

Health Care Highlights©

April 3, 2017

VOLUME 29, ISSUE 9

Good morning! Today is the 55th day of the 60-day regular session of the West Virginia Legislature. This week, we continue tracking the health care-related bills that remain under consideration by the House and Senate. The House introduced 1,108 bills this session, and the Senate introduced 694 bills. Of the 1,802 total bills introduced, we have tracked 364 health care-related bills (20.2%). Of those, 121 bills or 33.2% remain active; the remainder are, for all intents and purposes, now considered dead.

Inside This Issue:

[Final Week of Session Will See Flurry of Activity](#)

[Interim Legislative Study Resolutions Begin to Surface](#)

[CON Clean-up Bill Action Completed](#)

[WV Medical Cannabis Act on Amendment Stage in House Today](#)

[Substance Abuse Reduction Bill Passes House](#)

[PA Practice Act Changes Await Governor's Signature](#)

[Hopemont Sale Passes House on Narrow Vote](#)

[Nursing Board Bill Dies](#)

[Health Care Bill Status](#)

[In Other Health Care Highlights ...](#)

[Quotes of Note](#)

[April Capitol Health Care Events](#)

[Our Next Issue](#)

2017 Key Legislative Dates

April 8: Adjournment at midnight.

April 12: Anticipated extended session to work only on the Budget Bill and other appropriation bills.

Andrew Wessels
Publisher and Editor
304.590.3778
awessels@sterlingwv.com



STERLING
Communications of WV

Health Care Highlights

Copyright: Quotations and material may not be reproduced without the expressed written permission of the editor.

Final Week of Session Will See Flurry of Activity

The activities at the Legislature will accelerate to a record pace this week as the final five days of the regular session count down. Most bills will have to be out of their final committee by Wednesday in order to go through three days of floor readings for final passage by Saturday's midnight *sine die* (final) adjournment.

Currently, there are 121 health-related bills still active. That is nearly 33.2% of the 364 bills we have been tracking since the start of the legislative session. These 121 health bills are profiled in this issue on our active bill status list. In reviewing our bill status, you may notice that bills you've been following are not included in this issue. It could mean they are dead. That is our projection because these did not complete the passage route in their chamber of origin by the 50th day, but does not necessarily mean that a particular bill has been voted down. Make sure to check the active list to determine if a dead bill with the same provisions might have been amended into an active bill.

Interim Legislative Study Resolutions Begin to Surface

As the Legislature enters the final week of its regular session, study resolutions are beginning to emerge. This typically happens when issues considered by the Legislature still contain a number of unanswered questions and more research is necessary, or the issue is very controversial. Accordingly, study resolutions are recommended and such work is carried out during the interim period between legislative sessions.

During that interim period, committees meet for two to three days. Several House and Senate committees originated study resolutions last week dealing with government benefits programs, medicinal marijuana and other topics. These are found listed later in this issue. Next week, we will feature more as they originate and move through the legislative process.

CON Clean-up Bill Action Completed

Legislative action has been completed on **HB 2459**, which transfers the West Virginia Health Care Authority and its functions, including the Certificate of Need program, to the state Department of Health and Human Resources. A five-member board, appointed by the Governor, would be overseen by an executive director, who would report to the DHHR secretary. The board would review and approve (or disapprove) CON applications.

The bill has been characterized as "clean-up" legislation, favored by the HCA and the West Virginia Hospital Association. The bill passed the Senate last week on a 27-6-1 vote, had earlier passed the House on March 6 and will be effective on passage, pending Gov. Jim Justice's signature.

The bill expands upon 2016 legislation to modernize the CON program. It clarifies requirements of the CON process, details expenditure minimums before a CON becomes necessary and exemptions for ambulatory care, and clarifies that telemedicine is not subject to CON review.

It moves the WV Health Information Network to a private, non-profit entity; eliminates financial disclosures filed by hospitals and other health providers; eliminates the annual assessment paid by acute care hospitals to the HCA; increases the cap for CON exemption for CT scanners from \$250,000 to \$750,000; and excludes from CON review acquisition of a "financially distressed" hospital, acquisition of a hospital that is party to a cooperative agreement, and hospital acquisition of a physician practice group that owns an ambulatory surgical center.

The bill also permits academic medical centers with four or more approved medical education programs to enter into cooperative agreements.

A modernization bill passed in 2016 pared down the number of services requiring a CON to 23; raised the capital expenditure threshold, allowing more flexibility for health care providers; reduced CON application fees; exempted telemedicine and other services; and shortened the time frames for CON reviews and decisions. A bundled rules bill (**SB 125**) to fully implement those changes passed the Senate on Feb. 28 and remains pending in the House.

During a series of committee hearings, the WVHA and the WVHCA both urged the Legislature to allow the 2016 bill to reach full implementation. Other legislation that would have done away with both the Health Care Authority and the CON program outright died in committee.

WV Medical Cannabis Act on Amendment Stage in House Today

A bill that would authorize medical cannabis in West Virginia will be on 2nd reading in the House of Delegates today after gaining unexpected momentum last week in the Senate. Having narrowly survived with a 6-5 endorsement from the Senate Health Committee on March 24, **SB 386** headed to the Senate Judiciary Committee and seemed to languish at the end of a lengthy agenda on Tuesday.

However, the bill had been read on the Senate floor for the first time on March 25, and then remanded on 2nd reading to Judiciary. The Judiciary Committee amended the bill, passed it, and brought it again to the floor for immediate consideration on Tuesday. The bill was on 3rd reading on Wednesday – crossover day – the last day it could be considered.

In the meantime, 12 of Judiciary's 17 members also signed on to Senate Concurrent Resolution 50, which urges Congress to reschedule marijuana from a Schedule I drug to an alternative drug schedule, "and to authorize states to regulate marijuana at their own discretion." Schedule I drugs are those with no currently accepted medical use and a high potential for abuse; as such, marijuana currently is considered on a par with heroin, and by extension considered a greater risk than Schedule II drugs such as cocaine, oxycodone, fentanyl and morphine. According to the resolution, reclassification is appropriate, "given the growing domestic and international consensus that marijuana has medicinal value." It also noted that, "marijuana ... has been studied outside the United States for years" and that continued classification as Schedule I prevents the scientific and medical communities from researching its potential.

The full Senate approved the bill late Wednesday on a 28-6 vote, with Sens. Mike Azinger, Donna Boley, Mike Maroney, Dave Sypolt, Tom Takubo and Ryan Weld voting against. On Thursday, the House voted 54-40 (with six not voting) to dispense with any committee reference and immediately consider the bill. On Friday, the House Judiciary chair, Delegate John Shott, successfully asked that 2nd reading be postponed to allow time to craft amendments for consideration today.

The West Virginia Medical Cannabis Act would create a 16-member Medical Cannabis Commission within the state Department of Health and Human Resources. Members would include the DHHR cabinet secretary, Agriculture Commissioner and state Treasurer, or their designees; and 13 members appointed by the governor, including patients, physicians, nurses, pharmacists, scientists, lawyers, law enforcement, an alcoholism and addiction counselor, and someone experience in horticulture. The commission would license as many as 15 growers and 60 dispensaries, and would authorize testing laboratories as well as setting requirements for becoming a "certifying physician." A Medical Cannabis Commission Fund would be created as a special revenue account in the State Treasury.

According to the bill, medical cannabis could be used to treat a chronic or debilitating disease or medical condition that requires hospice or palliative care; or that results in cachexia, anorexia or wasting syndrome; severe or chronic pain; severe nausea; seizures; or severe or persistent muscle spasms.

Substance Abuse Reduction Bill Passes House

The Comprehensive Substance Abuse Reduction Act (**HB 3028**), which creates an Office of Drug Control Policy within the state Department of Health and Human Resources, passed the House of Delegates on a 97-2-1 vote last Monday, and is now headed to the Senate Health and Government Organization committees. The new office would be under the supervision of the State Health Officer.

The role of the office is to serve as a data repository, coordinating information, resources, programs, and state and federal funds through a centralized location. Various public health and education initiatives and pilot programs would be created to prevent and treat substance abuse. The office would develop a strategic plan to reduce the prevalence of drug and alcohol abuse and smoking among both the youth and adult populations by at least 10% by July 1.

The Controlled Substances Monitoring Program would be housed under the state Department of Military Affairs and Public Safety, as called for in a prior bill, and the West Virginia Poison Control Center would remain under the auspices of West Virginia University. The office would report semiannually to the Joint Committee on Health.

The office would also create a plan, by July 1, 2018, to ensure an additional 100 treatment beds are available in privately owned facilities across the state. A DHHR Special Revenue Trust Account would be created to that end, using settlement money from the Boone County civil action against drug distributors, and other public and private sources.

PA Practice Act Changes Await Governor's Signature

A bill that changes language in the Physicians' Assistant Practice Act to reflect a relationship with a "collaborating," rather than "supervising," physician, has passed both houses of the Legislature en route to the Governor. The bill passed the House unanimously on Friday, having earlier been approved by Senate on March 1.

Under **SB 347**, PAs would be allowed to prescribe a monthly supply of Schedule II and Schedule III drugs under certain circumstances, with specified restrictions. PAs also would be granted global signatory authority in a manner identical to advanced practice registered nurses, for death certificates, orders for life-sustaining treatment, orders for scope of treatment and do-not-resuscitate (DNR) orders. The bill also would add a second PA representative to the WV Board of Medicine.

The bill entitles PAs to 100% reimbursement from all public and private insurers, regardless of whether the collaborating physician is in the room when health services are rendered. In addition, "Constant physical presence of the collaborating physician is not required as long as the collaborating physician and physician assistant are, or can be, easily in contact with one another by telecommunication."

Additional new provisions provide that once a PA passes the initial National Commission on Certification of Physicians' Assistants certification exam, they would no longer need to be recertified in order to maintain licensure by the WV Board of Medicine and/or the WV Board of Osteopathic Medicine.

Hopemont Sale Passes House on Narrow Vote

The House of Delegates, in a 51-49 vote Wednesday, approved **HB 3102** to allow Cabinet Secretary Bill Crouch of the state Department of Health and Human Resources to sell Hopemont Hospital and its assets.

Hopemont is a 98-bed licensed Medicaid-certified long-term care facility in Terra Alta, Preston County. The facility currently has 57 patients, with 41 empty beds, and is in need of \$4.56 million in repairs, according to a recent audit. It has 110 employees, plus 73 vacant positions. The bill was originated in the House Health Committee earlier this month. It now moves to the Senate Health and Finance committees.

A similar bill, **HB 2366**, initially authorizes the sale of more than 100 currently vacant beds at Jackie Withrow Hospital in Raleigh County. The bill passed the House on March 24 and also now moves on to the Senate Health and Finance committees. It requires the state to sell the aging long-term care facility, which needs more than \$25 million in repairs. Crouch has said his goal is to sell all four of the state's long-term care hospitals, calling them "time bombs." Jackie Withrow's 108 unoccupied beds (or, technically, the authorization for those beds) would be sold, presumably to private entities. Jackie Withrow is licensed for 199 beds, but currently has just 91 patients.

Under both bills, the state would transfer current patients to area facilities and would develop a strategy to minimize the impact on employees. DHHR would also provide updates to the Joint Committee on Government and Finance, and the Legislative Oversight Commission on Health and Human Resources Accountability.

Nursing Board Bill Dies

Legislation that would have transferred the regulatory authority of the current Board of Examiners of Registered Professional Nurses, the Board of Licensed Practical Nurses, the Medical Imaging and Radiation Therapy Board of Examiners and the Nursing Home Administrators Licensing Board into a new Board of Nursing and Health Services died last week when it was placed on the House Calendar (or inactive calendar) on 3rd reading.

The bill, **HB 3109**, originated in the House Government Organization Committee, would have required an 11-member board, appointed by the Governor. It also would have resurrected provisions of the APRN scope of practice bill enacted in 2016, which included creation of a Joint Advisory Council on Limited Prescriptive Authority. The council, also to be appointed by the governor, has yet to be named and therefore has yet to convene.

West Virginia Legislature

ACTIVE* Health Care Bill Status as of 4/2/17

***Only ACTIVE bills are listed; all others were not passed by their legislative chamber of origin by March 29.**

To find a particular bill, look below for the bill number under a general health category. A description of the bill is provided along with the bill's lead sponsor, additional information about the bill, committee references and other legislative action. Please note that bill numbers are web links to the bill text, so you may click on the blue bill number while holding down the control key and information on the bill will open in your web browser.

APPROPRIATIONS & BUDGET

- [SB 199](#) Carmichael+ **Budget Bill SFY 2018** (see [HB 2018](#)) *Bill proposed by Governor. Of note: More than 20% of all state expenditures are allocated for Health and Human Resources.* To Finance
- [SB 302](#) Carmichael+ **Supplemental appropriation to DHHR Division of Human Services** *Bill proposed by Governor to appropriate federal funds. Completed legislation, approved by the Governor, effective from passage.*
- [SB 303](#) Carmichael+ **Supplemental appropriation to DHHR** *Bill proposed by Governor to appropriate \$295,000 for the Laboratory Services Fund, \$3,325,111 for the WV Birth-to-Three Fund and \$6.9 million for the Medicaid State Share Fund. Finance reported Com. Sub., passed Senate 3/15, House Finance reported, on 1st reading 4/3*
- [SB 304](#) Carmichael+ **Supplemental appropriation to DHHR** *Bill proposed by Governor to provide expiring funds to DHHR's Division of Health Finance reported Com. Sub., on 2nd reading 4/3*
- [HB 2018](#) Armstead+ **Budget Bill SFY 2018** (see [SB 199](#)) *Bill proposed by Governor. To Finance (on agenda 4/3)*
- [HB 3103](#) Armstead+ **Supplemental appropriation to DHHR** *Bill proposed by Governor. Finance reported, on 1st reading 4/3*

BOARD LICENSURE AND REGULATION

- [SB 347](#) Takubo **Modernizes the PA Practice Act** *Health reported Com. Sub., floor amendment adopted, passed Senate 3/1, House Health amended, Judiciary dispensed, passed House 3/31, Completed legislative action.*
- [SB 671](#) Mann **Re-establishes the WV Anatomical Board** *Gov. Org. reported Com. Sub., passed Senate 3/27, House Gov. Org. reported, on 2nd reading 4/3*
- [HB 2359](#) Arvon **Aligns penalties for practicing without D.O. license with M.D. penalties** *Health amended, Judiciary reported Com. Sub., passed House 2/27, Senate Gov. Org. reported, to Judiciary (on agenda 4/4)*
- [HB 2503](#) Ellington+ **Updates rulemaking authority of the WV Board of Osteopathic Medicine** *Gov. Org. reported Com. Sub., passed House 3/9, Senate Gov. Org. reported*
- [HB 2522](#) Ellington+ **Creates an interstate licensure compact for RNs and LPNs** *Health reported, Judiciary reported, passed House 3/16, Senate Health reported, on 2nd reading 4/3*
- [HB 2628](#) Howell+ **Strengthens powers of WV Board of Medicine and WV Board of Osteopathic Medicine** *Health reported, Gov. Org. reported, passed House 3/9, Senate Gov. Org. amended*
- [HB 2630](#) Howell+ **Authorizes WV Board of Medicine and WV Board of Osteopathic Medicine to share staff** *Gov. Org. reported, passed House 3/3, to Senate Gov. Org.*
- [HB 2631](#) Howell+ **Prevents dismissal of complaints when accused causes delay** *Gov. Org. reported, Judiciary reported Com. Sub., passed House 3/16, to Senate Gov. Org.*
- [HB 2839](#) Howell+ **Updates schedules for legislative review of departments and licensing boards** *Gov. Org. reported Com. Sub., passed House 3/17, Senate Gov. Org. reported*

CHILDREN

- [SB 326](#) Romano+ **Requires D.O.D. notification about abuse or neglect of military member's child** *Military reported, Health reported, passed Senate 3/14, to House Veterans' Affairs, then Judiciary*
- [HB 2195](#) Rohrbach+ **Requires drug awareness and prevention programs in public schools** *Substance Abuse amended, Education reported Com. Sub., passed House 3/29, to Senate Education (on agenda 4/1)*
- [HB 2373](#) Statler+ **Authorizes trained school bus drivers to administer epinephrine auto-injectors** *Education amended, Judiciary reported Com. Sub., passed House 3/16, Senate Judiciary amended, on 1st reading 4/3*

[HB 2618](#) Summers+ **Removes requirement to obtain students' body mass index** Education reported, Health reported Com. Sub., passed House 3/15, to Senate Health

[HB 2846](#) Fast+ **Allows high school students to qualify as pharmacy tech trainees** Education reported, Health reported Com. Sub., passed House 3/25, to Senate Health

HOSPITALS

[SB 402](#) Takubo+ **Prohibits non-compete covenants between physicians and hospitals** *The bill provides limitations on the duration (one year), distance (30 road miles) and enforceability of a non-compete covenant or employment contract between physicians and hospitals.* Health reported Com. Sub., Judiciary reported, passed Senate 3/29, House Health reported, to Judiciary

[SB 486](#) Takubo+ **Changes tax rate on eligible acute care hospitals for fiscal 2018** *The program previously was known as the Medicaid Upper Payment Limit and is now known as the Directed Payment Program. The bill changes the rate from 0.74% to 0.75%, effective July 1 and expiring on June 30, 2018.* Health reported Com. Sub., Finance reported Com. Sub., passed Senate 3/24, House Health reported, to Finance

[HB 2459](#) Ellington+ **Clarifies requirements of the certificate of need process** *This bill transfers the West Virginia Health Care Authority and its functions, including the Certificate of Need program, to the state Department of Health and Human Resources. A five-member board, appointed by the Governor, would be overseen by an executive director, who would report to the DHHR secretary. The board would review and approve (or disapprove) CON applications. It clarifies requirements of the CON process, details expenditure minimums before a CON becomes necessary and exemptions for ambulatory care, and clarifies that telemedicine is not subject to CON review.* Health amended, Judiciary reported Com. Sub., passed House 3/6, Senate Health amended, passed Senate 3/30, completed legislative action, effective from passage.

INSURANCE & HEALTH COVERAGE

[SB 221](#) Blair+ **Changes PEIA Finance Board** Gov. Org. reported Com. Sub., passed Senate 3/6, House Gov. Org. amended, on 2nd reading 4/3

[SB 500](#) Trump+ **Continues Medicaid Fraud Control Unit in the Attorney General's office** Gov. Org. reported Com. Sub., Judiciary dispensed, passed Senate 3/18, to House Judiciary, then Finance

[SB 522](#) Gaunch+ **Defines audit procedures between pharmacy benefits managers and pharmacies** Insurance reported Com. Sub., passed Senate 3/17, House Insurance amended, on 3rd reading 4/3

[SB 526](#) Takubo **Mandates insurance coverage for inherited enzymatic disorders** Insurance reported Com. Sub., Finance reported Com. Sub., passed Senate 3/29, to House Judiciary

[HB 2119](#) Ellington+ **Repeals WV Health Benefit Exchange Act** Health reported, Finance reported, passed House 3/14, Senate Health reported, on 1st reading 4/3

[HB 2300](#) Kelly+ **Regulates step therapy protocols in health benefit plans** *This bill allows physicians to deviate from the protocols established by insurers which outline specific medications in specific sequences for a given medical condition. The bill allows the provider to go outside the protocol if deemed in the best interest of the patient. A similar bill passed both houses in 2016 and was signed by then-Gov. Earl Ray Tomblin, only to be "voided" on a technicality.* Completed legislation, approved by the Governor, effective 90 days from passage.

[HB 2471](#) Ellington+ **Requires insurance coverage for breast cancer screenings** Insurance amended, Finance reported Com. Sub., passed House 3/21, Senate Insurance amended, to Finance

[HB 2519](#) Ellington+ **Requires DHHR to investigate a compact to ensure payment for other states' Medicaid participants** Health amended, Gov. Org. reported Com. Sub., passed House 3/23, Senate Health amended, on 2nd reading 4/3

[HB 2739](#) Summers+ **Allows providers to receive supplemental Medicaid reimbursement for ground EMT services** Health reported, Finance reported Com. Sub., passed House 3/17, Senate Health amended, on 2nd reading 4/3

[HB 2827](#) Ellington+ **Updates the all payor claims database** Health reported Com. Sub., passed House 3/22, to Senate Health

MEDICAL LIABILITY

[SB 236](#) Trump+ **Limits damage awards for medical monitoring (see HB 2580)** Judiciary reported Com. Sub., floor amendment adopted, passed Senate 3/7, to House Judiciary

[SB 338](#) Trump+ **Amends Medical Professional Liability Act** Judiciary reported Com. Sub., passed Senate 3/8, House Judiciary reported, passed House 3/31. Completed legislative action.

[SB 398](#) Takubo+ **Creates Emergency Volunteer Health Practitioners Act** Health reported, Gov. Org. reported Com. Sub., passed Senate 3/22, House Health reported, Judiciary reported, on 2nd reading 4/3

- SB 465** Takubo+ **Allows admission of a “screening certificate of merit” in actions against health providers** *This bill maintains that the person signing the screening certificate must be from the profession and within the specialty field, if any, or another specialty field that encompasses the area of practice of the health care provider upon whom the service of a notice is required.* Judiciary reported Com. Sub., passed Senate 3/29, to House Judiciary
- SB 497** Stollings+ **Modifies liability of physicians offering volunteer care at school sporting events** Judiciary reported Com. Sub., passed Senate 3/15, House Judiciary reported, passed House 3/31. Completed legislative action.

MISCELLANEOUS

- SB 27** Karnes+ **Permits sale of home-based microprocessed foods at farmers markets** *This bill allows the sale of microprocessed foods made in a home or community kitchen to be sold at farmer’s markets with a permit known as a microprocessor permit. It establishes permit requirements and limitations, inspection standards and permits fees.* Agriculture reported Com. Sub., Health reported Com. Sub., passed Senate 3/21, to House Health (on agenda 4/1)
- SB 40** Stollings+ **Requires after-school emergency protocols** Health reported Com. Sub., Education reported, passed Senate 3/29, to House Education (on agenda 4/3)
- SB 60** Gaunch+ **Provides eligibility and fraud requirements for public assistance** *This bill requires DHHR to implement a number of provisions regarding applicants and recipients of assistance. It includes a fiscal note estimating costs at \$3.6 million in fiscal 2018, but projecting savings at full implementation of \$6.45 million.* Health reported Com. Sub., Finance reported Com. Sub., passed Senate 3/28, House Health amended, to Judiciary (A public hearing is scheduled at 10 a.m. today in the House Chamber.)
- SB 169** Ferns+ **Repeals article on assistance to Korea and Vietnam veterans exposed to chemical defoliants** *Recommended by LOCHHRA.* Health reported, passed Senate 2/15, House Health reported, Finance reported, on 2nd reading 4/3
- SB 170** Ferns+ **Repeals state hemophilia program** *Recommended by LOCHHRA.* Health reported, Finance dispensed, passed Senate 2/15, House Health reported, Finance reported, on 2nd reading 4/3
- SB 176** Ferns+ **Repeals code on detection of tuberculosis, high blood pressure and diabetes** *Recommended by the Legislative Oversight Commission on Health and Human Resources Accountability.* Completed legislation, approved by the Governor, effective 90 days from passage.
- SB 187** Takubo+ **Provides for confidentiality of patient medical records** Health reported, Judiciary reported Com. Sub., passed Senate 3/15, to House Judiciary
- SB 339** Takubo+ **Creates legislative coalition to study chronic pain management** *A coalition – including five physicians, one pharmacist and a consumer – would review the way WV regulates pain clinics and pain management pharmaceuticals.* Health reported Com. Sub., Gov. Org. reported Com. Sub., passed Senate 3/23, to House Health (on agenda 4/1)
- SB 360** Takubo+ **Creates Legislative Coalition on Diabetes Management** *The coalition would provide guidance and insight to the Legislature on how to combat incidence of diabetes in WV.* Health reported Com. Sub., Gov. Org. reported Com. Sub., passed Senate 3/22, to House Health (on agenda 4/1), then Gov. Org.
- SB 386** Ojeda+ **Creates WV Medical Cannabis Act** Health reported Com. Sub., Judiciary amended, passed Senate 3/29, House committee reference dispensed, on 2nd reading 4/3
- SB 578** Trump+ **Establishes new fee structure for providing health care records** *This bill would establish a new fee structure for furnishing health care records, with a \$300 cap. Providers would be required to produce the records within 30 days of receiving a written request. Charges could include a \$30 search and handling fee, a per page fee of 40 cents, postage (if mailed) and applicable taxes. Current law allows for “reasonable, cost-based fees.”* Health reported, passed Senate 3/28, to House Judiciary
- SB 686** Hall+ **Exempts DHHR direct care facilities from Purchasing oversight; requires legislative audit** *This bill originated in Finance Committee* Senate Finance reported, passed Senate 3/28, to House
- HB 2366** Ellington+ **Requires DHHR to sell Jackie Withrow Hospital** Health amended, Finance reported Com. Sub., passed House 3/24, to Senate Health, then Finance
- HB 2376** Ellington+ **Reorganizes DHHR, creates Department of Medical Services** Health amended, Gov. Org. reported Com. Sub., passed House 3/28, to Senate Health, then Gov. Org.
- HB 2446** Howell+ **Requires state agencies to maintain websites with specific information** Gov. Org. reported, passed House 3/16, Senate Gov. Org. amended, on 1st reading 4/3
- HB 2453** Eldridge+ **Expands list of persons the Commissioner of Agriculture may license to grow industrial hemp** Agriculture amended, Judiciary reported Com. Sub., passed House 3/28, Senate Agriculture reported, on 1st reading 4/3

- [HB 2486](#) Westfall **Allows release of medical records in certain civil cases without court order** Judiciary reported Com. Sub., passed House 2/28, Senate Judiciary reported, passed Senate 3/25. Completed legislative action.
- [HB 2520](#) Summers+ **Prohibits use of tanning devices by persons under age 18** Health amended, Judiciary reported Com. Sub., passed House 3/28, to Senate Health
- [HB 2724](#) Armstead+ **Establishes community-based pilot project to promote public health** *Bill requested by the Governor.* Political Subdivisions reported, Health reported Com. Sub., passed House 3/25, Senate Health reported, to Gov. Org.
- [HB 2808](#) Summers+ **Provides assisted outpatient treatment for mental illness** Health amended, Judiciary reported Com. Sub., passed House 3/23, to Senate Health, then Judiciary
- [HB 3102](#) Ellington+ **Permits DHHR to sell Hopemont Hospital and its assets** Health reported, Finance reported Com. Sub., passed House 3/29, to Senate Health

NURSING HOMES, LONG-TERM CARE & SENIORS

- [SB 171](#) Ferns+ **Repeals Programs of All-Inclusive Care for Elderly** *Recommended by LOCHHRA.* Health reported, Finance dispensed, passed Senate 2/15, House Health reported, Finance reported, on 2nd reading 4/3
- [SB 564](#) Takubo+ **Modifies WV Independent Living Act and Statewide Independent Living Council** Gov. Org. reported, passed Senate 3/21, House Gov. Org. amended, on 2nd reading 4/3
- [HB 2404](#) Rowan+ **Bars criminals from acquiring property from their victims** Senior Citizen Issues amended, Judiciary reported Com. Sub., passed House 2/23, Senate Judiciary amended, on 2nd reading 4/3

PRESCRIPTION MEDICATIONS & DRUG USE/ABUSE/DIVERSION

- [SB 36](#) Stollings+ **Permits school nurses to possess and administer opioid antagonists** Health reported Com. Sub., passed Senate 3/21, House Health amended, passed House 3/31. Completed legislative action.
- [SB 188](#) Takubo **Corrects definition of “telehealth” in medication-assisted treatment programs** Completed legislation, approved by Governor 3/13, effective 90 days from passage.
- [SB 219](#) Weld **Creates offense of conspiracy to violate drug laws** Judiciary reported Com. Sub., Finance reported Com. Sub., passed Senate 3/21, to House Judiciary
- [SB 220](#) Weld **Creates new felony for drug delivery resulting in a death** Judiciary reported Com. Sub., passed Senate 3/9, to House Judiciary
- [SB 333](#) Takubo+ **Requires all DHHR-licensed facilities access CSMP database** Health reported Com. Sub., Judiciary reported Com. Sub., passed Senate 3/29, to House Judiciary
- [SB 406](#) Takubo **Amends distribution of savings from filling prescriptions with generic drugs** Judiciary reported Com. Sub., passed Senate 3/29, to House Judiciary
- [SB 428](#) Weld+ **Provides conditions under which a pharmacist may partially fill a prescription** *This allows the prescribing practitioner to request less than the full quantity of a prescription. Current law only allows a partial fill if there is an insufficient supply or if the patient requests less than the full amount. The remaining portion may be filled within 30 days of the first partial filling, or within 72 hours in emergency situations.* Health reported Com. Sub., Judiciary reported, passed Senate 3/25, House Health reported, to Judiciary
- [SB 492](#) Trump **Removes requirement that all judicial circuits participate in a drug court program** Judiciary reported Com. Sub., passed Senate 3/11, to House Judiciary
- [SB 507](#) Cline+ **Allows pharmacists to inform customers of lower-cost alternatives to Rx drugs** Insurance reported Com. Sub., Judiciary reported Com. Sub., passed Senate 3/29, to House Judiciary
- [SB 538](#) Trump+ **Requires parolees to engage in alcohol or drug therapy as condition of parole** Judiciary reported Com. Sub., passed Senate 3/24, to House Judiciary
- [HB 2083](#) Rodighiero+ **Increases penalties for exposing children to meth manufacturing** Substance Abuse amended, Judiciary reported Com. Sub., passed House 2/28, Senate Judiciary amended, on 1st reading 4/3
- [HB 2329](#) Rohrbach+ **Prohibits production, manufacture or possession of fentanyl** Substance Abuse amended, Judiciary reported Com. Sub., passed House 3/2, Senate Judiciary amended, passed Senate 4/1
- [HB 2428](#) Kelly+ **Establishes additional substance abuse treatment facilities** *This bill creates the Ryan Brown Addiction Prevention and Recovery Fund, using money recovered by the state in the \$36 million Boone County civil settlement involving Cardinal Health and Americource Bergen.* Substance Abuse amended, Finance reported Com. Sub., passed House 3/29, to Senate Health, then Finance

- [HB 2431](#)** Ellington+ **Allows voluntary influenza immunizations at specified facilities** *Hospitals shall offer an inpatient who is 65 or older an influenza immunization prior to discharge from Oct. 1 every year through March 1 of the following year.* Completed legislation, approved by Governor 3/23, effective 90 days from passage.
- [HB 2509](#)** Ellington+ **Permits physicians to prescribe controlled substances using telemedicine** Health amended, Judiciary reported Com. Sub., passed House 3/6, Senate Health amended, Judiciary amended, on 2nd reading 4/3
- [HB 2518](#)** Ellington+ **Permits pharmacist or pharmacy intern to administer immunizations** Health amended, Gov. Org. reported, passed House 3/14, Senate Health reported, on 2nd reading 4/3
- [HB 2526](#)** Ellington+ **Classifies additional drugs to Schedules I, II, IV and V** Health amended, Judiciary reported Com. Sub., passed House 3/10, Senate Judiciary amended, on 2nd reading 4/3
- [HB 2579](#)** Sobonya+ **Increases penalties for transporting controlled substances into WV** Substance Abuse reported, Judiciary reported Com. Sub., passed House 3/7, to Senate Judiciary (on agenda 4/3)
- [HB 2620](#)** Frich+ **WV Drug Overdose Monitoring Act** Substance Abuse amended, Judiciary reported Com. Sub., passed House 3/2, to Senate Judiciary (on agenda 4/4)
- [HB 2648](#)** Sybolt+ **Increases penalties for manufacturing or transporting controlled substances in presence of a minor** Substance Abuse reported, Judiciary reported Com. Sub., amendments adopted, passed House 3/3, to Senate Judiciary
- [HB 2653](#)** Ellington+ **Extends multistate real-time tracking system for meth labs to June 2023** Health reported, passed House 3/6, Senate Health reported, on 2nd reading 4/3
- [HB 2766](#)** Shott+ **Establishes Adult Drug Court Participation Fund** *A new special revenue fund, administered by the WV Supreme Court of Appeals, will consist of money received from individuals participating in the adult drug court program to be used to maintain the program.* Completed legislation, approved by the Governor, effective 90 days from passage.
- [HB 3009](#)** Summers **Grants OHFLAC access to CSMP** Health reported, Judiciary reported, passed House 3/23, to Senate Health
- [HB 3028](#)** Miley **Creates Office of Drug Control Policy under DHHR** *Bill requested by the Governor. The new office, supervised by the State Health Officer, would serve as a data repository, coordinating information, resources, programs, and state and federal funds through a centralized location. Various public health and education initiatives and pilot programs would be created to prevent and treat substance abuse. The office would develop a strategic plan to reduce the prevalence of drug and alcohol abuse and smoking by at least 10% by July 1. The office would also create a plan, by July 1, 2018, to ensure an additional 100 treatment beds are available in privately owned facilities across the state.* Substance Abuse amended, Health reported Com. Sub., passed House 3/27, Senate Health, then Gov. Org.

PROFESSIONALS: HEALTH & MEDICAL

- [SB 4](#)** Gaunch+ **Allows licensed professionals to donate time to care for indigent patients** Health reported Com. Sub., Judiciary dispensed, floor amendments adopted, passed Senate 3/3, House Health amended, Judiciary amended, on 2nd reading 4/3
- [SB 198](#)** Takubo+ **Expands Health Sciences Program to emergency medicine professionals** Health reported, passed Senate 3/8, House Health reported, Finance reported, on 2nd reading 4/3
- [SB 522](#)** Gaunch+ **Defines audit procedures between pharmacy benefits managers and pharmacies** Insurance reported Com. Sub., passed Senate 3/17, House Insurance amended, on 3rd reading 4/3
- [HB 2301](#)** Ellington+ **Permits individuals to enter into agreements for Direct Primary Care** *Recommended by Joint Committee on Health. Direct Primary Care, which existed as a pilot program for several years, is now permitted statewide. DPC allows private practitioners to charge patients a flat monthly fee in exchange for unlimited access and a range of primary care services. DPC operates outside of traditional health insurance, Medicaid and Medicare. The bill allows for rule-making authority by both medical boards, as well as the boards for dentistry, chiropractic medicine and registered nurses.* Completed legislation, approved by Governor, effective 90 days from passage.
- [HB 2540](#)** Ellington+ **Permits professional practice without licensure for seven days for a charitable function** Gov. Org. reported Com. Sub., passed House 3/9, to Senate Health
- [HB 2745](#)** Miller+ **Adds testing of Advanced Care Technicians for ambulance services** Political Subdivisions reported, Health reported, passed House 3/25, to Senate Health
- [HB 2804](#)** Lane+ **Removes chiropractors from required CE on veterans' mental health conditions** Veterans reported, Health reported Com. Sub., passed House 3/28, to Senate Military, then Health
- [HB 2838](#)** Howell+ **Allows veterans who qualify to take licensing exam for EMT** Veterans reported, Health reported Com. Sub., passed House 3/25, to Senate Military, then Health
- [HB 2916](#)** Pethtel+ **Authorizes first responders to carry firearms** Judiciary reported Com. Sub., passed House 3/20, to Senate Judiciary

REPRODUCTIVE RIGHTS & ABORTION

HB 2002 Kessinger+ **Modifies law requiring parental notification of abortions performed on minors** *As a compromise bill now stands, parental notification requirements may be waived by a psychiatrist or psychologist if they believe the minor is mature enough to make a decision regarding abortion independently, or if notification would not be in the minor's best interests.*
Health amended, Judiciary reported Com. Sub., passed House 3/28, to Senate Health, then Judiciary

RESOLUTIONS FOR LEGISLATIVE INTERIM STUDY

The following resolutions may be considered by the Joint Committee on Government and Finance during its April or May meeting for assignment to various legislative interim study committees:

SCR 12 – Government benefit programs

SCR 48 – Transferring WV food production inspections and regulations from DHHR to Agriculture

SCR 51 – Implementing return-to-learn protocols for student who have suffered concussions

HCR 79 – Costs and benefits of medicinal marijuana

HCR 86 – Post-treatment protocols for a person diagnosed with triple negative breast cancer

RULE MAKING & LEGISLATIVE REVIEW

State agencies, boards and commissions are often given statutory authority to promulgate rules. These are reviewed during the interim period by the Legislative Rule-Making Review Committee, and if approved, are introduced as individual rules bills. Rules bills eventually end up in the House and Senate Judiciary Committees, where they are bundled into categories of rules bills.

SENATE RULES BILLS

SB 125 Rules Bundle. **Authorizes the DHHR to promulgate legislative rules.** *This rules bill bundle now includes these individual rules previously contained in the following bills.* Judiciary reported Com. Sub., passed Senate 2/28, House Judiciary amended, amendment to amendment adopted, on 3rd reading 4/3

DHHR **SB 118** Expedited partner therapy

DHHR **SB 119** Licensure and certification of clinical lab technicians and technologists

DHHR **SB 120** Clandestine drug laboratory remediation

DHHR **SB 121** Medication-assisted opioid treatment programs

DHHR **SB 122** Medication-assisted treatment, office-based MAT

HEALTH CARE AUTHORITY (original **SB 125**) Hospital Assistance Grant Program (see **HB 2261**)

HEALTH CARE AUTHORITY **SB 123** Exemption from certificate of need (see **HB 2259**)

HEALTH CARE AUTHORITY **SB 124** Rural Health Systems Grant Program (see **HB 2260**)

HEALTH CARE AUTHORITY **SB 126** Certificate of need (see **HB 2262**)

RISK MANAGEMENT BOARD SB 151 Patient Injury Compensation Fund (see **HB 2284**) Judiciary reported Com. Sub., passed Senate 2/15, House Judiciary reported, passed House 4/1

HOUSE RULES BILLS

HB 2219 Rules Bundle. **Authorizes miscellaneous rules bundle.** *This rules bill bundle now includes individual rules previously contained in the following bills.* Judiciary reported Com. Sub., passed House 3/25, Senate Judiciary amended, on 1st reading 4/3

DENTAL BOARD **HB 2249** Criminal background checks (see **SB 104**)

MEDICAL BOARD **HB 2264** Licensure and background checks for MDs and podiatrists (see **SB 129**)

MEDICAL BOARD **HB 2265** Licensure and background checks for PAs (see **SB 130**)

MEDICAL BOARD **HB 2266** Drug dispensing by practitioners (see **SB 131**)

NURSING BOARD **HB 2281** Registration, licensure and professional misconduct (see **SB 148**)

NURSING BOARD **HB 2282** Limited prescriptive authority for APRNs (see **SB 149**)

OPTOMETRY BOARD **HB 2272** Continuing education (see **SB 138**)

OSTEOPATHIC BOARD **HB 2273** Licensure and background checks for osteopaths (see **SB 139**)

OSTEOPATHIC BOARD **HB 2274** Licensure and background checks for PAs (see **SB 140**)

PHARMACY BOARD **HB 2275** Licensure and practice of pharmacy (see **SB 141**)

PHARMACY BOARD **HB 2276** Mail-order and nonresident pharmacies (see **SB 142**)

PHARMACY BOARD **HB 2277** Controlled Substances Monitoring Program (see **SB 143**)

PHYSICAL THERAPY BOARD **HB 2232** Fees (see **SB 144**)

In Other Health Care Highlights ...

... Frequent visitors to the House Government Organization committee room (215-East) noticed a change last week to the décor. Gone are the photos of past committee chairs (including good friend and dedicated **HCH** reader Jack Canfield), replaced by vintage black and white photos from the 1930s and '40s of forestry operations, pharmacies and housing construction, courtesy of the West Virginia State Archives. ...

... Two pieces of legislation that pitted personal choice freedoms against sound public policy for all died last week at crossover day. One bill, **SB 537**, would have rolled back West Virginia's immunization standards by allowing religious exemptions from compulsory immunizations for children, as well as students enrolled in colleges, universities and vocational-technical schools; and employees. Currently, the state only allows for medical exemptions. The bill also would have done away with the current review of exemption requests by an immunization officer within the state Bureau for Public Health, relying solely on certification by the individual's personal physician. The bill died when the Senate Health Committee refused to place the bill on its agenda, after it had been approved by the Senate Education Committee. Faithful readers of **HCH** recognize that such legislation crops up every session, even though West Virginia's top ranking for immunizations among school-eligible 5-year-olds is one of the state's few positive health statistics. The other bill, **SB 549**, would have allowed motorcyclists and passengers over 21 to ride without a helmet. Dubbed the "organ donor acceleration bill" by critics, the Senate rejected the legislation by a vote of 15-19 on Wednesday. It was no laughing matter, however. Following its repeal of a motorcycle helmet law in 2012, Michigan found that helmetless riders died in crashes at twice the rate of those who continued to wear helmets. ...

Quotes of Note:

... ***"A. James Manchin once said, 'Route 250 is that part of hell that never caught fire'."***

- Sen. Charles Clements, during a Senate Judiciary Commission discussion Tuesday on **SJR 4** regarding the use of property taxes to finance county economic development.

... ***"I'm voting 'No' on it, by the way. I'm voting 'No' on my own amendment."***

- Sen. Mike Romano, during a Monday debate in Senate Judiciary on **SB 549**, allowing individuals 21 and older to ride motorcycles without a helmet. The Senate rejected the bill on Wednesday.

... ***"Are you sure it's your chair and not your back?"***

- Unknown delegate, inquiring about a colleague's particularly squeaky chair during a House Health Committee meeting.

... ***"Oh, yeah. It probably would be a good idea to read the fine print."***

- Delegate Barbara Fleischauer, deciphering a DHHR fiscal note attached to **SB 60** on public assistance restrictions.

... ***"Is there any correlation between assets and hunger? Is there any correlation between how much stuff I've got and how hungry I am?"***

- Delegate Mick Bates, during that same debate, regarding "asset tests" for would-be assistance recipients.

April Capitol Health Care Events

April 3	Coalition for a Tobacco-Free West Virginia
April 5	WV Nurses Unity Day
	Fair Shake Network Ice Cream Social

Our Next Issue

The next issue of **Health Care Highlights** will be published **April 10**. With the regular session concluded, we will report on those health care-related bills that survived. We also will continue reporting on final actions taken by legislative committees and/or Gov. Jim Justice, as well as other health care news.

We are glad to have you in our subscriber network! Subscription information is available by calling (304) 590-3778 or by email to awessels@sterlingwv.com. Please respect the publication's privacy rights as other use of the newsletter's material is protected by copyright and requires written permission from the editor.