

## Highlights from an Action Packed 2013 Legislative Session

The role of the Iowa Nurses Association's Public Policy Committee is to examine bills that affect the health of Iowans. This session, the Public Policy Committee responded to a record number of health related bills. Not an easy task. Joe Kelly and Susan Cameron, our INA lobbyists, facilitated this effort. We have appreciated their expert guidance this legislative session.

Our health system is changing at an unprecedented rate. The Iowa Legislature makes decisions that profoundly impact how change unfolds for Iowans. **Mental Health Redesign** and **Medicaid Expansion** were two important health issues that dominated the 2013 legislature.

### **MEDICAID EXPANSION**

Iowa's response to the Affordable Care Act was highly conflicted. Although it was looking as if the health care stalemate would continue throughout the summer months, a compromise was finally achieved. Two nurse legislators used their political savvy to create a solution. Representative Linda Upmeyer and Senator Amanda Regan have been heralded (along with Senator Pam Jochum) for their negotiation skills finding a way for the Governor's concept of cost containment to blend with Medicaid expansion. This compromise has yet to be approved by the Federal government. Because Iowa did not approve Medicaid expansion, they will need to submit a waiver. This waiver will be found on the Department of Human Services website and INA will review the content when available. The specific web address is: <http://www.dhs.state.ia.us/uploads/Iowa%20Health%20and%20Wellness%20Plan%20Overview1.pdf>

### **MENTAL HEALTH REDESIGN**

Mental Health Redesign avoided some of the gridlock due to the efforts of workgroups that began meeting soon after the 2012 legislative session ended and continued throughout the year. Unfortunately, the Governor did not approve some of the recommendations. Highlights include:

- SF 406 specifically improved the involuntary mental health commitment process and approved redesign of the mental health advocacy into a statewide system but funding for advocate redesign was later vetoed by the Governor (SF406).
- The Children's services (SF 440/HSB 229) were reconfigured using the health home delivery model. More will be addressed next legislative session. Children's Workgroup recommendations were pulled from the bill just prior to voting.
- \$13 million for the mental health risk pool (HF648; section 10) and \$8.7 million for home and community based services waivers (SF446; section 12; subsection 20) were also vetoed by the Governor. This decreases services to a vulnerable population that is already severely underfunded without adequate workforce numbers.
- A success for mental health redesign was creation of new subacute level of care (SF 203) which helps stabilize crises and decrease the expenses associated with hospitalization. Initially, advanced registered nurse practitioners role in the subacute unit was limited but language was modified to expand this role with INA testimony.

### **INA LEGISLATIVE SUMMARY REPORT—May 28, 2013**

*By Susan Cameron and Joe Kelly, INA lobbyists*

The Iowa Legislature completed its work for the year on May 22-23, accomplishing many of the major priorities called for by Governor Branstad. In the final days, compromise was achieved on SF 295 related

to commercial property tax relief, HF 215 education reform, and finally, SF 446, a combination of Medicaid expansion/Health Iowa Plan and HHS Appropriations.

Following is a list of 2013 bills of interest. For more details on any bill, go to The Iowa Legislature website <https://www.legis.iowa.gov> and enter the bill number in the *Quick Find* search box.

#### HOUSE FILES OF INTEREST

**Signed by Governor--HF 197 ADULT DAY CARE CERTIFICATION (Human Resources; Successor to HF 102) FM:** **Heaton** Extends the certification period for adult day care services to three years without increasing costs. Passed the House and Senate Committee; passed Senate; signed by Governor.

**DID NOT ADVANCE—HF 198 REIMBURSEMENT FOR TRAINING COSTS (Human Resources; Successor to HF 100) FM:** **Heaton** Directs the DHS to adopt rules making the reasonable staff training costs for home and community based services under Medicaid reimbursable as direct costs, including the costs for the learning management systems. Passed the House and Senate Committee; on Senate Calendar—direct care worker voluntary licensure may be amended to this bill. *The direct care worker licensure board was not approved but dollars for the original HF 198 for training costs is included in the final SF 446 HHS Appropriations.*

**Signed by Governor--HF 486 AN ACT RELATING TO PERSONS OFFERING ORTHOTIC, PROSTHETIC, AND PEDORTHIC SERVICES TO THE PUBLIC, AND RELATING TO THE SCOPE OF ORTHOTIC, PROSTHETIC, AND PEDORTHIC SERVICES.** Removed restrictions for advanced nurse practitioners. Signed by governor.

**Signed by Governor—HF 550/SF 347 (Was HSB 152) CONDITIONAL EMPLOYMENT (Human Resources) Heaton** Allows for conditional employment for various employees (employees of health care facilities, certified nurse aide students, prospective employees of nursing facilities, residential care facilities and other related professions) who after a required records check prior to employment, are subject to a DHS evaluation. Limits the conditional employment to persons who committed certain simple misdemeanors and excludes anyone with a founded abuse report. Requires a report by DIA on conditional employment. See SF 347/**SSB 1131** IHCA/ICAL priority bill passed the Senate and House; signed by Governor.

**Signed by Governor—HF 570/SF 394 (Was HSB 96) INFORMAL CONFERENCES (Human Resources) Heaton (C), Koester, Wessel-Kroeschell** Requires that the informal conference regarding a contested citation for a health facility or assisted living facility be held by licensed attorney with experience or training in long-term care for older people. Adds the informal conference process for assisted living programs that receive a regulatory insufficiency. Requires the assisted living center to notify the DIA if it wants to further contest a citation after receiving the findings of the informal conference. Amended and passed House Human Resources Committee 15-6. SF 394 has passed Senate and House; signed by Governor.

**HF 614 (Was HSB 221) FEDERAL BLOCK GRANTS** Passed House Appropriations and the House; passed Senate Appropriations; passed Senate; to Governor.

**DID NOT ADVANCE—HF 618 (Was HF 579) (Was HSB 36) CERTIFICATE OF MERIT (Judiciary) Baltimore (C), Kaufmann, R Olson** Required that a malpractice claim against a medical professional of hospital include a certificate of merit filed when the lawsuit is filed. Requires that the certificate state that the case has been reviewed with a medical expert and requires the report from the expert be included. Required the medical expert to sign the certificate. Required a separate certificate for each defendant. Allows answers to interrogatories to serve as a certificate of merit. Allows for dismissals, with prejudice, if the certificate of merit is deficient in stating a prima facie case. Gave the plaintiff 14 days to respond. Establishes a 180-day deadline, with exceptions for good cause. (Governor) See **SSB 1054** Passed House Judiciary. In House Ways & Means. *Amended to House version of SF 296. Was not included in final conference committee report.*

## SENATE FILES OF INTEREST

**Signed by Governor--SF 184 (Was SSB 1056) & HF 278 (Was HSB 46) OMBUDSMAN & AGING PROGRAMS** (Human Resources) Strikes certain investigation duties of the DIA that may conflict office of the state long-term care ombudsman. Protects certain records held by IDA relating to assisting the ombudsman in investigations unless those records are otherwise exempt from confidentiality protections. Changes outdated references (“resident advocate” to “ombudsman” and other references). Includes new and updated definitions. Repeals language related to outdated program (Senior Living Trust). (Iowa Department of Aging) Signed by Governor.

**DID NOT ADVANCE--SF 198 VIOLENT ELDERLY PLACEMENTS (Human Resources; Successor to SF 35) FM: Died by second funnel deadline but study language in HHS Approps bill in Senate Mathis** Requires the DIA, with the DHS, to establish a committee to look at placements for elderly persons who are sexually violent or who have other psychiatric problems. Charges the committee with looking at building a new facility or expanding or adapting existing facilities to such a purpose, potential persons served, training of personnel, costs and the possibility of Medicaid reimbursements. Requires a report by December 15, 2013. Passed Senate; HF 552 has died. *Study language included in SF 446 HHS Appropriations.*

**Signed by Governor--SF 202/HF 392 DPH DUTIES (Human Resources; Successor to SSB 1016) FM: Wilhelm** Strikes a specific reference to one member entity of the System Evaluation and Quality Improvement Committee for the Trauma System and replaces it with a general reference to the Medicare Quality Improvement Organization. Requires claims for county reimbursement for medical investigations and autopsies to be filed directly with the state appeal board. Repeals provisions banning the sale of HIV home testing kits. Deems a minor to have the legal capacity to give consent to for tobacco cessation services and does not allow the consent to be disaffirmed to the person being a minor. Passed Senate; passed House; signed by Governor.

**Signed by Governor--SF 203 MENTAL HEALTH AND DISABILITY SERVICES (Human Resources; Successor to SSB 1030) FM: Mathis** Strikes specific procedures on creating a unique identifier for persons in the MH/DS system. Allows a current intermediate care facility for persons with mental illness to convert to a subacute facility if it meets the requirements of being a subacute facility. Gives the DHS flexibility in some spending from Mental Health Block Grant allocations. Strikes obsolete provisions and amended Division III to reconfigure the staffing of subacute mental health units. Passed Senate and House; signed by Governor. INA submitted input into language changes

**Died by second funnel deadline but funded in Senate HHS Approps bill--SF 269 (Was SF 199) ALZHEIMER'S PROGRAMS (Mathis)** (Human Resources) DPH to coordinate Alzheimer's programs at the state level. Directs the DPH to establish a coordinator in the department and to convene a multi-disciplinary task force. Includes other related measures. Passed Senate; in House Human Resources Committee. Language added to SF 446 in Senate.

**SF 296 MEDICAID EXPANSION/GOVERNOR'S HEALTHY IOWA PLAN** Compromise was included in final version of SF 446. See SF 446. Federal Waiver is still pending.

**DID NOT ADVANCE--SF 373 (formerly SSB 1132) & HF 418 Died by second funnel--**A bill that attempted to require health care professionals to display a license along with current renewal. Required an advertisement by a health care professional to clearly indicate the license held. Required people in health care professions to wear an ID based on standards adopted by each licensing board. Allowed an Advanced Registered Nurse Practitioner to use ARNP. Similar to **HSB 70** passed in both Senate and House HR Committees. INA attempted to modify language.

**Signed by Governor--SF 347 (Was SSB 1131) CONDITIONAL EMPLOYMENT (Human Resources) Dotzler** Allows for conditional employment for various employees (employees of health care facilities, certified nurse aide students, prospective employees of nursing facilities, residential care facilities and other related professions) who after a required records check prior to employment, are subject to a DHS evaluation. Limits the conditional employment

to persons who committed certain simple misdemeanors and excludes anyone with a founded abuse report. Requires a report by DIA on conditional employment. IHCA/ICAL priority; passed Senate HR Committee; passed full Senate and House; signed by Governor.

**Signed by Governor—SF 351 (Was SSB 1133) & HSB 119 HCBS WAIVER** (Human Resources) Creates an exemption to licensing as a health care facility to allow for coverage for more residential services under the Home-and-Community Based services (HCBS) waiver. Allows the IME to examine utilization levels and medical necessity in order to determine the trigger for prior authorization. (DHS) Being amended with ICAL amendment. ICAL amendment accepted in both Senate and House; passed Human Resources Committee in both Chambers. Passed Senate and House; signed by Governor.

**Signed by Governor—SF 353 Vaccine administration by licensed pharmacists;** effective July 1.

**Signed by Governor—SF 357 (Was SSB 1127)/HSB 110 MEDICAID OVERPAYMENTS** (Human Resources) Makes the debtor responsible for the costs of recording the satisfaction of a Medicaid lien. Requires a provider who receives an overpayment to return the overpayment and send a written notice of the overpayment to the DHS or applicable party. Makes violations a violation of the False Claims Act. Makes payments to a provider after the provider is administratively dissolved overpayments. Establishes the accrual of interest on overpayments. Allows ten years for an action to recover an overpayment and five years for a sanction related to an overpayment. Establishes a process for a judgment by operation of law 90 days after notice of an overpayment. Allows the DHS or AG to seek an injunction to a transfer of property related to an overpayment. Allows DHS to refuse financial reports and other submissions from a third party for a provider, for good cause. Does not allow the DHS to take action against a provider for delays in submitting information in this situation. Allows the DHS to seek repayment from certain parties other providers for various services. Includes civil penalties and provisions allowing recovery of investigative costs. Directs the Iowa Medicaid Enterprise to establish a temporary moratorium on enrolling certain new providers that are identified by the federal government as posing an increased fraud risk. Allows the IME to make a determination that such a moratorium is not needed. Requires information on overpayments be on the DHS website. Codifies provisions in a new Code section. (DHS) Passed Senate and House; signed by Governor.

**DID NOT ADVANCE--SF 373 (formerly SSB 1132) & HF 418 Died by second funnel—**A bill that attempted to require health care professionals to display a license along with current renewal. Required an advertisement by a health care professional to clearly indicate the license held. Required people in health care professions to wear an ID based on standards adopted by each licensing board. Allowed an Advanced Registered Nurse Practitioner to use ARNP. Similar to **HSB 70** passed in both Senate and House HR Committees. INA attempted to modify language.

**Signed by Governor—SF 394 (Was SSB 1105) INFORMAL CONFERENCES** (Human Resources) **Dotzler** Requires that the informal conference regarding a contested citation for a health facility or assisted living facility be held by licensed attorney with experience or training in long-term care for older people. Adds the informal conference process for assisted living programs that receive a regulatory insufficiency. Requires the assisted living center to notify the DIA if it wants to further contest a citation after receiving the findings of the informal conference. See **SF**.

**Signed by Governor--HSB 96** IHCA/ICAL priority bill; passed both Senate & House Human Resources Committees; Passed Senate and House; signed by Governor. (Language for fees to cover cost of independent reviewer in SF 452 Standings Appropriations bill.)

**SF 406 MH DUTIES MH Advocate: Involuntary commitments:** Requires the clerk of courts to inform the person filing for involuntary commitments about pre-application screenings. Requires the State Court Administrator to establish procedures for pre-application screenings. Simplifies procedures for applying for involuntary commitments. **Mental Health Advocate System:** Created a Mental Health Advocate office in the DHR. Effective July 2013. **Duties:** Revises Code language on the duties of MH advocates. Effective July 2013. **Other:** Requires DHS to study developing a bed tracking system and to report by December 2013. S-3252 by the **House** - Shifts the office to the DIA. Includes provisions for re-assigning advocates based on a patient's needs. States that persons serving

as MH advocates as of July 2014 will be appointed to the new positions. Allows PAs and Psychiatric ARNPs to do examinations of persons in involuntary emergency commitments. The **Senate CONCURRED** in S-3252 & **PASSED** the bill as amended 47-0; went to the **Governor** where funding for Mental Advocate redesign was vetoed.

**SF 419 Vision screening for school children**; signed by Governor; effective July 1. INA approved.

**SF 440/HSB 229 CHILDREN'S MENTAL HEALTH REDESIGN**. Rep. Joel Fry, chair; Rep. Kevin Koester, and Rep. Mark Smith. A bill for an act relating to human services involving mental health and disability services and children's services, making appropriations, and including effective dates. (Formerly SSB 1199.) Passed Senate with last minute removal of the Children's Cabinet that was recommended by the Children's Workgroup.

**SF 446 HEALTH & HUMAN SERVICES APPROPRIATIONS GF: Total \$1.720 billion. IDA & Long Term Care:** Total (\$11.62 million); Aging Programs (\$10.6 million); Long Term Care Advocate (\$1.02 million). **DPH:** Total (\$57.98 million); Addictive disorders (\$27.16 million); Healthy Children (\$3.65 million); Chronic Conditions (\$5.08 million); Community Capacity (\$8.56 million); Healthy Aging (\$7.30 million); Environmental Hazards (\$803,870); Infectious Diseases (\$1.34 million); Public Protection (\$3.28 million); Resource management (\$800,504). **DVA:** Total (\$11.21 million); Administration (\$1.09 million); Veteran County Grants (\$990,000); Veteran's Home (\$7.52 million); Home Ownership (\$1.6 million). **DHS:** Total (\$1.639 billion); Administration (\$16.3 million); Field Operations (\$66.52 million); CSRU (\$14.17 million); Toledo (\$8.86 million); Eldora (\$11.26 million); Cherokee (Civil Commitment Sex Offenders) (\$9.42 million); MHIs Cherokee (\$5.95 million); Clarinda (\$6.75 million); Independence (\$10.32 million); Mt. Pleasant (\$1.37 million); Glenwood (\$20.27 million); Woodward (\$14.22 million); FIP (\$48.43 million); State Supplemental Assistance (\$16.51 million); Medicaid (\$1.14 billion); S-CHIP/HAWK-I (\$36.81 million); Medical Contracts (\$12.29 million); Conners Training (\$33,622); Volunteers (\$84,660); Child Care Assistance (\$62.71 million); Adoption Subsidy (\$40.73 million); Child & Family Services (\$91.28 million); FADSS (\$1.09 million). *(Due to the redesign changes, MH/DD Allowable Growth, Community Services & State Cases are no longer funded as line items in this budget).* **Other Funds:** \$530.59 million. **DHS Total:** \$470.76 million; Administration (\$136.85 million); Assistance (\$333.92 million); **Regents** UI/UIHC IowaCare programs (\$49.83 million). **Supplemental:** Makes FY 2013 supplemental appropriation Medicaid (of \$61 million); Adoption Subsidy (\$955,000). **Other:** Requires the Governor to approve reimbursements for abortions covered under Medicaid. Prohibits coverage for elective cesareans. Directs the IDA to establish an elder abuse task force and requests an interim study on the issue. Creates a Guardianship pilot project. Establishes an EMS task force to study and report on EMS issues. Adds men to the Medicaid breast cancer program. Requires DHS to develop a plan on implementing health care delivery. Requires the DHS & DIA to work with stakeholders on a facility or placements for persons who are sexually aggressive, combative or have unmet psychiatric needs. Requests a study on youth sports injuries. Requires DOE, DPH & DHS to work recommendations for suicide prevention training for teachers/BOE licensees. Makes other changes and corrections. **Iowa Health & Wellness:** Creates the Iowa Health & Wellness program. Covers individuals with less than 100 of the FPL through Medicaid with a plan similar to the state employee plan. Covers individuals between 100% and 138% of the FPL through insurance exchanges, with premium assistance. Includes Accountable Care Organizations and Health Homes. Includes wellness programs. Requests a federal waiver to use 100% Medicaid expansion funding for the first three years. The **Senate ADOPTED** the Report & **PASSED** the bill, 26-24; The **House ADOPTED** the Report & **PASSED** the bill 80-17; it GOES to the **Governor Includes a 1% provider rate increase for all Medicaid providers.**

**DID NOT ADVANCE--HF 551 Died by second funnel**—A bill concerning the administration of epinephrine in public and nonpublic schools, and including effective date and applicability provisions. (Formerly HF 29). INA did not endorse this bill.