr 14
- IDPH Policy Bill: **SF 117>SF 480** Senate passed March 21 26-22; House Hum Res **Died**
- Appropriations-Public Health-**HF 649**; Governor Item vetoed and signed July 26

4. Support resources to address the nursing shortage.

- a. Education Appropriations bill **HF 645** passed and signed by Governor July 27 provides for funding of \$80,852 for RN & Nurse Educator Loan Program. In 2010 it was funded at \$86,736, a decrease from 2009 at \$90,000 and 2008 at \$100,000.

OTHER BILLS OF INTEREST TO NURSING

Prescription Monitoring Program: SF 286 Governor signed April 14

This bill relates to the information program for drug prescribing and dispensing known as the Iowa prescription monitoring program (PMP) which is a prescription drug database program containing records of the dispensing of prescriptions for identified controlled substances. A pharmacist or prescribing practitioner who has registered for access to the Iowa PMP may delegate access to one or more agents of the pharmacist or prescribing practitioner pursuant to rules of the board of pharmacy. An agent of a pharmacist or prescribing practitioner shall register as such for access and be bound by the same program provisions and confidentiality requirements as the supervising pharmacist or prescribing practitioner.

This year a biennial budget was passed with 85% of the spending determined for FY2013 already set. The numbers below reflect funding for FY2012 only. Division XV begins the funding of the FY 2013 budget.

Appropriations

Health & Human Services- HF 649 Appropriates \$ 1.5 billion from the General Fund to the Dept of Aging, Dept of Public Health, Dept of Human Services and Veterans Affairs. Governor item vetoed and signed July 26.

Division I- DEPARTMENT OF AGING

- Funds at 10.3 million
- Appropriation of \$450,000 for long term care services to seniors with low or moderate income.

Division II- DEPARTMENT OF PUBLIC HEALTH

- Funds at \$46.8 million
- Combine substance abuse and gambling treatment by July 2012
- *Selected funding is identified; for a complete summary, go to the bill.*

Section 1- Addictive Disorders

- Appropriate \$3,887,863 for tobacco use, prevention, cessation and treatment.
- Direction given that substance abuse programs and gambling treatment will be combined by July 2012.
- Appropriation of \$20,249,360 shall be used for problem gambling and substance abuse prevention, treatment, and recovery services, including a 24-hour helpline, public information resources, professional training, and program evaluation
- Appropriates \$17,132,508 for substance abuse prevention and treatment.
- Appropriates \$899,300 plus \$427,539 and \$426,839 for programs for prevention and treatment for children.

Section 2- Healthy Children and Families-\$2.59 million

- Appropriation of \$112,677 for childhood obesity prevention
- Appropriation of \$163,760 for audiological aids
- Appropriates \$788,303 for Child Health Specialty Clinics

Section 3- Chronic Conditions- \$3.36 million

- Appropriation of \$129,937 for prescription drug donation repository
- There is a decrease of \$124,609 to fund the Medical Home Advisory Committee from the Health Care Transformation Act instead of the General Fund.

Section 4. Community Capacity

- Appropriation of \$100,000 for a child vision screening program through the University of Iowa Hospitals and Clinics in collaboration with Community Empowerment areas
- Appropriation of \$111,308 for a University of Iowa initiative to expand and improve the mental health treatment and services workforce and \$100,493 for a similar initiative at the Mental Health Institute at Cherokee.
- Appropriates \$1,171,491 for core public health functions, including home health care and public health nursing services.
- Appropriates \$121,817 to the Governmental Public Health System Fund (activities for modernization initiative).
- Appropriates \$144,542 for Mental Health Professional Shortage Area program.
- Appropriates \$77,609 for local board of health pilot programs in three counties to assist in finding appropriate medical homes, \$77,609 for three maternal and child health centers to assist in finding medical homes, \$124,050 for free clinics, and \$110,430 for rural health clinics to find medical homes.
- 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. *Governor item vetoed saying fees to fund would be unduly burdensome and costly for the State and direct care workers.*
- Appropriation of \$130,000 for the Direct Care Worker Association
- Appropriation of \$149,000 for the Direct Care Worker Task Force
- Appropriation of \$58,000 for scholarships or other forms of subsidized direct care worker educational conferences, training, or outreach activities.

Section 5 Healthy Aging (formerly Elderly Wellness)

- Funds \$7.2 million
- Appropriates \$2,009,187 for public health nursing
- Appropriates \$5,287,955 for home care aides

Section 6- Environmental Health

- Appropriates \$544,377 for childhood lead poisoning testing

Section 7- Infectious Diseases

Section 8- Public Protection-\$2.75 million

- Appropriates \$210,619 for program funding for sexual violence prevention.
- Appropriates \$436,582 for the State Poison Control Center.

Division III-VETERANS AFFAIRS

Division IV-DEPARTMENT OF HUMAN SERVICES

- Funds Medicaid at 1.129 billion

- 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.
- Appropriation of \$32.8 million for HAWK-I (Section 12)

Division V- PHARMACEUTICAL SETTLEMENT ACCOUNT, IOWACARE ACCOUNT, NONPARTICIPATING PROVIDER REIMBURSEMENT FUND, HEALTH CARE TRANSFORMATION ACCOUNT, MEDICAID FRAUD ACCOUNT, QUALITY ASSURANCE TRUST FUND, AND HOSPITAL HEALTH CARE ACCESS TRUST FUND — FY 2011-2012

Section 37- Health Care Transformation Account

- Appropriation of \$100,000 for IowaCare enrollees nurse helpline (Section 37, #1, p.69, l.35)
- Appropriation of \$363,987 for electronic medical records (Section 37, #15, p. 73, line 4)
- Pilot Program for Accountable Care Organizations (Section 72, p. 97, line 13 –p. 98, line 19-Pilot)

The department of human services shall work with the entity to provide access to the complete de-identified claims data of the medical assistance recipients receiving health care services through the pilot project for the purposes of identifying areas of utilization, need, and potential cost savings to the medical assistance program subject to all applicable state and federal laws and regulations. The department may employ new payment models, information technology, and data analytics provisions necessary to the administration of the pilot project. The project at a minimum would include a prospective payment system hospital, ten primary care physicians, a home health care practice, a palliative care services, a hospice service, and a community mental health center, all of which agree to be paid under a partial or global payment for identified services. All participating providers are to utilize electronic health records. Delivery of mental health services to recipients of medical assistance is to be provided through collaboration with the regional community mental health center, a federally qualified health center, and at least one nursing facility.

Division VIII-PREVENTION AND CHRONIC CARE MANAGEMENT (p.99 line 23-p.100, line 14)

CODE CHANGE: Beginning on January 1, 2012, the Medical Home System Advisory Council in the DPH is directed to integrate the recommendations of the Prevention and Chronic Care Management Advisory Council that is eliminated in Section 81.

Division IX-MISCELLANEOUS

Scope of recovery in Iowa Code 147.136 includes nursing (Section 85p. 102, lines 3-28)
Allows DHS to recover Medicaid costs in cases of Medical Malpractice.

Pharmaceutical Collection and Disposal (Section 88, p. 103, lines 7-19)

Provides for annual funding for the TakeAway Program via fees retained by the Board of Pharmacy from licensees but is capped at \$125,000.

Division X- MEDICAID PRESCRIPTION DRUGS (page 105, lines 23-35)

CODE CHANGE: Removes the prior authorization requirement for mental illness drugs that are not on the preferred drug list. This change is retroactive to January 1, 2011. The change to require prior authorization was originally made by SF 2088 (FY 2011 Government Reorganization and Efficiency Act).

VETOED: The Governor vetoed this Division and stated that methods in place for distributing mental health drugs is a clinically appropriate approach that has had minimal impact on Medicaid members while providing valuable savings to the State.

Division XIV HEALTH INFORMATION TECHNOLOGY (HIT) SYSTEM (p.110, line 22-p.113, line 2)

Directs Dept of Public Health to convene a workgroup to develop a business model and financial sustainability plan for implementation of a State health information technology system. Specifies membership of the workgroup and specifics to be included in the plan. The plan is to be submitted by December 1, 2011.

Standings Appropriations Bill- SF 533

- Appropriation of \$97,000 Dept of Agriculture and Land Stewardship for farmers with disabilities
- Appropriation of \$510,000 for medication management
- Creates a task force on preventing child sexual abuse
- Codifies the pilot program medication therapy management

Regulatory Issues

Final Rules as of September 1, 2011

Autism Spectrum Disorders Coverage (191-35)

The amendment implements Iowa Code section 514C.28, which requires a group health plan established for employees of the state of Iowa to provide coverage benefits to covered individuals under 21 years of age for the diagnostic assessment of autism spectrum disorders and for the treatment of autism spectrum disorders. Effective June 8, 2011.

Campaign Disclosure Statements and Reports (351-4)

The amendments reflect the statutory requirements that by January 1, 2012, almost all campaign disclosure statements and reports will be filed electronically through the Board's Web site, and the amendments also resolve conflicts with current Board rules. Effective September 29, 2010

Dependent Adult Abuse (441-176)

These amendments:

- Add a new definition of "at-risk adult" which applies to the dependent adult's need for continued monitoring and services.
- Update procedures for storing the Department's report on the evaluation or assessment, as a result of the implementation of a new data system for dependent adult abuse information.
- Add procedures for referrals to other agencies, safety plans, and periodic visits.
- Require two new forms, a uniform assessment tool and a safety plan, to assist the Department in making more thorough assessments of dependency and risk for all alleged victims of abuse and to enhance the safety of at-risk adults.

These amendments do not provide for waivers in specified situations. Effective February 1, 2011.

Home Health Agency Plan of Care-Physician Signature (441-78)

This amendment extends the time in which the physician may sign a home health agency plan of care to conform to Medicare policy. The current Medicaid standard is that the physician's signature shall be dated within the certification period. Medicare allows the plan to be signed any time before the claim for home health agency services is submitted for reimbursement. Having different standards for Medicare and Medicaid is confusing for physicians and home health agencies. Effective February 2, 2011.

Individual Health Insurance (191-15 & 36)

The rules in Chapter 15 set forth prohibited unfair trade practices, including provisions prohibiting unfair discrimination against individuals of the same class. The rules in Chapter 36 provide reasonable standardization and simplification of terms and coverages of individual accident and sickness insurance policies. The amendments to the rules implement the Patient Protection and Affordable Care Act (Pub. L. 111-148, 124 Stat. 119, H.R. 3590, enacted March 23, 2010) by setting forth the requirements and procedures to be followed by insurance companies for individual health insurance coverage for children under the age of 19. Persons and entities shall comply with the amendments adopted herein beginning June 8, 2011, for policies offered for sale on or after June 8, 2011. Effective June 8, 2011.

Intravenous Therapy Scope of Practice (655-6)

These amendments update and revise the current limited and expanded intravenous therapy scope of practice for the licensed practical nurse (LPN). Effective date February 16, 2011.

Iowa Child Death Review Team ((641-90)

These amendments incorporate changes to the rules governing the purpose and function of the Iowa child death review team in identifying preventable deaths of children under 18 years of age and methods for prevention of such deaths. Effective January 5, 2011

Iowa Needs Nurses Now (641-111)

These rules provide for the awarding of grants for infrastructure to improve the education of nurses

and nurse educators in Iowa and to enhance the clinical experience for nurses. Effective January 5, 2011.

Medicaid Behavioral Health (441-77, 78 & 79)

These amendments implement part of the plan developed by the remedial services transition committee to change remedial services from a fee-for-service program administered by the Iowa Medicaid Enterprise to a service administered by the Iowa Plan for Behavioral Health. (The Iowa Plan for Behavioral Health is a managed care program under contract to Iowa Medicaid.) Effective July 1, 2011.

Medicaid Case Management (441-78, 79 & 90)

These amendments:

- Clarify when contacts made by E-mail are an allowable case management activity.
- Clarify that targeted case management is not reimbursable when case management activities are provided through an assertive community treatment (ACT) program.
- Make the provision of 24-hour emergency access to the case manager optional.
- Correct outdated terminology and remove outdated effective dates and language on child welfare decategorization counties that is no longer applicable. Effective September 1, 2011.

Medicaid Coverage of Mental Health Prescription Drugs (481-78)

The amendment affects Medicaid coverage of mental health prescription drugs that have a significant variation in therapeutic or side effect profile from other drugs in the same therapeutic class. The following policies will apply:

- If the manufacturer or labeler of the drug does not enter into a supplemental rebate contract, prior authorization may be required.
- Iowa Medicaid members established on one of these drugs before January 1, 2011, are exempt from prior authorization requirements for that specific drug.
- Medicaid reimbursement will be made for up to a seven-day supply while prior authorization is being requested.
- If the prescriber does not receive a prior authorization decision within 48 hours of a request for prior approval, the prior authorization is deemed approved, contingent on the prescriber's having current contact information, including a current fax number, and a signed fax confidentiality form on file with the Department. Effective on January 1, 2011

Outpatient Diabetes Education (641-9)

The rules in Chapter 9 describe the standards for outpatient diabetes self-management education programs and the procedures programs must follow for certification by the Iowa Department of Public Health that will allow for third-party reimbursement. These amendments expand credentialing bodies, clarify curriculum, add definitions and update bureau and division references and contact information. **Effective January 5, 2011.**

Pain Management – Physicians (653-13)

These amendments require, in certain circumstances, a physician or surgeon or osteopathic physician or surgeon to use pain management agreements when a patient's chronic pain is treated with controlled substances and encourage physicians to use the Iowa Prescription Monitoring Program database and to conduct drug testing on patients when treating chronic pain with controlled substances. Effective August 17, 2011.

Registered Nurse and Nurse Educator Loan Forgiveness Program (283-34)

The rules in Chapter 34 describe the awarding of forgivable loans to registered nurses and nurse educators. This amendment updates rule 283—34.3(261) by eliminating restrictions on eligibility which originally ensured that applicants did not receive awards under both the current program and a program that has not been funded since fiscal year 2007. Effective March 30, 2011.