

# Health Care Highlights<sup>©</sup>

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**April 10, 2017**

**VOLUME 29, ISSUE 10**

Good morning! The first regular session of the 83<sup>rd</sup> West Virginia Legislature concluded at midnight Saturday. This week, we provide a summary of key health care-related enactments during the 60-day session. 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, 92 bills have passed (or 70, if you consider the rules bundles as single bills). Several already have been signed into law by Gov. Jim Justice. Now that the regular session has ended, the Governor has 15 days following receipt of a bill to veto, sign or allow it to become law without his signature. We also include a list of 18 House or Senate concurrent resolutions suggesting interim study topics to the Joint Committee on Government and Finance.

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**Health Care Highlights**

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## ***Legislature Passes Budget; Governor's Extended Session Brief***

When Gov. Jim Justice signed a proclamation last Wednesday, calling for a one-day extended session of the Legislature to complete work on a State Fiscal Year 2018-19 budget, who knew that both Houses would agree on a budget in less than an hour?

Anticipating a logjam of competing and conflicting budget bills, Justice had announced that he would give the Legislature one extra day (Sunday) to pass a budget. Although he issued a proclamation, as required by the state constitution, to extend the session, many lawmakers and political observers believed the extended session would prove fruitless, that the two houses would not agree on what appeared to be wildly incompatible versions of the budget, much less the Governor's own "Budget 2.0." All of that changed late Saturday, in an unusual sequence of events.

At about 10 p.m., the Governor called a press conference to announce a budget agreement with the Senate. "I really believe we're right on the cusp," Justice said. "We have an agreement with the Senate President's Office and myself, and I believe, within just a matter of minutes, if not even going on right now, the Senate will be running a bill that will be a bill that I really believe will revolutionize our state. It will take us from despair beyond belief to real opportunity, an opportunity maybe even beyond what any of us could comprehend."

The announcement seemed to catch everyone by surprise. The Senate, after adopting a floor amendment to **HB 2018** offered by Sen. Mike Hall, the Senate Finance chair, to strike all but the enacting clause and insert new language, passed by bill at 11:47 p.m. on an underwhelming 22-12 vote. The House adjourned until 12:15 a.m. Sunday, reconvened and then concurred with the Senate's amendments at 12:57 a.m. Sunday on a 63-37 vote and adjourned sine die.

"Another year. Another fictional budget," Delegate Shawn Fluharty tweeted.

## ***Coalitions for Pain, Diabetes Approved***

The Legislature has approved and sent to the Governor separate bills to create coalitions on chronic pain management and diabetes management. The Coalition for Responsible Pain Management (**SB 339**) would meet at least quarterly to conduct a review of chronic pain regulations and legislative rules; review provisions of the Controlled Substances Monitoring Database to determine the effectiveness of physician access for oversight of chronic pain medication prescriptions; establish work groups and clinical advisory committees as necessary; identify any legislative actions to better foster a balance between prescribers and chronic pain patients and the state interest in maintaining an effective regulatory structure; and report conclusions and recommendations to the Joint Committee on Health by Dec. 31, 2017.

Members of the coalition would include: the dean of the School of Public Health at West Virginia University, or designee; a physician who is a board-certified pain specialist; three licensed physicians appointed by the Senate President and House Speaker, in consultation with the co-chairs of the Joint Committee on Health – with two in practices classified as pain clinic and one in a primary care practice not classified as a pain clinic; a physical therapist experienced in the area of chronic pain; and a licensed pharmacist and health care consumer, similarly appointed. Each congressional district must be represented by at least two members. The co-chairs of the Joint Committee on Health would serve as non-voting members.

The Coalition for Diabetes Management (**SB 360**) would have a very similar mandate, reporting requirements and sunset date. The state Department of Health and Human Resources, WV Insurance Commission, WV Health Care Authority, the Public Employees Insurance Agency and other state agencies would cooperate with the coalition to exchange data and expertise; provide the coalition's plans to improve diabetes care and control complications associated with diabetes; assess the financial impact and the lives impacted by diabetes; assess the benefits of implemented plans and activities; and develop detailed action plans and associated resource requirements.

Membership would include the dean of the School of Public Health at WVU, or designee; four board-certified endocrinologists; a dietician; and a primary care physician, pediatrician and pharmacist (with preference for a certified diabetes educator). Physician members would be appointed by the Senate President, House Speaker and co-chairs of the Joint Committee on Health, who similarly would serve as non-voting members. Each congressional district must be represented by at least one member. Both coalitions would terminate on Dec. 31, 2020, unless continued by the Legislature. Members would receive only reimbursement for expenses.

## ***What a Long, Strange Trip It's Been***

Tightly drawn legislation to allow medicinal marijuana in West Virginia awaits Gov. Jim Justice's signature, after a long, strange – and most would concede, improbable – trip through the state Legislature. The West Virginia Medical Cannabis Act (**SB 386**) cleared its last legislative hurdle when the Senate made minor technical changes on Wednesday to what became known as the Shott amendment in the House. Once the House concurred, the bill was on its way to the Governor.

The amendment presented by Delegate John Shott, chair of the House Judiciary Committee, was the more cautious of two approaches presented to the full House last Monday. Delegate Mike Pushkin presented the other. On Friday, March 31, Shott had asked the House for time over the weekend to craft amendments to the Senate version of the bill, which he described as a “Wild West” approach. He denied trying to kill the bill outright. “I was trying to delay it, so that we had more time to study it and get it right,” Shott said. “I am not insensitive to this issue.” Shott said his amendment provided a strong structure. He concluded, “This bill will allow us to proceed cautiously, with substantial legislative oversight. If we are going to take this step, this is a prudent and local approach to take.”

Of course, not all agreed. The West Virginia Republican Party sent out a memo on Monday asking its members to vote “No” on the bill, declaring that support “would be a violation to the (party) platform regarding the legalization of illicit drugs.” The platform states, “We support those who are practicing drug-abuse prevention efforts at the local and state levels and oppose the normalization, legalization, or decriminalization of any illicit drugs.” According to the memo, “It is heartbreaking for our grassroots volunteers to see **SB 386** on the verge of becoming law.”

Dr. Adam Breinig, chairman of the West Virginia Academy of Family Physicians and senior council-at-large of the WV State Medical Association, wrote an opinion column posted on the West Virginia Press Association website, declaring, “There is no such thing as ‘medical marijuana.’ As a doctor, I can’t write you a prescription for X mg of marijuana and tell you to take it three times a day. There is no process to purify the marijuana, and there is no regulatory body that mandates the quantity and consistency in the product. ... Don’t place doctors in the middle.”

Nevertheless, the House approved Shott’s amendment on a 51-48 vote (with just one Democrat voting in favor, while 11 Republicans joined 31 Democrats in voting against). On passage stage Tuesday, all 24 “Nays” were cast by Republicans, offset by the 76 total votes in the affirmative. The Senate agreed on Wednesday to concur with the House / Shott amendment to the bill, with a technical amendment only, on a 28-6 vote – with six Republican dissenting.

The bill now before the Governor creates an Advisory Board within the state Department of Health and Human Resources’ Bureau for Public Health. The board would include: the commissioner or a designee; the superintendent of the West Virginia State Police or a designee; four physicians appointed by the WVSMA - with one each from family practice/neurology/general practice, pain management, oncology/palliative care and psychiatry; a pharmacist designated by the WV Board of Pharmacy; a pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor; a member who is a horticulturalist, to be designated by the West Virginia Commissioner of Agriculture; a member designated by the West Virginia Association of Alcoholism and Drug Counselors; an attorney knowledgeable about medical cannabis laws; a member appointed by the West Virginia Prosecuting Attorneys Institute; and one member appointed by the Governor, who shall be a patient, a family or household member of a patient or a patient advocate.

The bureau may issue permits for no more than 10 growers, 10 processors and 30 dispensaries, with no more than five in any region. The bureau may not issue more than two individual dispensary permits to one person, and limits grower and processor permits to one per person. Physicians would apply for registration with the bureau to be authorized to issue certificates to patients to use medical cannabis.

Patients eligible to receive treatment with medicinal marijuana include those with cancer; HIV or AIDS; amyotrophic lateral sclerosis; Parkinson's disease; multiple sclerosis; damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity; epilepsy; neuropathies; Huntington's disease; Crohn's disease; post-traumatic stress disorder; intractable seizures; sickle cell anemia; severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or has proved ineffective as determined as part of continuing care; and those who are terminally ill, with a medical prognosis of one year or less.

## ***Medical Board Complaint Processes Strengthened***

A legislative conference committee late Saturday restored and preserved the original intent of **HB 2531**, which was crafted to prevent the dismissal of complaints against physicians that exceed the time standards for disposition when the accused causes the delay.

The conferees included Sens. Tom Takubo, Mike Maroney and Corey Palumbo, as well as Delegates Roger Hanshaw, Moore Capito and Rodney Miller. Ultimately, they agreed to language that had been amended into the bill on the Senate floor on Wednesday by Takubo. The amendment stated, “The time period for final ruling shall be tolled for any delay requested or caused by the accused, or by counsel for the accused, and in no event shall a complaint proceeding be dismissed for exceeding the time standards ... when such overage is the result of a procedural delay or obstructive action by the accused on his or her counsel or agents.”

“Essentially, the time clock stops,” Takubo explained Wednesday.

An amendment that had earlier been approved in the House Judiciary Committee said the board “shall issue a status report detailing the reasons for its inability to meet the time for the final ruling and the new date for issuance of a final ruling. In no event shall the new date be in excess of six months from the date the final ruling was due.” That language was stricken from the final bill, which now goes to Gov. Jim Justice for signature.

The Legislature on Saturday also passed **HB 2359**, which aligned the penalties for osteopaths who practice without a license with those of allopaths who practice without a license. The provisions of **SB 2530**, which failed to clear the Senate Government Organization Committee, were amended into **HB 2359**. The new provisions allow the WV Board of Medicine and the WV Board of Osteopathic Medicine to share staff – such as investigators, attorneys, clerks and administrative staff – “when it may be efficient and practical for the functioning of the boards.”

Another bill, **SB 2628**, strengthens both boards’ abilities to discipline physicians, particularly those who commit a felony offense, including the ability to revoke a license “for the life of the licensee.” The bill also requires the boards to report to federal or state law enforcement, or a prosecuting authority, when they receive credible information that a licensee is or has been engaged in criminal activity. These bills also are headed to the Governor’s desk.

## ***Senate Confirms Crouch, Health Care Appointees***

The state Senate late Sunday confirmed Bill J. Crouch of Pocahontas as cabinet secretary of the West Virginia Department of Health and Human Resources. Crouch was named to the position on Jan. 6 by then Gov.-elect Jim Justice. Crouch replaced Karen Bowling, who resigned in December and later joined West Virginia United Health System as vice president of care delivery.

Crouch founded Bill J. Crouch & Associates, Inc., in 1987 as a Charleston-based health care consulting firm. He retired from the firm last June. From 1983 through 1986, Crouch served as executive director of the West Virginia Health Care Cost Review Authority. Before that, he was the assistant director of the Office of Community Health Services for the WV Department of Health. He also has owned and operated several long-term care facilities in West Virginia during his career. He has served on the board of directors for the West Virginia Health Care Association, which represents 130 nursing facilities, assisted living communities and residential retirement centers. Crouch earned his bachelor’s degree from Mars Hill College in North Carolina, and his master’s degree in public health from the University of Tennessee.

The Senate also confirmed several health-related appointments as submitted by Justice, including:

### **West Virginia School of Osteopathic Medicine Board of Governors**

- Gary L. Poling, Beckley, for the term ending June 30, 2019.

### **West Virginia Board of Physical Therapy**

- Robert A. Haas, Lewisburg, for the term ending June 30, 2019.
- Jack Spatafore, Bridgeport, for the term ending June 30, 2019.
- Jack Brautigam, Morgantown, for the term ending June 30, 2018.
- Steve Young, Summersville, for the term ending June 30, 2017.
- Ashley Mason, Hurricane, for the term ending June 30, 2018.

## West Virginia Legislature

### ACTIVE\* Health Care Bill Status as of 4/9/17

*\*Only ACTIVE bills are listed; all others were not passed by their legislative chamber of origin by March 29, or failed to pass both houses during the final weeks of the session.*

*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 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, passed House 4/5. Completed legislative action.*
- [HB 2018](#) Armstead+ **Budget Bill SFY 2018** (see [SB 199](#)) *Bill proposed by Governor. Finance reported Com. Sub., flood amendments adopted, passed House 4/5, passed Senate 4/8, House concurred in Senate amendment. Completed legislative action.*
- [HB 3103](#) Armstead+ **Supplemental appropriation to DHHR** *Bill proposed by Governor. Finance reported, passed House 4/3, Senate Finance amended, passed Senate 4/8. Completed legislative action.*

#### 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, passed House 4/4. Completed legislative action.*
- [HB 2359](#) Arvon **Aligns penalties for practicing without D.O. license with M.D. penalties** *This bill now includes the provisions of HB 2630, allowing the WV Board of Medicine and the WV Board of Osteopathic Medicine to share staff. Health amended, Judiciary reported Com. Sub., passed House 2/27, Senate Gov. Org. reported, Judiciary amended, passed Senate 4/8. Completed legislative action.*
- [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, passed Senate 4/6. Completed legislative action.*
- [HB 2522](#) Ellington+ **Creates an interstate licensure compact for RNs and LPNs** *Health reported, Judiciary reported, passed House 3/16, Senate Health reported, passed Senate 4/4. Completed legislative action.*
- [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, passed Senate 4/6. Completed legislative action.*
- [HB 2631](#) Howell+ **Prevents dismissal of complaints when accused causes delay** *Gov. Org. reported, Judiciary reported Com. Sub., passed House 3/16, Senate Gov. Org. reported, floor amendment adopted, passed Senate 4/6. Conference report adopted by both houses. Completed legislative action.*
- [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, passed Senate 4/6. Completed legislative action.*

#### CHILDREN

- [HB 2195](#) Rohrbach+ **Requires drug awareness and prevention programs in public schools** *Substance Abuse amended, Education reported Com. Sub., passed House 3/29, Senate Education reported, passed Senate 4/6. Completed legislative action.*
- [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, passed Senate 4/5. Completed legislative action.*
- [HB 2846](#) Fast+ **Allows high school students to qualify as pharmacy tech trainees** *Education reported, Health reported Com. Sub., passed House 3/25, Senate Health reported, passed Senate 4/8. Completed legislative action.*

## 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, Judiciary amended, passed House 4/6. Completed legislative action.

**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, Finance reported, passed House 4/6. Completed legislative action.

**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.

## INSURANCE & HEALTH COVERAGE

**SB 221** Blair+ **Changes PEIA Finance Board** Gov. Org. reported Com. Sub., passed Senate 3/6, House Gov. Org. amended, passed House 4/4, Senate refused to concur with House amendment, House receded. Completed legislative action.

**SB 522** Gaunch+ **Defines audit procedures between pharmacy benefits managers and pharmacies** Insurance reported Com. Sub., passed Senate 3/17, House Insurance amended, passed House 4/3. Completed legislative action.

**HB 2119** Ellington+ **Repeals WV Health Benefit Exchange Act** Health reported, Finance reported, passed House 3/14, Senate Health reported, passed Senate 4/5. Completed legislative action.

**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 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, passed Senate 4/4. Completed legislative action.

**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, passed Senate 4/4. Completed legislative action.

## MEDICAL LIABILITY

**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, passed House 4/4. Completed legislative action.

**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 40** Stollings+ **Requires after-school emergency protocols** Health reported Com. Sub., Education reported, passed Senate 3/29, House Education amended, passed House 4/7. Completed legislative action.

**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, passed House 4/4. Completed legislative action.

- SB 170** Ferns+ **Repeals state hemophilia program** *Recommended by LOCHHRA. Health reported, Finance dispensed, passed Senate 2/15, House Health reported, Finance reported, passed House 4/4. Completed legislative action.*
- 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, House Judiciary amended, passed House 4/6. Completed legislative action.*
- 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, House Health amended, passed House 4/6. Completed legislative action.*
- 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, House Health amended, 2<sup>nd</sup> reference to Gov. Org. dispensed, passed House 4/6. Completed legislative action.*
- SB 386** Ojeda+ **Creates WV Medical Cannabis Act** *Health reported Com. Sub., Judiciary amended, passed Senate 3/29, House committee reference dispensed, passed House 4/4. Completed legislative action.*
- 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, House Judiciary amended, passed House 4/6. Completed legislative action.*
- 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, House Finance amended, passed House 4/7. Completed legislative action.*
- HB 2446** Howell+ **Requires state agencies to maintain websites with specific information** *Gov. Org. reported, passed House 3/16, Senate Gov. Org. amended, passed Senate 4/5. Completed legislative action.*
- 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, passed Senate 4/5. Completed legislative action.*
- 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, Senate Health reported, passed Senate 4/8. Completed legislative action.*
- 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, Gov. Org. reported, passed Senate 4/7. Completed legislative action.*

#### **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, passed House 4/4. Completed legislative action.*
- SB 564** Takubo+ **Modifies WV Independent Living Act and Statewide Independent Living Council** *Gov. Org. reported, passed Senate 3/21, House Gov. Org. amended, passed House 4/4. Completed legislative action.*
- 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, passed Senate 4/4. Completed legislative action.*

#### **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, House Judiciary reported, passed House 4/8. Completed legislative action.
- SB 220** Weld **Creates new felony for drug delivery resulting in a death** Judiciary reported Com. Sub., passed Senate 3/9, House Judiciary amended, passed House 4/7, Senate amended House amendment, House concurred. Completed legislative action.
- SB 333** Takubo+ **Requires all DHHR-licensed facilities access CSMP database** Health reported Com. Sub., Judiciary reported Com. Sub., passed Senate 3/29, House Judiciary amended, passed House 4/7, Senate amends House amendment, House concurred. Completed legislative action.
- 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, passed Senate 4/5. Completed legislative action.
- 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, conference committee report adopted. Completed legislative action.
- 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 Amerisource Bergen.* Substance Abuse amended, Finance reported Com. Sub., passed House 3/29, Senate Health reported, passed Senate 4/7. Completed legislative action.
- 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, passed Senate 4/4. Completed legislative action.
- HB 2518** Ellington+ **Permits pharmacist or pharmacy intern to administer immunizations** Health amended, Gov. Org. reported, passed House 3/14, Senate Health reported, passed Senate 4/4. Completed legislative action.
- 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, passed Senate 4/4, House concurred and amended, Senate concurred. Completed legislative action.
- HB 2579** Sobonya+ **Increases penalties for transporting controlled substances into WV** Substance Abuse reported, Judiciary reported Com. Sub., passed House 3/7, Senate Judiciary amended, passed Senate 4/6, conference committee report adopted. Completed legislative action.
- HB 2620** Frich+ **WV Drug Overdose Monitoring Act** Substance Abuse amended, Judiciary reported Com. Sub., passed House 3/2, Senate Judiciary amended, passed Senate 4/8. Completed legislative action.
- HB 2653** Ellington+ **Extends multistate real-time tracking system for meth labs to June 2023** Health reported, passed House 3/6, Senate Health reported, passed Senate 4/4. Completed legislative action.
- 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.

#### **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, passed House 4/5. Completed legislative action.
- SB 198** Takubo+ **Expands Health Sciences Program to emergency medicine professionals** Health reported, passed Senate 3/8, House Health reported, Finance reported, passed House 4/4. Completed legislative action.
- SB 522** Gaunch+ **Defines audit procedures between pharmacy benefits managers and pharmacies** Insurance reported Com. Sub., passed Senate 3/17, House Insurance amended, passed House 4/3. Completed legislative action.
- 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 2804](#) Lane+ **Removes chiropractors from required CE on veterans' mental health conditions** Veterans reported, Health reported Com. Sub., passed House 3/28, Senate Military amended, passed Senate 4/7. Completed legislative action.

### **REPRODUCTIVE RIGHTS & ABORTION**

[HB 2002](#) Kessinger+ **Modifies law requiring parental notification of abortions performed on minors** Health amended, Judiciary reported Com. Sub., passed House 3/28, Senate Health amended, passed Senate 4/8. Completed legislative action.

### **RESOLUTIONS FOR LEGISLATIVE INTERIM STUDY**

*The following resolutions may be considered by the Joint Committee on Government and Finance 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

[HCR 112](#) – Occupational licensing requirements

[HCR 115](#) – Board of Examiners of Registered Professional Nurses and Board of Examiners of Licensed Practical Nurses

[HCR 122](#) – Increased funding for WV's Medicaid program

[HCR 129](#) – WV Office on Drug Policy

[HCR 130](#) – Feasibility of selling WV's state-owned mental health facilities

[HCR 131](#) – Reforming preauthorization procedures

[HCR 132](#) – Creation of Advisory Council on Rare Diseases

[HCR 133](#) – Tobacco / smoking harm reduction policies

[HCR 134](#) – Dividing the Department of Health and Human Resources

[HCR 135](#) – Structure and duties of the WV Medical Examiner's Office

[HCR 136](#) – Issues, needs and challenges facing senior citizens

[HCR 138](#) – Nursing shortage in West Virginia

[HCR 139](#) – Tax on sale of tobacco products other than cigarettes and the excise tax on e-cigarette liquid

### **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 incorporates rules from DHHR on expedited partner therapy, licensure and certification of clinical lab technicians and technologists, clandestine drug laboratory remediation, medication-assisted opioid treatment programs and medication-assisted treatment, office-based MAT; as well as Health Care Authority rules regarding the Hospital Assistance Grant Program, exemption from certificate of need, the Rural Health Systems Grant Program and the Certificate of Need program.* Judiciary reported Com. Sub., passed Senate 2/28, House Judiciary amended, amendment to amendment adopted, passed House 4/3. Completed legislative action.

**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, Senate amended House amendment. Completed legislative action.

#### **HOUSE RULES BILLS**

[HB 2219](#) **Rules Bundle. Authorizes miscellaneous rules bundle.** *This rules bill bundle incorporates rules from the Dental Board of criminal background checks; the Medical Board on licensure and background checks for MDs and podiatrists, licensure and background checks for PAs, and drug dispensing by practitioners; the Nursing Board on registration, licensure and professional misconduct, and limited prescriptive authority for APRNs; the Optometry Board on continuing education; the Osteopathic Board on licensure and background checks for osteopaths, and licensure and background checks for PAs; the Pharmacy Board on licensure and practice of pharmacy, mail-order and nonresident pharmacies, and the Controlled Substances Monitoring Program; and the Physical Therapy Board on fees.* Judiciary reported Com. Sub., passed House 3/25, Senate Judiciary amended, passed Senate 4/5. Completed legislative action.

## ***In Other Health Care Highlights ...***

... Congratulations to Sen. Ron Stollings, who received the prestigious West Virginia Friends of Children Award from the West Virginia Chapter of the American Academy of Pediatrics on Friday night at Stonewall Resort. Sen. Roman Prezioso brought the recognition to the attention of the Senate on Saturday. ...

... Among the topics left unsettled by the Legislature in the wake of the 2017 session is a proposal to establish a prelitigation medical malpractice review panel. The concept, as proposed in **SB 560**, would have established the panel under the WV Board of Medicine, creating the potential for conflicts of interest, not to mention administrative difficulties. Eighteen other states have established a similar procedure in varying forms, but only one state (Idaho) places jurisdiction under its medical board. The Senate Judiciary Committee reported the bill, without recommendation, though the kiss of death may have been a \$365,000 fiscal note filed by the board (and which may have been a conservative estimate). Senate Judiciary later endorsed a resolution requesting an interim study on the topic, but it appears the full Senate never took up the proposal. It remains to be seen whether the Joint Committee on Government and Finance will include malpractice review panels among its list of studies during this year's interims. ...

... The 2017 West Virginia Governance and Leadership Forum, scheduled April 28-29 at Stonewall Resort, will help local health board members and executive leaders to explore best practices for intentional governance. The Governance 101 Workshop will focus on the fundamentals of board service by first developing a working understanding of the fiduciary duties of individual board members. These are the legal responsibilities of individuals who serve on boards. Participants will also begin to understand that how a board organizes itself provides the foundation for high impact governance. Following the Governance 101 workshop (pre-session), the forum will continue to explore the following topics: Strategic Alignments to Improve Population Health; Building a Culture of Health in Rural Communities; Bridging the Gap: Improving the Health of West Virginia's Communities by Linking Clinical Medicine and Public Health; The Impact of Organizational Culture on Performance; Potential Impact of Changes in Health Policy on West Virginia's Rural Communities; and, Community Paramedicine: A Key Strategy in Enhanced Care Management and Population Health. For more information, visit [wvgovernanceforum.org](http://wvgovernanceforum.org) or call 304.397.4071.

## ***Quotes of Note:***

... ***"I will not criticize my Governor until I have ridden a mile in his Mercedes."***

- The late House Speaker Clyde See, regarding then-Gov. Jay Rockefeller, as quoted by Charles Ryan. See passed away last week at age 75. Ryan, in a Facebook post, recalled See as "one of the wittiest politicians to ever grace the halls of the Statehouse."

... ***"Had we thought ahead and charged admission, we might have been able to close a little bit of our budget hole."***

- Delegate John Shott, as he began explaining an amendment to **SB 386**, the WV Medical Cannabis Act.

... ***"I'm not sure that I've ever even seen marijuana."***

- Delegate Charlotte Lane, during debate over **SB 386**.

... ***"Anything over 50 years old could have historic value. I mean, I'm looking around the room here ..."***

- Unidentified senator, during discussion of **HB 2515**, the West Virginia Monument and Memorial Protection Act.

... ***"I know that's confusing, but I didn't write it."***

- Sen. Kenny Mann, struggling to explain **HB 2651** regarding standardized testing requirements for nonpublic schools.

## ***Our Next Issue***

The next issue of ***Health Care Highlights*** will be published **April 17**. The issue will include and analysis of the fiscal 2018-19 budget, if the Governor signs HB 2018 into law, and more details of health-related bills that passed this session. Also, we'll take a look at some of the bills that failed to make the grade.

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