

# Health Care Highlights<sup>©</sup>

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**February 13, 2017**

**VOLUME 29, ISSUE 2**

Good morning! Today is the 6th day of the 60-day regular session of the West Virginia Legislature. Of the 595 bills introduced to date (334 House, 261 Senate), we are tracking 123 health-related bills.

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## ***2017 Key Legislative Dates***

**Feb. 22:** DHHR Budget Hearing – House Finance Committee – 2 p.m.

**Feb. 27:** Submission of Legislative Rule-Making Review bills due.

**Feb. 28:** DHHR Budget Hearing – Senate Finance Committee – 3 p.m.

**March 20:** Last day to introduce bills in the Senate. (Does not apply to originating or supplementary appropriation bills.)

**March 21:** Last day to introduce bills in the House. (Does not apply to originating or supplementary appropriation bills.)

**March 26:** Bills due out of committees in house of origin to ensure three full days for readings.

**March 29:** Last day to consider bills on third reading (passage stage) in house of origin for "cross-over." (Does not include budget or supplementary appropriations bills.)

**April 8:** Adjournment at midnight.

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

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**Health Care Highlights**

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## ***State of the State Address Short on Health Topics***

Gov. Jim Justice's unconventional State of the State address on Wednesday focused, as expected, on the state budget and West Virginia's struggling economy, but did include brief mention of the state's ongoing war on substance abuse.

Speaking in reference to highway construction projects, the Governor proposed a 5% severance tax to generate as much as \$120 million. "And then you know what I want to do with it? I want to fix the drug problem," Justice said. "If we don't fix the drug problem in this state, it will cannibalize you."

Justice called for "stiffer" laws targeting illegal drug dealers. "We absolutely have to have a pathway to get our people that are hooked on these terrible drugs back into the community of the workforce," Justice said. Citing also the abuse of prescription medications, the Governor proposed building new treatment facilities in Charleston and the Eastern Panhandle.

## ***WVSOM Privatization Bill Bypasses Health Committee***

Sen. John Unger says the Senate Health Committee should get a crack at legislation to privatize the West Virginia School of Osteopathic Medicine, and committee chair Sen. Tom Takubo agreed to bring the matter to leadership's attention.

Sen. Craig Blair introduced **SB 184** last week. Currently, it is slated for discussion by the Government Organization Committee (which Blair chairs) and the Finance Committee, but not by the Health Committee. Unger said Health should be included, "so that we could look at the health impact that would have on our residents, as well as how we as a state attract and retain physicians."

The bill would transition WVSOM from a state-owned and operated entity to a not-for-profit corporation, effective July 1, 2018. To make the sale as quickly as possible, the bill would make the transaction exempt from bidding and public sale requirements, as well as from approval of contractual agreements by the Department of Administration, the State Auditor, the State Treasurer, the Higher Education Policy Commission or the Attorney General. According to the bill, the transition "would greatly benefit the institution by providing it with greater flexibility and freedom in providing medical education."

In other business Thursday, Senate Health reported four bills recommended by the interim Legislative Oversight Commission on Health and Human Resources Accountability (LOCHHRA): **SB 169**, repealing an article to provide assistance to Korea and Vietnam veterans exposed to chemical defoliants (a federal program already is in place); **SB 170**, repealing an article regarding the unfunded state hemophilia program; **SB 171**, repealing the never-contracted Program for All-Inclusive Care for the Elderly; and **SB 176**, repealing an article concerning detection of tuberculosis, high blood pressure and diabetes (similar programs are managed elsewhere). All four bills will be on first reading today.

## ***Direct Primary Care, Step Therapy Bills Move Forward***

The House Health and Human Resources Committee on Thursday approved two bills – one to authorize the practice of Direct Primary Care (**HB 2301**) and the other to allow physicians to make exceptions to step therapy protocols established by health insurers or health plans (**HB 2300**).

Direct Primary Care allows private practitioners to charge patients a flat monthly fee in exchange for unlimited access and a range of primary care services. The bill, recommended by the interim Joint Committee on Health, now moves to the Judiciary Committee.

Dr. Josh Umbehr of Wichita, KS, said Direct Primary Care is a more efficient alternative to the traditional fee-for-service insurance model, providing high value to consumers at an affordable price. The average cost to consumers is \$80 per month. "Any procedure that we can do is included, free of charge," he said. Umbehr said 16 states currently allow the practice, which can help drive down insurance costs for employers by as much as 60%. Practitioners also can offer sharp discounts on some medications and routine lab tests by negotiating wholesale price discounts from manufacturers.

The single-referenced step therapy bill now goes to the House floor. Step therapy protocols in health plans establish a specific sequence of prescription drugs, when medically appropriate, for specific medical conditions. The bill provides a simple and expeditious process for exceptions. A similar bill, **HB 4040**, passed the Legislature in 2016; however, the enrolled bill as passed was not presented to then-Gov. Earl Ray Tomblin, and became "null and void."

## ***Health Care Spending in Proposed State Budget***

Gov. Jim Justice submitted a budget proposal for State Fiscal Year (SFY) 2018 to the Legislature during his State of the State Address last Wednesday, covering the period of July 1, 2017 to June 30, 2018. The budget calls for an increase in taxes and fees of nearly \$400 million, as well as \$26.6 million in cuts from the General Revenue Fund. An “alternative budget” for SFY 2018 features \$450 million in program and agency cuts, and the loss of nearly 3,000 jobs.

The Governor’s budget bills already have been introduced in the House ([HB 2018](#)) and Senate ([SB 199](#)) and are now under consideration by the House and Senate Finance Committees. The DHHR will appear for a budget hearing hosted by the House Finance Committee at 2 p.m. on Wednesday, Feb. 22. The Senate Finance Committee will hold a similar hearing for a DHHR budget presentation at 3 p.m. on Tuesday, Feb. 28.

### **Health spending in the proposed SFY 2018 budget bill**

#### **Teaching Hospitals**

The budget continues current year funding of \$6,356,000 for Tertiary Safety-Net Services at the major teaching hospitals, including Charleston Area Medical Center, Cabell Huntington Hospital, St. Mary’s Medical Center, and West Virginia University Hospitals. This is the same amount as the current and past budgets.

#### **Rural Hospitals & EMS**

The Rural Hospitals under 150 beds line-item in the budget includes \$2,596,000, which is the same as the current SFY budget allocation. The budget includes \$2,298,605 Statewide EMS Support; and maintains \$1,986,847 for the State Trauma and Emergency Care System.

#### **Substance Abuse**

The budget does maintain current level funding of \$5 million for "Substance Abuse Continuum of Care." The budget also maintains \$11,592,430 to the Division of Health for substance abuse and treatment.

#### **Medicaid I/DD & Senior In-Home Waiver Programs**

There is an appropriation of \$88,753,483 in the I/DD Waiver Program, which is the same as current year funding. The new budget maintains \$13,593,620 for the Title XIX waiver program for seniors.

#### **Health Programs**

Budget funding for health programs and services is proposed as follows: \$420,198 for the WV Center for End-of-Life Care; \$97,125 for the Diabetes Education and Prevention Program; \$146,426 for the Healthy Lifestyles Program; \$427,500 for the CARDIAC Project; \$100,000 for Adolescent Immunization Education; \$100,000 for the Healing Place of Huntington; \$100,000 for the West Virginia Cancer Coalition; \$50,000 for the West Virginia AIDS Coalition; \$50,000 for the Hospital Hospitality House of Huntington; \$332,942 for Vaccines for Children; \$158,035 for the Osteoporosis/Arthritis Program; \$46,563 for the Maternal Mortality Review Program; \$195,868 for the Cancer Registry; \$5,954,317 for the Chief Medical Examiner’s Office; \$400,000 for the Breast and Cervical Cancer Diagnostic Treatment Fund; \$800,000 for the Traumatic Brain Injury Waiver; \$700,000 for the James “Tiger” Morton Catastrophic Illness Fund; and \$125,000 for Sexual Assault Intervention and Prevention. The new budget also maintains: \$727,492 for the Poison Control Center; \$2,750,000 for Health Right free clinics; and \$3,035,231 for the Tobacco Education Program.

#### **Medical Schools**

- ✓ West Virginia School of Osteopathic Medicine would receive \$6,798,239.
- ✓ Marshall University Medical School would receive \$11,643,369 plus \$230,815 for the Forensic Lab and \$153,119 for the Center for Rural Health.
- ✓ West Virginia University School of Health Sciences for the WVU Medical School would receive \$14,833,144
- ✓ The WVU Medical School - Charleston Division will receive \$2,210,767; and the Eastern Panhandle Division will receive \$2,149,539 for next fiscal year.
- ✓ The Medical Schools Rural Health Outreach Programs, including rural health activities and programs, rural residency development and education, and rural outreach activities, will be dispersed among the three medical schools as follows: WVU \$162,639; MU \$160,241; SOM \$168,354. There is also a separate appropriation of \$404,968 for the SOM Rural Health Initiative - Medical Schools Support.

## ***Health Committee Rosters Finalized, Meetings Set***

The House Health and Human Resources Committee, as noted in **HCH Vol. 29, Issue 1**, will be chaired by Delegate Joe Ellington, with Delegate Amy Summers serving as vice chair. Delegate Linda Longstreth will be minority chair, and Delegate Mike Pushkin will be minority vice chair.

Other committee members include: Delegates Lynne Arvon, Martin “Rick” Atkinson III, Stephen Baldwin, Mick Bates, Jim Butler, Roy Cooper, Vernon Criss, Mark Dean, Barbara Fleischauer, Shawn Fluharty, Jordan Hill, Ray Hollen, Eric Householder, Richard Iaquina, Shirley Love, Ben Queen, Ralph Rodighiero, Matthew Rohrbach, Ruth Rowan, Kelli Sobonya, and Brad White.

Ellington also chairs the Select Committee on the Prevention & Treatment of Substance Abuse, with Delegate Kayla Kessinger serving as vice chair. Other members include Delegates Baldwin, Bates, Brent Boggs, Cindy Frich, Hollen, Sean Hornbuckle, Sobonya, Erikka Storch, and Jill Upson.

The Senate Health and Human Resources Committee will be chaired by Sen. Tom Takubo, with Sen. Mike Maroney serving as vice chair. Other committee members include Sens. Mike Azinger, Charles H. Clements, Robert Karnes, Corey Palumbo, Robert Plymale, Roman Prezioso, Patricia Rucker, Ron Stollings, Charles Trump, John Unger, and Ryan Weld.

Following last year’s schedule, Senate Health will meet at 1 p.m. on Tuesdays and Thursdays, and House Health will meet at 2 p.m. on Tuesdays and Thursdays. The Select Committee on Prevention and Treatment of Substance Abuse most often will meet following the House Health meeting. Of course, adjustments in schedules always are possible

## ***Audit Recommends CON Repeal***

A legislative audit presented last Tuesday to the interim Post Audits Subcommittee finds the West Virginia Health Care Authority’s Certificate of Need program to be an “ineffective and unnecessary regulatory function,” and recommends the Legislature consider repealing the state CON law.

Denny Rhodes, director of the auditor’s Post Audit Division, told subcommittee members that “West Virginia’s per capita health care costs have grown at the 7th fastest rate in the U.S., when compared to other states, and ranked 12th overall at \$7,667 in 2009.” In addition, the report states, “The authority’s CON program issued a decision on 228 CON applications between 2011 and 2015. Over this period, only four applications were denied a CON—a 98 percent approval rate.” Rhodes noted that more than 220 areas in West Virginia are designed as having a shortage of primary care and mental health services, including 40 entire counties. In addition, 53 of the state’s 55 counties are designated as having medically underserved areas or populations. “Therefore, the Legislative Auditor concludes that West Virginia’s CON program is ineffective in restraining health care costs, and is an unnecessary regulatory burden to providers of health care services.”

## ***Opioid Pendulum: Swinging Too Far?***

While lawsuits against drug manufacturers by the state of West Virginia, as well as individual cities and counties, dominate the headlines, some health care observers are beginning to wonder whether efforts by lawmakers and regulators to curb access to opioid medications have gone too far – to the detriment not only of legitimate patients seeking pain relief, but also private practitioners and small, rural pharmacies struggling to meet their needs.

*The Boston Globe*, in a June 2016 article, called the phenomenon, “the other side of America’s war on opioids.”

“As federal and state regulators rush to curtail access to drugs that have claimed thousands of lives,” the *Globe* article stated, “the rules they’ve enacted fall hard on people who legitimately need relief from pain. In an atmosphere of heightened concern about opioids, patients in pain face reluctant doctors, wary pharmacists, and the frequent demand to prove that they are not addicts.”

A 2011 study by the Institute of Medicine found that as many as 100 million U.S. adults “suffer from pain that never ends, often the result of injury, disease or dysfunction of the nervous system,” the *Globe* reported. Alternatives to opioids, such as other medications, medical devices and health regimens, are not always effective. Dr. Daniel Alford of the Boston University School of Medicine warned the newspaper against an “opioid phobia” that has some doctors and pharmacies misinterpreting or overreacting to guidelines, fearing overzealous regulators all too willing to shut them down.

## ***HealthNet Expands to Northern Panhandle***

HealthNet Aeromedical Services is bringing critical care air medical services to Marshall County, with its tenth helicopter base in full operation later this year from a location near WVU Medicine Reynolds Memorial Hospital. The aircraft and the flight crew will serve the Northern Panhandle and beyond.

The aircraft assigned to HealthNet's Base 10 will be a twin-engine, Airbus Helicopters EC-135 P2+ model. The aircraft will be equipped for single-pilot instrument flight capabilities with a suite of aviation equipment that exceeds national standards. Medical flight crews will be afforded complete head-to-toe access to the patient, with the latest technology and blood and plasma available on every flight.

"The investment by WVU Medicine to bring this multimillion dollar operation to the region reflects their tremendous commitment to providing the finest health care services available to the communities they serve," said HealthNet President and CEO Clinton Burley. Albert Wright, president and CEO of West Virginia University Health System, said West Virginia's "wild and wonderful terrain, while beautiful, makes ambulance travel difficult. This new HealthNet base will help get patients to Morgantown faster, so they can receive the life-saving care they need."

HealthNet, headquartered in Charleston, is a not-for-profit critical care transport system operated cooperatively by WVU Medicine, Charleston Area Medical Center and Cabell Huntington Hospital. Formed in 1986, HealthNet has safely transported more than 75,000 patients. WVU Medicine Reynolds Memorial Hospital, located in Glen Dale, is licensed for 70 acute beds and a 20-bed skilled nursing unit. It is the newest member of WVU Medicine, the state's largest integrated health delivery network.

## ***House Requires Witness Oaths***

The House of Delegates on Wednesday amended its rules to clarify that all witnesses appearing before its committees must be sworn in before offering testimony or answering lawmaker questions. The change to [House Rule 84a](#) requires administration of oaths; in the past, the practice was not mandatory. The rule does not apply to public hearings.

"We want to make sure all testimony before our committees is truthful and accurate, and placing those offering such testimony under oath – just as they do in Congress or our courts – will help ensure that," said House Speaker Tim Armstead.

## ***WV Center for End-of-Life Care Respects Patients' Wishes***

The West Virginia Center for End-of-Life Care distributed a record 81,000 forms in 2016, ensuring that through advance directives and medical orders that patients' wishes are respected near the end of life. For the vast majority, that means dying peacefully in a non-clinical setting.

The center's director, Dr. Alvin Moss, pointed out that filing advance directive forms with the West Virginia e-Directive Registry – including the combined Living Will/Medical Power of Attorney form, and the separate Medical Power of Attorney and Living Will forms, as well as medical orders such as the Do Not Resuscitate (DNR) card and POST (Physician Orders for Scope of Treatment) form – also saves millions of dollars in unwanted treatment costs annually.

"For all locations in a hospital, including the ICU, the average cost for the final six days of life is \$10,940 lower for a registry participant," Moss said. "With 4,139 registry participant deaths in 2016, that means a savings of more than \$45.3 million in health care charges at the end of life for West Virginians with forms in the registry."

In 2016, nearly half of registry participants who passed away died at home. Just 20% of those who died and had forms filed in the secure database passed away in a hospital setting.

Since 2010, West Virginians have filed 64,380 forms with the e-Directive Registry. Visits to the center's website ([www.wvendoflife.org](http://www.wvendoflife.org)) were up by nearly two-thirds in 2016 over 2015, and hospitals, hospices and nursing homes helped patients submit more forms in 2016 than in the previous year. "While West Virginia struggles in some health care metrics, the commitment our providers and residents to appropriately use advance directives and medical orders is among the best in the nation," Moss said. For more information about the center or the West Virginia e-Directive Registry, call 1-877-209-8086.

# West Virginia Legislature

## Health Care Bill Status as of 2/12/17

*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** Bill proposed by Governor. Of note: More than 20% of all state expenditures are allocated for Health and Human Resources. (see [HB 2018](#)) To Finance

[HB 2018](#) Armstead+ **Budget Bill SFY 2018** Bill proposed by Governor. Of note: More than 20% of all state expenditures are allocated for Health and Human Resources (see [SB 199](#)) To Finance

### BOARD LICENSURE AND REGULATION

[SB 195](#) Blair+ **Terminates WV Medical Imaging and Radiation Therapy Technology Board of Examiners** To Gov. Org.

[SB 196](#) Blair+ **Terminates WV Massage Therapy Licensure Board** To Gov. Org.

[SB 253](#) Takubo+ **Clarifies English language requirement for medical licensure applicants** To Gov. Org.

[SB 254](#) Blair+ **Terminates WV Nursing Home Administrators Licensing Board** To Gov. Org.

### CHILDREN

[HB 2014](#) Rodighiero **Allows holiday sweets in schools with parental or guardian consent** To Education

### HOSPITALS

[SB 47](#) Ferns **Allows certain employers to discriminate against tobacco users** To Health, then Judiciary

[HB 2085](#) Rodighiero **Ensuring Patient Safety Act; establishes minimum RN-patient ratios** To Health, then Gov. Org.

[HB 2145](#) Fast **Allows certain employers to discriminate against tobacco users** To Health, then Judiciary

[HB 2201](#) McGeehan **Save the Hospitals Act** To Health, then Finance

### INSURANCE & HEALTH COVERAGE

[SB 49](#) Ferns **Requires provisions for prior authorization of drug benefits by insurers** To Insurance, then Health

[SB 56](#) Ferns **Defines criteria private insurers must consider when setting rates for health providers** To Insurance, then Health

[SB 221](#) Blair+ **Changes composition of the PEIA Finance Board** To Gov. Org.

[HB 2020](#) Rodighiero **Freezes PEIA employee premiums for three years** To Insurance, Finance

[HB 2051](#) Rodighiero **Authorizes reduced rate PEIA coverage for married workers without children** To Insurance, then Finance

[HB 2055](#) Rodighiero **Includes volunteer firefighters within PEIA** To Insurance, then Finance

[HB 2072](#) Rodighiero **Qualifies children of state employees earning \$25,000 or less for CHIP** To Insurance, then Finance

[HB 2119](#) Ellington+ **Repeals WV Health Benefit Exchange Act** To Health, then Finance

[HB 2120](#) Ellington+ **Exempts managed care contracts from the bidding process** To Insurance, then Health

[HB 2300](#) Kelly+ **Regulates step therapy protocols in health benefit plans** [Health reported](#)

[HB 2327](#) Fleischauer+ **Protects consumers from "surprise bills" by health care providers** To Insurance, then Health

### MEDICAL LIABILITY

[SB 197](#) Takubo **Excludes certain medical care amounts from compensatory damage awards** To Judiciary

[SB 236](#) Trump+ **Limits damage awards for medical monitoring** To Judiciary

[HB 2113](#) Ellington+ **Prohibits DHHR from changing Medicaid program without legislative approval** To Health, then Finance

[HB 2192](#) Ferro **Adds pharmacist and pharmacy to definition of health care provider in Medical Practice Liability Act** To Health, then Judiciary

### MISCELLANEOUS

[SB 1](#) Trump+ **Establishes additional \$1 fee per wireless subscriber to fund 911 centers** To Gov. Org., then Finance

- [\*\*SB 27\*\*](#) Karnes+ **Permits sale of home-based micro-processed foods at farmers markets** To Agriculture, then Health
- [\*\*SB 40\*\*](#) Stollings+ **Requires protocols of after-school emergencies in school crisis response plans** To Health, then Education
- [\*\*SB 52\*\*](#) Ferns **Authorizes county commissions to approve local health board policies** To Gov. Org.
- [\*\*SB 60\*\*](#) Gaunch+ **Provides eligibility and fraud prevention requirements for SNAP and TANF** To Health, then Finance
- [\*\*SB 71\*\*](#) Gaunch+ **Creates the 24/7 Sobriety Program administered by the Attorney General** To Judiciary, then Finance
- [\*\*SB 169\*\*](#) Ferns+ **Repeals article on assistance to Korea and Vietnam veterans exposed to chemical defoliants** *Recommended by LOCHHRA. Health reported, Finance dispensed, on 1<sup>st</sup> reading 2/13*
- [\*\*SB 170\*\*](#) Ferns+ **Repeals state hemophilia program** *Recommended by LOCHHRA. Health reported, Finance dispensed, on 1<sup>st</sup> reading 2/13*
- [\*\*SB 176\*\*](#) Ferns+ **Repeals code on detection of tuberculosis, high blood pressure and diabetes** *Recommended by LOCHHRA. Health reported, on 1<sup>st</sup> reading 2/13*
- [\*\*SB 177\*\*](#) Ferns+ **Repeals article related to prenatal examinations** *Recommended by LOCHHRA. To Health*
- [\*\*SB 184\*\*](#) Blair+ **Transitions WV School of Osteopathic Medicine to a not-for-profit corporation** To Gov. Org., then Finance
- [\*\*SB 187\*\*](#) Takubo+ **Provides for confidentiality of patient medical records** To Health, then Judiciary
- [\*\*SB 201\*\*](#) Blair **Requires DHHR consultant to explore sale, rent or lease of state-owned health facilities** To Health, then Finance
- [\*\*SB 251\*\*](#) Woelfel+ **Creates pilot program for school-based mental and behavioral health services** To Education
- [\*\*HB 2016\*\*](#) Rodighiero **Provides state health care services to active or inactive duty military personnel** To Insurance, then Finance
- [\*\*HB 2022\*\*](#) Rodighiero **Requires hand sanitizers in all public restrooms** To Health, then Finance
- [\*\*HB 2068\*\*](#) Rohrbach **Authorizes WVHIN and WVHCA to implement interoperable health info network** To Health, then Finance
- [\*\*HB 2071\*\*](#) Bates+ **Authorizes medical use of cannabis-based pharmaceuticals** To Substance Abuse, then Health, then Judiciary
- [\*\*HB 2095\*\*](#) McGeehan+ **Authorizes “local governing body” to approve local health board policies** To Health, then Gov. Org.
- [\*\*HB 2121\*\*](#) Fleischauer+ **WV Residential Furniture and Children’s Products Flame Retardants Act** To Health, then Judiciary
- [\*\*HB 2132\*\*](#) Folk+ **Limits adults without dependents to 3 months of SNAP benefits in 36 months** To Health, then Judiciary
- [\*\*HB 2135\*\*](#) Kelly+ **Permits those 21 or older to operate or ride on a motorcycle without a helmet** To Roads, then Judiciary
- [\*\*HB 2187\*\*](#) Rohrbach **Establishes an advisory council on rare diseases** To Health, then Finance

#### **NURSING HOMES, LONG TERM CARE & SENIORS**

- [\*\*SB 171\*\*](#) Ferns+ **Repeals Programs of All-Inclusive Care for Elderly** *Recommended by LOCHHRA. Health reported, Finance dispensed, on 1<sup>st</sup> reading 2/13*

#### **PRESCRIPTION MEDICATIONS & DRUG USE/ABUSE/DIVERSION**

- [\*\*SB 36\*\*](#) Stollings+ **Permits school nurses to possess and administer opioid antagonists** To Health
- [\*\*SB 188\*\*](#) Takubo **Corrects definition of “telehealth” in medication-assisted treatment programs** To Health
- [\*\*HB 2070\*\*](#) Rodighiero **Prohibits new methadone programs or clinics, except at comprehensive mental health centers** To Substance Abuse, then Judiciary
- [\*\*HB 2081\*\*](#) Rodighiero **Prohibits new methadone programs or clinics, except at comprehensive mental health centers; requires CSMP use** To Substance Abuse, then Judiciary
- [\*\*HB 2083\*\*](#) Rodighiero **Increases felony penalties for exposing children to meth manufacturing** To Substance Abuse, then Judiciary
- [\*\*HB 2130\*\*](#) Fluharty+ **Requires legislators to pass annual drug test** To Judiciary, then Finance
- [\*\*HB 2195\*\*](#) Rohrbach+ **Requires drug awareness and prevention programs in public schools** To Substance Abuse, then Education
- [\*\*HB 2207\*\*](#) Hamilton+ **Prohibits business licenses for selling drug paraphernalia** To Substance Abuse, then Judiciary
- [\*\*HB 2329\*\*](#) Rohrbach+ **Prohibits production, manufacture or possession of fentanyl** To Substance Abuse, then Judiciary
- [\*\*HB 2330\*\*](#) Arvon+ **Prohibits the sale of drug paraphernalia** To Substance Abuse, then Judiciary

#### **PROFESSIONALS: HEALTH & MEDICAL**

- [\*\*SB 4\*\*](#) Gaunch+ **Allows licensed professionals to donate time for indigent care in clinical settings** To Health, then Judiciary
- [\*\*SB 23\*\*](#) Karnes+ **Defines “midwife,” “certified midwife” and “midwifery”** To Health
- [\*\*SB 51\*\*](#) Ferns **Requires patient notification when a mammogram indicates dense breast tissue** To Health
- [\*\*SB 175\*\*](#) Ferns+ **Permits the practice of Direct Primary Care (see HB 2301)** *Recommended by Joint Committee on Health* To Health, then Finance
- [\*\*SB 198\*\*](#) Takubo+ **Expands Health Sciences Program to allow certain medical practitioners in underserved areas** To Health

[HB 2165](#) Statler+ **Exempts physician or surgeon traveling with a sports team from state licensure** To Health, then Judiciary  
[HB 2301](#) Ellington+ **Permits individuals to enter into agreements for Direct Primary Care (see SB 175)** *Recommended by Joint Committee on Health.* Health reported, to Judiciary

### **REPRODUCTIVE RIGHTS & ABORTION**

[SB 20](#) Karnes+ **Limits insurance coverage for elective abortions** To Insurance, then Judiciary  
[SB 21](#) Karnes+ **Relates to care of aborted fetuses** To Health, then Judiciary  
[SB 31](#) Karnes+ **Prohibits abortion coverage in qualified health plans** To Health, then Judiciary  
[HB 2053](#) Rodighiero **Requires abortion clinics to obtain parental notification or consent in writing** To Health, then Judiciary  
[HB 2082](#) Rodighiero **Prohibits state funding of abortions** To Health, then Judiciary

### **RULE MAKING & LEGISLATIVE REVIEW**

*State agencies, boards and commissions are often given statutory authority to promulgate rules. These are known as “legislative review” during the interim period by the Legislative Rule-Making Review Committee, and if approved, then are introduced for legislative consideration in individual rules bills. The rules bills are then assigned to various committees, eventually ending up in the Judiciary Committees of the Senate and House of Delegates. There, they are bundled into categories of rules bills.*

#### **SENATE RULES BILLS**

DHHR [SB 118](#) Expedited partner therapy (see [HB 2256](#)) To Health, then Judiciary  
DHHR [SB 119](#) Licensure and certification of clinical lab technicians and technologists (see [HB 2254](#)) To Health, then Judiciary  
DHHR [SB 120](#) Clandestine drug laboratory remediation (see [HB 2255](#)) To Health, then Judiciary  
DHHR [SB 121](#) Medication-assisted opioid treatment programs (see [HB 2257](#)) To Health, then Judiciary  
DHHR [SB 122](#) Medication-assisted treatment, office-based MAT (see [HB 2258](#)) To Health, then Judiciary  
DENTAL BOARD [SB 104](#) Authorizes board to promulgate rule (see [HB 2249](#)) To Judiciary  
HEALTH CARE AUTHORITY [SB 123](#) Exemption from certificate of need (see [HB 2259](#)) To Health, then Judiciary  
HEALTH CARE AUTHORITY [SB 124](#) Rural Health Systems Grant Program (see [HB 2260](#)) To Health, then Judiciary  
HEALTH CARE AUTHORITY [SB 125](#) Hospital Assistance Grant Program (see [HB 2261](#)) To Health, then Judiciary  
HEALTH CARE AUTHORITY [SB 126](#) Certificate of need (see [HB 2262](#)) To Health, then Judiciary  
MEDICAL BOARD [SB 129](#) Licensing and disciplinary procedures for MDs and podiatrists (see [HB 2264](#)) To Judiciary  
MEDICAL BOARD [SB 130](#) Licensure, disciplinary and complaint procedures, CE and PAs (see [HB 2265](#)) To Judiciary  
MEDICAL BOARD [SB 131](#) Drug dispensing by practitioners (see [HB 2266](#)) To Judiciary  
NURSING BOARD [SB 148](#) Registration, licensure and professional misconduct (see [HB 2281](#)) To Judiciary  
NURSING BOARD [SB 149](#) Limited prescriptive authority for APRNs (see [HB 2282](#)) To Judiciary  
OPTOMETRY BOARD [SB 138](#) Continuing education (see [HB 2272](#)) To Judiciary  
OSTEOPATHIC BOARD [SB 139](#) Licensing procedures for osteopathic physicians (see [HB 2273](#)) To Judiciary  
OSTEOPATHIC BOARD [SB 140](#) Osteopathic physician assistants (see [HB 2274](#)) To Judiciary  
PHARMACY BOARD [SB 141](#) Licensure and practice of pharmacy (see [HB 2275](#)) To Judiciary  
PHARMACY BOARD [SB 142](#) Mail-order and nonresident pharmacies (see [HB 2276](#)) To Judiciary  
PHARMACY BOARD [SB 143](#) Controlled Substances Monitoring Program (see [HB 2277](#)) To Judiciary  
PHYSICAL THERAPY BOARD [SB 144](#) Fees (see [HB 2232](#)) To Judiciary  
RISK MANAGEMENT BOARD [SB 151](#) Patient Injury Compensation Fund (see [HB 2284](#)) Judiciary reported Com. Sub., on 1<sup>st</sup> reading 2/13.

#### **HOUSE RULES BILLS**

DHHR [HB 2256](#) Expedited partner therapy (see [SB 118](#)) To Health, then Judiciary  
DHHR [HB 2254](#) Licensure and certification of clinical lab technicians and technologists (see [SB 119](#)) To Health, then Judiciary  
DHHR [HB 2255](#) Clandestine drug laboratory remediation (see [SB 120](#)) To Judiciary  
DHHR [HB 2257](#) Medication-assisted opioid treatment programs (see [SB 121](#)) To Substance Abuse, then Judiciary  
DHHR [HB 2258](#) Medication-assisted treatment, office-based MAT (see [SB 122](#)) To Substance Abuse, then Judiciary  
DENTAL BOARD [HB 2249](#) Authorizes board to promulgate rule (see [SB 104](#)) To Health, then Judiciary  
HEALTH CARE AUTHORITY [HB 2259](#) Exemption from certificate of need (see [SB 123](#)) To Health, then Judiciary  
HEALTH CARE AUTHORITY [HB 2260](#) Rural Health Systems Grant Program (see [SB 124](#)) To Health, then Judiciary  
HEALTH CARE AUTHORITY [HB 2261](#) Hospital Assistance Grant Program (see [SB 125](#)) To Health, then Judiciary

**HEALTH CARE AUTHORITY** [HB 2262](#) Certificate of need (see **SB 126**) To Health, then Judiciary  
**MEDICAL BOARD** [HB 2264](#) Licensing and disciplinary procedures for MDs and podiatrists (see **SB 129**) To Health, then Judiciary  
**MEDICAL BOARD** [HB 2265](#) Licensure, disciplinary and complaint procedures, CE and PAs (see **SB 130**) To Health, then Judiciary  
**MEDICAL BOARD** [HB 2266](#) Drug dispensing by practitioners (see **SB 131**) To Health, then Judiciary  
**NURSING BOARD** [HB 2281](#) Registration, licensure and professional misconduct (see **SB 148**) To Health, then Judiciary  
**NURSING BOARD** [HB 2282](#) Limited prescriptive authority for APRNs (see **SB 149**) To Health, then Judiciary  
**OPTOMETRY BOARD** [HB 2272](#) Continuing education (see **SB 138**) To Health, then Judiciary  
**OSTEOPATHIC BOARD** [HB 2273](#) Licensing procedures for osteopathic physicians (see **SB 139**) To Health, then Judiciary  
**OSTEOPATHIC BOARD** [HB 2274](#) Osteopathic physician assistants (see **SB 140**) To Health, then Judiciary  
**PHARMACY BOARD** [HB 2275](#) Licensure and practice of pharmacy (see **SB 141**) To Health, then Judiciary  
**PHARMACY BOARD** [HB 2276](#) Mail-order and nonresident pharmacies (see **SB 142**) To Health, then Judiciary  
**PHARMACY BOARD** [HB 2277](#) Controlled Substances Monitoring Program (see **SB 143**) To Substance Abuse, then Judiciary  
**PHYSICAL THERAPY BOARD** [HB 2232](#) Fees (see **SB 144**) To Gov. Org., then Judiciary  
**RISK MANAGEMENT BOARD** [HB 2284](#) Patient Injury Compensation Fund (see **SB 151**) To Judiciary

#### TAXES, FEES & LOANS

[SB 46](#) Ferns+ Excludes mobile X-ray services from health care provider tax To Health, then Finance  
[SB 250](#) Takubo+ Establishes tax credit for newly graduated physicians who locate in WV for 6 years To Health, then Finance

#### TOBACCO

[SB 37](#) Stollings+ Raises legal age for purchase of tobacco, alternative nicotine and vapor products to 21 To Health, then Finance  
[SB 193](#) Takubo+ Prohibits smoking in motor vehicles with those age 16 and under To Health, then Judiciary  
[HB 2331](#) Rowe+ Raises legal age for purchase of tobacco or tobacco products to 21 To Health, then Judiciary

### *Foy Departs WVSMA, Scalise Appointed*

Danny Scalise II of Charleston has been appointed interim executive director of the West Virginia State Medical Association, following the resignation of Brian Foy, who has taken a position with his alma mater, the U.S. Merchant Marine Academy's Alumni Association & Foundation, and will spend much of his time in Washington, D.C.

Scalise had been the WVSMA's director of public policy since November. As interim executive director, he will continue to oversee public policy directives as well as help lead the executive team at WVSMA. He has been a public policy adviser to two governors and is well known across West Virginia as a problem solver, and a great student of West Virginia politics and the legislative process. He managed \$1.8 billion in grants and entitlement funds in WV as a result of the American Recovery and Reinvestment Act of 2009.

Scalise most recently served as administrator of the Fayette County Health Department. Previously, he was a self-employed consultant working with non-profits, governmental agencies and small businesses.

Scalise earned his Bachelor of Science degree in Business Management from West Virginia University Institute of Technology in 2002 and his Master of Business Administration degree from West Virginia University in 2005. In 2016, he became certified in Public Health by the National Board of Public Health Examiners.

"Leaving organized medicine will not be easy," Foy wrote in a Jan. 16 email. "I have spent nearly 29 years working with physicians and medical associations in New York, Florida, Oklahoma and West Virginia. It has been a great ride and I am blessed to have made many lifelong friends along the way. I will miss each of you and many others whom I have had the privilege to work with in West Virginia the past two years. I hope our paths will cross again."

The WVSMA also announced that its Annual Business Meeting, also known as the Mid-Winter Meeting, will not be held in March as originally scheduled. The association's Annual Healthcare Summit will take place Aug. 25-27 at The Greenbrier.

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

... Gov. Jim Justice on Jan. 28 appointed Charles Clements to the fill the 2nd district Senate seat vacated by Agriculture Commissioner Kent Leonhardt. (Clements also takes Leonhardt's place on the Senate Health Committee.) The district covers all of Wetzel County, Tyler County, Doddridge County, Ritchie County and Calhoun County, and parts of Marshall County, Monongalia County, Marion County and Gilmer County. Clements is a former House of Delegates and currently serves as the executive director of the WV Route 2 and I-68 Authority. He served as member of the governor's transition policy committee on transportation. Clements served in the U.S. Army and was owner of Clements Oil Company for 34 years. Since 2004 he has operated H&R Block in New Martinsville. ...

... DHHR, following up on Legislative Post Audit Division report presented during January interims, is investigating whether any criminal activity took place during fiscal years 2010-2014, when the agency overpaid Office of the Chief Medical Examiner body transport vendors by \$217,597. "Contributing factors ... were bodies transported to incorrect locations, the reimbursement of excessive mileage, and paying for more than one body transported together," according to last month's report by auditor Denny Rhodes. An attorney representing DHHR told the Post Audits Subcommittee last week that a lack of formal contracts, since corrected, contributed to the problem. "To be candid about it, it was just an arrangement – a dangerous arrangement," Sen. Mike Hall remarked. ...

... A group called "WV Green is the New Black" is distributing a two-page "Quick Facts" document at the Statehouse about proposals to legalize marijuana for medicinal and/or recreational use. (**HB 2071**, introduced by Delegate Mick Bates, would authorize the use of cannabis-based pharmaceuticals. It is likely the first of several such bills to be introduced this session.) Quoting the FBI's Uniform Crime Report, the fact sheet notes that marijuana-related arrests make up 55% of all arrests in West Virginia, placing the Mountain State 15<sup>th</sup> nationally, and increased by 23.3% from 2001 to 2010. The total cost of policing new marijuana arrests in WV was \$17.4 million – money the group argues could be better spent to fund opioid abuse treatment centers. According to the fact sheet, the WV Center on Budget & Policy estimates tax revenues from a legalized marijuana industry at \$194 million, not including savings to enforcement, or increases in ancillary business and employment. ...

... As readers may have long-since surmised, **HCH** regularly follows the career of Hinton native Sylvia Matthews Burwell, the former secretary of the U.S. Department of Health and Human Services under President Obama. Burwell is slated to become the 15<sup>th</sup> president of Washington, D.C.-based American University on June 1. She will be the first woman to hold that position. "Secretary Burwell's success at HHS reflects three key abilities that will make her an excellent president for our university. She fosters research and scholarship, and turns them into action. She embraces and leverages the strengths of a large, diverse institution to advance its goals, and she is able to convey complex ideas to a wide range of audiences, from members of Congress to the public, in pushing for evidence-based actions and outcomes," said Kiho Kim, professor of environmental science at AU and a member of the Presidential Search Committee. ...

... According to a report published in **The Charleston Gazette-Mail**, the Legislature can count only 18 women among its 134 members in 2017, its lowest number since the early 1980s. That includes three senators and 15 delegates, or a total of 13%, compared to an average of 24.8% serving in state legislatures nationwide. The newspaper quoted Debbie Walsh, director of the Center for American Women and Politics: "There has to be, I think, a targeted recruitment that's done either by outside organizations ... or even better the political parties, if they cared about getting women in office. The reality is most of the people who do the recruiting of candidates tend to be white men, and they tend to pick people like them. It means breaking out of the usual suspects to identify good women who are in a position to run for office, but not putting them up as sacrificial lambs in races that are unwinnable." ...

... Gov. Jim Justice appointed Butch Antolini to serve as his communications director and Grant Herring to act as press secretary. Antolini spent eight years as executive editor and general manager for Beckley Newspapers, and has also worked at other various newspapers and media outlets in West Virginia and Maryland during the past 35 years including positions in Morgantown, Parkersburg, Clarksburg, Elkins, and Cumberland, MD. He is a 1982 graduate of the WVU Perley Isaac Reed School of Journalism, and formerly served on the WV Press Association's board of directors. Most recently, he was communications director for the state Department of Agriculture. Herring served as spokesman for Justice's gubernatorial campaign. Herring previously worked for U.S. Sen. Mark Pryor of Arkansas, Virginia Lt. Gov. Ralph Northam, and other top-tier campaigns across the country. Herring is a 2010 graduate of George Mason University.

...

## Quotes of Note:

<Editor's note: Following are Gov. Jim Justice's "Greatest Quips" from Wednesday's State of the State Address ... >

... "Unless y'all are wanting to stay here all night, you got to quit this clapping so much."

... "Now, let me tell you ..."

... "Donald Trump won our state by 17,000 million percent. Now, there had to be a reason."

... "A lot of news media said, you know, 'He's folksy.' I don't know if I knew how to spell that."

... "We've got an 18-carat dog's mess, don't we? I didn't create the dog's mess. I have inherited the dog's mess."

... "You got to forgive me. I'm not nervous, but I just sweat a lot. A lot. And I got a bad knee, and man does it hurt."

... "It will make tourism explode in this state. Honest to Pete. This is the 800-pound gorilla in the room. Not me."

... "Who in the world wants to go to Michigan? I mean, really?!?"

... "Frankenstein, he used to walk through the streets like 'boom, boom,' and I always thought, if you got caught by Frankenstein, you deserve to die."

... "President Co ... Carmichael moves ..."

- House Speaker Tim Armstead, with a slight misstep on a motion by Senate President Mitch Carmichael to approve meeting minutes at the start of last Tuesday's Post Audits Subcommittee meeting.

... "I'm glad somebody else broke the ice, because I was sitting back there writing 'President Carmichael, President Carmichael' ..."

- WV Health Care Authority board member Sonia D. Chambers, beginning her agency's response to a legislative audit report.

... "I guess when you present a report like that, there's no questions."

- Senate President Mitch Carmichael to Craig Slaughter, executive director of the Investment Management Board, who told the Joint Committee on Government and Finance last Tuesday that investment income was up 5.6% through December, and another 1.5% to 2% for January.

## February Capitol Health Care Events

Feb. 13	Health Smart
Feb. 14	Heart Day
	WV Academy of Nutrition and Dietetics
	Children and Families Day
Feb. 17	Recovery Point WV Day
Feb. 20	WV Optometric Physicians Association
Feb. 21	WV Occupational Therapy Association
Feb. 22	Arthritis Foundation
Feb. 23	WV School of Osteopathic Medicine
Feb. 24	Undergraduate Research Day

## Our Next Issue

The next issue of *Health Care Highlights* will be published **Feb. 20**, when we will continue the weekly tracking of all health care-related bills under consideration by the House and Senate. We will also continue reporting on actions taken by legislative committees and other health care news. And, watch for a special report on WV's two medical boards.

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