

Health Care Highlights©

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Good morning! The third interim session of the 83rd West Virginia Legislature took place last week (June 24-26) and incorporated a second special session called by Gov. Jim Justice. There are three additional interim meetings scheduled through the end of the year (see below), and Statehouse observers expect at least one more special session to be scheduled to address funding and benefits for the Public Employees Insurance Agency.

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Upcoming Interim Meetings

September 16-18

November 11-13

December 9-11

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Legislature May Revive Failed 2018 Bills

Several health-related initiatives that failed to pass muster during the 2018 regular session of the West Virginia Legislature may be revived next year, according to discussions during last week's interim committee meetings. Among those are potential changes to the West Virginia Board of Medicine's burden of proof standard in disciplinary cases, statutory reporting requirements among medical professions, and a proposal to transition the state's exploding foster care population into managed care.

Board of Medicine Executive Director Mark Spangler last Monday presented an overview of the board's operations and complaint process to the Joint Committee on Government Operations and the Joint Standing Committee on Government Organization. The two committees are co-chaired by Sen. Ed Gaunch and Delegate Gary Howell, and most often share meetings times and agendas.

Spangler noted during his presentation that the Board of Medicine must meet a "clear and convincing" evidentiary burden of proof in disciplinary cases – the only Chapter 30 board in West Virginia held to this higher standard. All others, including the WV Board of Osteopathic Medicine, rely on a lesser "preponderance of the evidence" standard.

Nationwide, 51 medical board jurisdictions maintain a "preponderance" standard, while 23 have the "clear and convincing" standard. During the 2018 session, a proposal to change the Board of Medicine's standard was included as a provision in early versions of the Opioid Reduction Act but was deleted as lawmakers pared the bill to its final form.

Also, during the 2018 regular session, **HB 4481** would have mandated inter-board reporting by licensees of the medical and nursing boards. The bill passed the full House in February but was not taken up by the Senate Health Committee. Howell was the bill's lead sponsor. During Monday's meeting, a Jan. 5 letter from Legislative Manager Aaron Allred was reintroduced to the two committees. The letter called for the expansion of statutory reporting requirements.

The letter noted, "The medical community works in collaborative teams of individuals licensed by multiple boards, yet mandatory reporting of certain issues is only required of licensees within single boards. Under current law, a medical doctor and a doctor of osteopathy could be partners in the same medical practice but have no mandatory reporting requirements regarding the other's practice even when they know over-prescription of controlled substances occurs. Furthermore, a nurse in the same practice is not mandated to report to either the MD or DO board regarding threats to public safety."

The Joint Committee on Health and the Legislative Oversight Committee on Health and Human Resources Accountability also met last Monday, focusing much of their attention on children's issues. Specifically, they heard multiple presentations about programs in place or in development to handle the exploding population of children being removed from their homes because of the substance abuse epidemic. These include school-based mental health programs, as well as a proposal to transition the foster care population into managed care. A transition bill introduced during this year's session, HB 4241, was amended in the House Health and House Finance Committees, only to fail on the House floor.

Jeremiah Samples, deputy secretary of the state Department of Health and Human Resources, said West Virginia leads the nation in child removals from the home. The number of children in the custody of the state increased by 46% from October 2014 to October 2017; 63% of the children entering care are age 10 or younger; 85% of open child abuse/neglect cases involve illicit drug use. "We need to have greater care management for these kids," Samples said. "There needs to be another set of eyes."

The care management concept includes: development of a contract for an array of children in foster care and children at risk of entering foster care; links to various federal funding sources to maximize resources and ensure continuity to infrastructure developed; management of social service needs and medical needs of children and families under one contractual arrangement; built in incentives and penalties to ensure that vendors accomplish the goals set forth; and, creation of additional resources for circuit judges, prosecutors, law enforcement and child protective services to maximize supports for children in need.

Earlie Rockette, regional vice president for Amerigroup Community Care, outlined the benefits of Georgia's managed care program, called Georgia Families 360. Addressing concerns voiced by Delegate Amy Summers, Rockette said Georgia's program eliminates duplicative management and oversight, and leave placement decisions with the courts.

Governor Calls Special Session

Gov. Jim Justice called for a second special session to coincide with June's interim committee meetings, this one focused exclusively on "matters relating to the removal of one or more Justices of the Supreme Court of Appeals of West Virginia." Several issues remain in queue for a potential "call" later during the interim period, including items dealing with **SB 273**, commonly known as the Opioid Reduction Act; sports betting; the future of the Public Employees Insurance Agency; and any action related to implementation of the Medical Cannabis Act.

Health care associations and individual practitioners, while applauding the overall bill, take issue with some provisions of **SB 273**, among them a requirement for a physical examination every 90 days for patients who continue to be prescribed any Schedule II controlled substance – not just opioids.

Implementation of the medical marijuana law passed in 2017 has stalled while state officials struggle to identify a financial plan. Banks are reluctant to process funds from medical marijuana because it is still illegal under federal law. State Treasurer John Perdue has proposed two potential solutions, each of which would require legislative action.

Cheatham Presents PEIA Update

Public Employees Insurance Agency Director Ted Cheatham updated the Select Committee on PEIA, Seniors and Long-Term Care last Sunday on feedback received from 21 town halls held across West Virginia in recent weeks. Two wellness plans targeting weight loss and diabetes will be launched soon, he told legislators.

Cheatham said town hall participants suggested several options to identify a long-term funding source for the plan, including an additional severance tax, an increase in the tax on sugary drinks, and reinstating the food tax. The cost and revenue subcommittee will discuss these potential revenue sources, though a decision ultimately will require legislative action. Cheatham said PEIA will need an additional \$50 million annually to maintain current benefit levels.

He said town hall participants also expressed concern about premium increases and getting treatment from bordering out-of-state hospitals. Recent changes to the plan's tiered structure will prevent the 5 percent pay raise approved by the Legislature this year for public employees from being devoured by increased health care premiums.

Quotes of Note ...

... ***"They imply that Justice is like Robert Karnes, maybe not even a resident of the state of WV. It's just garbage."***

- Gov. Jim Justice, during a June 18 news conference, taking issue with perceived "negative" media coverage. Sen. Robert Karnes, who lost a re-election bid in the May primary, has been linked to a Florida-based business.

... ***"Look at the flowers. Look at the sky."***

- Gov. Jim Justice, during that same news conference, urging West Virginians to take stock of the beauty surrounding them.

... ***"We support you, Governor."***

- PEIA Director Ted Cheatham, asked to make remarks during the June 18 news conference. Justice leaned toward Cheatham, placed a hand on his arm, and responded, "Thank you. I need a friend."

In Other Health Care Highlights ...

... West Virginia native Patrice Harris has been named president-elect of the American Medical Association. A psychiatrist practicing in Atlanta, Harris grew up in Bluefield, attended WVU (where she serves as a trustee) and completed a residency program in Charleston. She currently heads the AMA's Opioids Task Force. She will become the AMA's 174th president – and first African-American president – in June 2019. ...

Our Next Issue

The next issue of ***Health Care Highlights*** will be published on Sept. 24, following the next round of interim committee meetings, Sept. 16-18. **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.**