

3/4/2016

# THE CORYDON GROUP

SESSION – Week 9



## IOA Weekly Update

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There was a great deal of activity on bills of interest this week. As reported last week, there was a chance that medical malpractice caps could be raised. By the end of the week, there was a bill just one vote away from the Governor's desk.

### Medical Malpractice

SB 28 started the week as a bill that dealt with the height of privacy fences. By Thursday night, it raised the malpractice caps for the first time in almost two decades. The bill raises the cap from \$1.25 Million to \$1.65 Million on July 1, 2017 and \$1.8 Million on July 1, 2019. The bill does not change the direct access to court threshold, it remains \$15,000. The pay for panel members increases from \$2,000, to \$2,500. Payouts from the fund will now be 60 days after the judgement or settlement, currently they are paid quarterly. Anesthesia Assistants are added as qualified providers under the Act. The bill is eligible for concurrence on Monday.

### Telemedicine

HB 1263 passed the Senate early in the week. As the bill was amended in the Senate, there were a few technical issues that needed to be addressed. The bill was taken to conference committee on Friday and those issues have been resolved. The bill should easily pass next week and head to the Governor.

### Death Certificates

HEA 1088 has passed. The bill is now headed to the Governor. The bill allows emergency physicians, after attempting to notify an attending physician, to refer a case to the coroner if they do not know the cause and manner of death. Current law requires the physician in attendance at a death to so certify.

### HIP 2.0

SB 165 was one of the last bills to pass the House. The bill codifies elements of HIP 2.0. The House amended the bill to add chiropractic services to the program in 2018. The bill will go to conference committee.

### SB 80

This seems to be the final vehicle for all pseudoephedrine issues. There was a conference committee meeting Friday. Chairman Sen. Randy Head said the bill is very much in flux and would work this weekend to develop a conference committee report for review. There remain questions regarding entry in INSPECT, scheduling of the product as a controlled substance and may other technical issues.

### SEA 41

The Step Therapy bill is headed to the Governor. The bill creates four pathways to override step therapy protocols.

The legislative session has begun to wind down with the passage of the third reading deadline for Senate bills in the House and the looming third reading deadline for House bills in the Senate. Numerous bills have already undergone revisions in conference committees to resolve differences between the House and Senate.

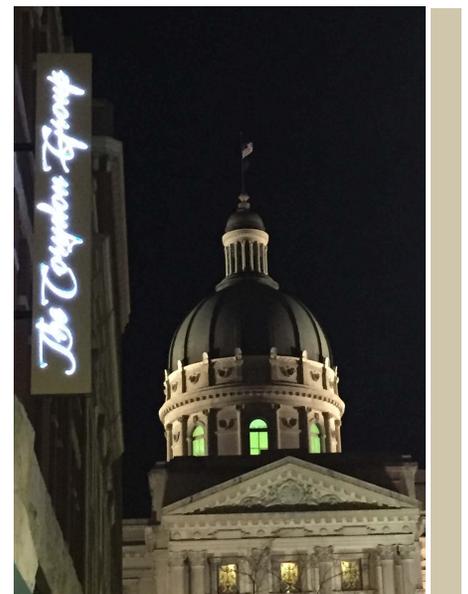
On Wednesday, Lt. Gov Sue Ellspermann formally resigned from office. The following day, the General Assembly quickly confirmed former US Senate Candidate Eric Holcomb to fill the vacancy. Holcomb had suspended his bid to fill the seat of retiring US Senator Dan Coats after Lt. Gov. Ellspermann announced she would be seeking the presidency of Ivy Tech Community College. Commentators have suggested that the move by Gov. Pence to nominate Holcomb to the Lt. Governorship is an effort to restore his support with social conservatives following changes to last year's RFRA bill which many social conservatives opposed.

Following pressure from elected officials and the general public, air conditioning manufacturer Carrier and subsidiary United Technologies have agreed to refund the state and local government nearly \$1.6 million in tax abatements and grants. This move comes after the two companies announced last month that they would be closing manufacturing operations in the state and moving them to

Mexico. Carrier executives also announced, following a meeting with the governor, that the company would keep 400 engineering and technical positions at its facilities. On Tuesday the House adopted an amendment to a bill which creates a new financial penalty for companies that leave Indiana to move to foreign countries after they receive state tax breaks. The amendment, which was included in SB 208, would allow local governments to reclaim property tax incentives granted to a company if the company later moves out of the state. The company would have to pay back the amount of property taxes they originally hadn't been required to pay. SB 208, and the amendment, passed the House floor on Wednesday.

The stage has been set for a long-anticipated discussion over road funding between the House and Senate. The Senate road funding bill, SB 333, passed the House floor on Wednesday, but only after the Senate's plan was stripped and replaced with the House plan. Also tied to the bill is a provision which would provide funding for the Governor's Regional Cities Initiative. Members of the House had expressed reluctance to approve the funds in the House Ways and Means Committee, arguing that the Governor had publicly promised funds without first consulting the legislature. Likewise, on Tuesday the Senate passed the House road funding

bill, HB 1001, which was stripped and amended with the Senate road funding plan. The author of the bill, Rep. Ed Soliday (R - Valparaiso), filed to dissent from the changes - sending the bill to conference committee. With the inclusion of the governor's Regional Cities Initiative funding now tied to the bill emerging from the House, many speculate that the House Republicans will use the funds as a bargaining chip to secure their tax increases on fuel and cigarettes.



## Dates to Remember

March 3<sup>rd</sup>: 3<sup>rd</sup> Reading Deadline for House and conference committees begin

March 10: Target date for the General assembly to adjourn Sine Die

March 14<sup>th</sup>: House and Senate must adjourn Sine Die

May 3<sup>rd</sup>: Indiana primary elections

The House this week considered legislation which would increase damage caps for medical malpractice for the first time in eighteen years. On Monday the House Judiciary revived the legislation after it failed to pass the Senate earlier in the session amidst disagreements between stakeholders. The bill, SB 28, raises the amount someone can collect for a single malpractice incident, from \$1.25 million to \$1.65 million.

Supporters say it's unconstitutional to keep relatively low money caps on malpractice lawsuits and that the increase accounts for inflation. They also argue that the bill, which increases the cap in a series of steps, would prevent future legislators from having to address the issue. Opponents, however, such as Indiana State Medical Association spokesman Michael Rinebold, argue the increase would further discourage physicians from working in Indiana.

On Monday legislation passed the House floor on third reading which addresses the growing methamphetamine issue in the state. SB 80, authored by Sen. Randall Head (R - Logansport), originally made it illegal for individuals convicted of meth offenses to possess precursors to the drug without a prescription. The bill also gave pharmacists the power to deny sale to an individual on the basis of a "professional determination". In the House Public Health

Committee, another methamphetamine bill was amended into SB 80 which also allows for a "patient of record" - an individual who has purchased medication from the pharmacy previously - to purchase ephedrine or pseudoephedrine. The amendment also would classify the drugs as controlled substances. After initially concurring with the changes to the bill, Sen. Head filed a dissent, sending the bill to conference committee. It is expected that the bill will undergo a change which will remove it from the list of scheduled drugs and require purchases of the medications to be logged into a different database.

Following heated debate on Wednesday, the House passed an education bill which prevents schools and educators from entering into nondisclosure agreements and also requires schools to report teachers who have been disciplined for misconduct. The provisions were included in the bill following an incident concerning a basketball coach at Park Tudor, a private school in Indianapolis, who was arrested on charges of child exploitation. SB 334 also creates a fund to help teachers pursuing a master's degree to teach dual credit classes.



Despite the change of leadership this week, the Senate moved numerous pieces of legislation. On Tuesday the Senate passed a key piece of legislation on the House Speaker's agenda, HB 1002. The bill originally created a scholarship for college students studying education who would commit to teaching in Indiana for five years after graduating. However, the Senate Appropriations Committee amended the bill so that the Commission for Higher Education would simply study and report on the idea of the scholarship. House Speaker Brian Bosma (R - Indianapolis) dissented from the Senate changes and has argued that the delay in the passage of the bill, and the changes, are the result of other legislative matters not related to the bill.

The Senate also passed a controversial house bill with substantial changes. HB 1019, authored by Rep. Kevin Mahan (R - Hartford City), would have

regulated the use of police body cameras - most notably putting the burden of accessing police footage on members of the public and media. However, the bill was amended in Senate committee to shift the burden to the police department to show that the footage should not be released due to safety concerns. The amendments also requires law enforcement agencies to store video for 190 days. Rep. Mahan, who argued in the House for the more restrictive original language, has dissented from the Senate changes, setting the stage for a debate over the right to access police investigation records.

Indiana lawmakers last year passed stricter rules for the e-cigarette industry over concerns about the products' safety, including a new rule that says e-liquid manufacturers must contract with a security firm that will regulate and inspect their facilities to prevent tampering and ensure product quality.

However, there were no security firms in the state that met the requirements.

Earlier this month in an effort to expand the qualifications for security firms Sen. Vaneta Becker (R - Evansville) succeeded in getting language added to a bill. However, Sen. Becker said she now realizes only one firm could satisfy the new rules. Manufacturers have asked lawmakers this session to help them comply with the law but Republican lawmakers have been divided on how to act on the issue. An attempt to extend the deadline for e-liquid manufacturers to get certified was defeated Monday in the Senate as was an amendment by Sen. Becker aimed at nullifying the amendment she now believes creates a monopoly. The fate of the rules remains to be determined.

contact

THE  
CORYDON  
GROUP

125 W Market St, Suite 300  
Indianapolis IN 46204  
317.634.5963