INPS/IANP 2013 Legislative Report

Supreme Court Decision on Fluoroscopy

Nurse practitioners had another eventful year at the legislature, before regulatory agencies, and in the courts. To deal with the latter first, the Iowa Supreme Court delivered a resounding victory for nursing and nurse practitioners on May 31. The issue was supervision of fluoroscopy, an issue which had been stewing since 2007. The high court reversed the Polk County District Court and upheld the BON and IDPH administrative rules regarding the supervision by ARNPS of radiation techs conducting fluoroscopy.

As an added benefit of the Iowa Supreme Court ruling, the decision makes clear that the Board of Nursing is in total control of the scope of practice for nurses. Since the 1970’s, interpretation over part of the BON statute implied that the BON had to consult with other health and medical groups when dealing with scope of practice matters. Some have implied that the other groups held some kind of veto power over the BON, if they disagreed with a proposal. A 1976 Attorney General’s opinion had reached the conclusion that the BON should consult with other groups, but that the power to regulate nursing was exclusively the province of the BON. Even Chief Justice Mark Cady, the only justice to vote no, read the statue in a manner allowing the medical profession to have a veto: “…the legislature has left it for the medical profession to make this decision, in partnership with the nursing profession.” Justice Bruce Zager did not take part in the 5-1 decision.

This Supreme Court decision opens the door for the BON to restructure its enabling chapter, something which the BON has wanted to do in recent years. There is always the threat that medicine will go to the legislature in an attempt to overturn the Iowa Supreme Court decision by its own attempt to rewrite the BON chapter.

Administrative Rule on DOT Physicals

The Iowa DOT promulgated an administrative rule completing the journey of allowing nurse practitioners to both report drivers who shouldn’t be on the road for health reasons and to have physical exams accepted by DOT to allow those drivers to return to driving. SF 149, passed in 2011, accomplished the first part of solving the problem: reporting drivers who should not be driving. The second aspect of the solution could not be solved legislatively because there was no existing statute for nurse practitioners to amend. DOT didn’t advise us of this fact because they didn’t necessarily want to highlight the fact that this major piece, getting drivers back on the road, was not outlined in the code. After working with DOT on the solution, DOT made the administrative rule change to complete the process. The new administrative rule, allowing DOT to accept the physical exams from nurse practitioners, became effective on May 8th, 2013.
Bills Passed and Signed into Law

HF 486: Orthotic, Prosthetic, and Pedorthic Services

We were fortunate to get a second chance at this subject matter. In 2012, orthotic, prosthetic, and pedorthic professionals were able to get passed a licensing law. In our review of bills, we didn’t notice that SF 364 had some language allowing nurse practitioners to make referrals to these professionals only if nurse practitioners had a collaborating agreement with a physician. When the profession needed to do a cleanup bill this session, it allowed nurse practitioners to petition the legislature to amend the offending language. We were successful in getting this language dropped. Nurse practitioners will be able to make these referrals without consulting with physicians. HF 486 was signed by Governor Branstad on April 5th.

SF 203: Mental Health Sub Acute Mental Health Facilities

This bill was important because we had to be watchful so that ARNPs, working in sub-acute facilities could maintain their autonomy of practice, to the extent of their scope of practice. The original drafting of this bill would have allowed only psychiatrists to supervise the treatment care plans for those being treated in the facility. We were able to convince the legislature to change the bill from psychiatrists to mental health professionals, which includes ARNPs. SF 203 also provides for an intermediate care facility to apply for a license as a sub-acute facility. Part of the license application would be the acknowledgement that a mental health professional is employed by the facility. Governor Branstad signed SF 203 on April 5th.

SF 406: Involuntary Commitments/Mental Health Advocate

This law creates a new office of mental health advocate within the Iowa Department of Inspections and Appeals. There was some controversy in the legislature over which department of state government should house the office. Many Democrats preferred the Iowa Department of Human Rights. However, the Governor had his own problems with the concept of a state run mental health advocate system. The Governor believes that the state should not be running the mental health advocate program, stating that it should remain a local function. On June 20th, Governor Branstad vetoed divisions 1 and 2 of SF 406, keeping the law on mental health advocates as it currently is.

SF 406 explicitly allows psychiatric nurse practitioners to treat the person believed to be mentally ill.

SF 406 also requires DHS to study the feasibility of developing a bed tracking system for the mentally ill. DHS is required to file its report by December of 2013.
SF 446: HHS Budget/Medicaid Expansion

Just when it appeared nothing would happen, the legislature reached a deal on Medicaid expansion in the waning hours of the legislature. The package was part of the conference committee report on SF 446, the HHS appropriations bill. The Medicaid expansion plan, known as the Iowa Health and Wellness Plan, is structured so that Iowa takes advantage of the federal funding, while at the same time, incorporating premium assistance for those between 100% and 138% of the federal poverty level who will be buying their insurance through insurance exchanges. Also in SF 446 was the creation of a task force to ensure the future availability of quality emergency medical services for the state. The Iowa Department of Public Health will manage the task force of 24 professionals, including a representative of the Iowa Emergency Nurses Association in addition to an advanced registered nurse practitioner. However, this emergency task force did not survive. Governor Branstad used his line item veto authority on this provision of the bill. The Governor objected to the $28,664 appropriation for the task force. The Governor stated that the Iowa Department of Public Health will continue to consult with Iowa professionals to improve emergency medical services. The Governor saw this task force as unnecessarily increasing the size of government.

SF 419: Vision Screening

This bill, which has been before the legislature for a number of years, did pass this year and was signed by Governor Branstad on April 26th. The new law, effective on July 1, will require a vision screening for each child in Iowa before kindergarten and before the child enters third grade. Among the approved options for vision screening is a vision test conducted by a nurse practitioner. Public and Non Public schools may administer the test. Although school nurses aren’t specifically mentioned in the law, it is assumed that schools employing a school nurse will designate the test to the school nurse. On line vision screening is also acceptable.

SF 115: Intermediate Drivers Licenses

Nurse practitioners have supported this concept for many years. 2013 was the year for the reforms of the drivers’ licensing system for youths, aged 16 and 17. The intermediate license has been expanded from six months to twelve months. SF 115 also requires, for the first six months of the intermediate license, that the driver can have only one other underage and unrelated passenger, unless such provision is waived by the parents. This law, signed by the Governor on May 1, takes effect on January 1 of 2014.

HF 604: Education Funding

Nurse practitioners and PAs have a new rural loan funding program to be administered by the College Student Aid Commission. The legislature appropriated $400,000 for the
program for the 2014 fiscal year beginning in July. For nurse practitioners the program will work only at the University of Iowa for those students seeking a doctorate of nursing practices degree. For PAs, the eligible program is a master’s degree from Des Moines University.

Other bills Passed Into Law

SF 452: Material in Standings Appropriations Law

When an electronic system for filing death certificates is developed, each professional allowed to sign death certificates shall use the electronic system. Advanced registered nurse practitioners are listed among those professionals. This is due to the passage into law of HF 393 in 2011, allowing nurse practitioners to sign death certificates of their patients. SF 452 also incorporated HF 9 and SF 393, requiring pulse oximetry screening for newborns. Each newborn is be tested for congenital heart disease by means of pulse oximetry or other means as developed by administrative rule. The attending health care professional is responsible for seeing that the test is administered. If the parent objects to the test, it will not be done, and the objection shall be noted in the newborn’s medical records.

Bills of Interest Which Did Not Become Law

HF 618: Medical Malpractice

The Iowa Medical Society began the year with the idea of introducing another certificate of merit bill in an attempt to address medical malpractice reform. Governor Terry Branstad had a bigger idea. He wanted a more substantive medical malpractice reform measure. The House Judiciary Committee agreed and passed HF 618. The bill never received a floor vote, but the provisions of the bill were placed in the House version of Medicaid expansion, SF 296. The Senate refused to accept the House version. When Medicaid expansion was adopted as part of SF 446, the HHS budget bill, medical malpractice was not included.

SF 373/HF 418: Identity Badges

These companion bills from the Iowa Medical Society were an attempt to get all medical professionals to wear identifying name badges at work. The reasoning for the bill is that not all health related professional boards had adopted administrative rules requiring what
the bills would require. The BON had previously adopted a rule; however, nurse practitioners were a part of the administrative rule. The bills would have included nurse practitioners.

SF 373/HF 418 both passed out of their respective Human Resources Committees, but were not considered for floor votes. Both bills are eligible for debate next year.

**HSB 3/SSB 1055: Interventional Pain Management**

These bills were introduced to limit who can perform interventional pain management. CRNAs would be allowed to do so only in performing surgical or obstetrical anesthesia services or postoperative pain control. Neither bill was considered in committee. In light of the Iowa Supreme Court decision, there may be some added impetus to revive these bills in 2014.

**HF 617: Licensing of Ambulatory Surgical Centers**

This bill was favored by the Ambulatory Surgical Centers Association. At first, the Iowa Hospital Association registered for HF 617. The bill passed the House 93-0. Then the Iowa Hospital Association changed its registration to against, joined by Iowa Health Care Systems. The Senate did not consider HF 617. The bill is in Senate Ways & Means Committee.

**HSB 59/SSB 1091: Licensing of Polysomnographic Technologists**

For the second consecutive year, this idea was the subject of numerous subcommittee meetings, but the bills did not emerge from committee. IANP/INPS worked with the advocates to make sure that this licensing proposal did not impinge on the ability of nurse practitioners to order sleep studies.

**HF 22: Medical Marijuana**

This bill always gets a lot of press attention, but it didn’t get any time in the House Public Safety Committee.

**HF 168: Control of Marijuana**

The bill would have prevented the Board of Pharmacy from adopting rules to allow for medical marijuana. HF 168 passed the House 72-27. The Senate Judiciary Committee would not consider the bill.

**HF 167: Endangerment to newborn child**

This bill, which passed out of House Public Safety, would have created a criminal penalty for causing illegal drugs to be present in a newborn child. The bill was not considered on the floor of the House.
SF 37: Helmet Law

SF 37, introduced by six Democratic Senators, limited the use of helmets to operators 18 years of age or younger. Even this limited measure could not get out of the Senate Judiciary Committee.

2014 Session

The second session of the 85th General Assembly will convene on Monday, January 13th. Nurse practitioners will be back to protect the interests of the profession. If you have recommendations for legislative action, be sure to contact either IANP or INPS.