

# Health Care Highlights©

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April 17, 2017

VOLUME 29, ISSUE 11

Good morning! The first regular session of the 83<sup>rd</sup> West Virginia Legislature concluded at midnight April 8. Gov. Jim Justice authorized a one-day extended session on Sunday, April 9, to work on a budget bill, but ultimately vetoed **HB 2018** four days later. The Governor is expected to call the Legislature into a special session to finalize a fiscal 2017-18 budget, and may add other elements to the call as well. That session has not yet been scheduled.

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**Health Care Highlights**

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## ***Governor Vetoes Budget, Special Session Looms***

Gov. Jim Justice on Thursday vetoed **HB 2018**, the budget bill passed by the Legislature, setting the stage for a special session at a date to be determined. Surrounded by more than two dozen business, labor, education, and citizen's rights leaders from across the state, Justice said the Legislature's budget "would do nothing but hurt West Virginians, not help them."

Justice said signing the budget as presented would be tantamount to signing West Virginia's death certificate. "West Virginians deserve a budget that will allow them to prosper," he said.

Using white boards, Justice detailed the budget plan proposed in **HB 2018**. Among its shortcomings, he said the bill calls for "massive cuts to programs for the poor, disabled and senior citizens, including a \$39.7 million cut to Medicaid that will also cause the state to lose an additional \$178 million in federal funds." He also said the bill provides, "no significant funding to help address the state's growing drug epidemic." He said the plan raids the already-depleted Rainy Day Fund of another \$90 million, and fails to address a projected \$406 million hole in the FY 2019 budget.

In his veto message, Justice said the budget bill "bears no resemblance" to his proposals to jump-start the economy and create 48,000 new jobs while preserving the Rainy Day Fund. The Legislature's budget bill, on the other hand, "is a reckless spending plan that guarantees future budget shortfalls just one year from now and every year thereafter. ... The budget bill includes minimal revenue enhancements and does not address, to any meaningful extent, the structural hole that we face. ... It does not create even one job."

Justice noted that in passing **HB 2018** (the Senate voted 22-12, the House 63-37), the Legislature failed to secure enough votes to make the bill effective from passage. The bill would have become effective July 8 – causing a weeklong government shutdown from the beginning of the new fiscal year on July 1. "There is still time, however, for compromise and responsible action," the veto message declared. "Let's get serious. Let's get to work."

Senate President Mitch Carmichael and House Speaker Tim Armstead, in separately released statements, both described **HB 2018** as a budget that would force the state "to live within its means." Armstead said he doesn't believe a special session will change the original outcome. "This Legislature ... considered proposal after proposal to raise revenue or reform our tax code, but ultimately did not reach any consensus or build enough support. The majority of our members have heard the calls of the people they represent – they believe they are taxed enough already."

Senate President Mitch Carmichael said the Justice veto "isn't entirely unexpected, but it's nonetheless disappointing." He said **HB 2018** presented a "reasonable and responsible budget." Carmichael added, "Any compromise on this budget absolutely must include comprehensive tax reform. I truly believe tax reform is a bold way to move WV forward."

No date for a special session has been set. Statehouse observers believe the Governor will attempt to reach consensus on a compromise bill with House and Senate leadership before calling the full Legislature back to Charleston for a day or two of fine-tuning before passing a budget. That scenario would avoid an extended budget session similar to 2016, when the Legislature met for 17 days at a taxpayer cost just shy of \$600,000 before agreeing on the current year's budget.

## ***CON Clean-up Bill Becomes Law***

Gov. Jim Justice on April 10 signed **HB 2459**, which transfers the WV 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, will be overseen by an executive director, who reports to the DHHR secretary. The board will review and approve (or disapprove) CON applications. A "clean-up" bill, effective from passage, **HB 2459** expands upon 2016 legislation to modernize the CON program. It clarifies requirements of the CON process, details expenditure minimums before a CON becomes necessary and exemptions for ambulatory care, and clarifies that telemedicine is not subject to CON review. It moves the WV Health Information Network to a private, non-profit entity; eliminates financial disclosures filed by hospitals and other health providers; eliminates the annual assessment paid by acute care hospitals to the HCA; increases the cap for CON exemption for CT scanners from \$250,000 to \$750,000; and excludes from CON review acquisition of a "financially distressed" hospital, acquisition of a hospital that is party to a cooperative agreement, and hospital acquisition of a physician practice group that owns an ambulatory surgical center. The bill also permits academic medical centers with four or more approved medical education programs to enter into cooperative agreements.

## ***PAs Seek Reconsideration of Practice Act Bill***

The West Virginia Association of Physician Assistants launched an advocacy campaign last week after Gov. Jim Justice vetoed a PA modernization bill that would have granted them equal footing with advanced practice registered nurses. Although a letter distributed to membership urges PAs to contact lawmakers, who ostensibly would in turn ask Justice to “withdraw” his veto of **SB 347** – an unlikely scenario – PAs could instead agree to delete language regarding national certification from the bill. In the latter scenario, the Governor could place the amended bill on his “call” for a special session.

The bill changes language in the Physicians’ Assistant Practice Act to reflect a relationship with a “collaborating,” rather than “supervising,” physician. It passed both houses of the Legislature unanimously en route to the Governor.

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

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

But Justice’s veto message indicates heartburn over provisions that allow that once a PA passes the initial National Commission on Certification of Physicians’ Assistants certification exam, they would no longer need to be recertified in order to maintain licensure by the WV Board of Medicine and/or the WV Board of Osteopathic Medicine. “The unfortunate effect of this bill is that it weakens existing professional safeguards governing the medical knowledge and skills of physician assistants that have been serving the public interest for years, even as it grants greater autonomy to physician assistants,” the Governor wrote.

Justice acknowledged the importance to allowing PAs to practice to the fullest extent of their training. However, he added, “we must also ensure that patients continue to receive treatment by health care providers who are operating with current clinical knowledge.”

PAs contend that Justice’s decision ignores continuing education requirements. They also point out that no other health profession requires certification as a condition of licensure, and that Medicare and Medicaid do not require PAs to renew their certification after passage of the initial certifying examination in order to participate in those programs.

## ***Jackie Withrow, Hopemont Bills Late Casualties***

Separate legislation to allow Cabinet Secretary Bill Crouch of the state Department of Health and Human Resources to sell Jackie Withrow Hospital in Raleigh County and Hopemont Hospital in Preston County died during the waning hours of the regular session. But Crouch told *MetroNews* he hopes those bills also can be added to a special session call.

Jackie Withrow (**HB 2366**) has more than 100 currently vacant beds and needs more than \$25 million in repairs. It is licensed for 199 beds, but currently has just 91 patients. Hopemont (**HB 3102**) is a 98-bed licensed Medicaid-certified long-term care facility in Terra Alta, Preston County. The facility currently has 57 patients, with 41 empty beds, and is in need of \$4.56 million in repairs, according to a recent audit. It has 110 employees, plus 73 vacant positions.

“We have residents in there that we are responsible for and we want to take good care of but that gets hard to do when the buildings are dilapidated and need constant repair,” Crouch told the statewide radio news network.

Crouch has said his goal is to sell all four of the state’s long-term care hospitals, calling them “time bombs.” Under both bills, the state would transfer current patients to privately owned area facilities and would develop a strategy to minimize the impact on employees. DHHR would also provide updates to the Joint Committee on Government and Finance, and the Legislative Oversight Commission on Health and Human Resources Accountability.

**West Virginia Legislature**  
**ACTIVE\* Health Care Bill Status as of 4/16/17**

*\*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. Completed legislation, approved by the Governor, effective from passage.*

**[HB 3103](#)** Armstead+ **Supplemental appropriation to DHHR** *Bill proposed by Governor. Completed legislation, approved by the Governor, effective from passage.*

**BOARD LICENSURE AND REGULATION**

**[SB 671](#)** Mann **Re-establishes the WV Anatomical Board** *The board, under the Higher Education Policy Commission, consists of the deans of WV's three medical schools, as well as the dean of the WVU School of Dentistry. The board is charged with "making requisition for, receiving and making disposition of dead human bodies for scientific and educational uses." 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** *Twenty-five other states now participate in a nursing licensure compact, while several others are considering legislation to join. West Virginia currently is one of 18 states participating in an Interstate Medical Licensure Compact for physicians. 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** *Allows both boards greater latitude in disciplining 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 law enforcement, or a prosecuting authority, when they receive credible information that a licensee is or has been engaged in criminal activity. 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** *Prevents the dismissal of complaints against physicians that exceed the time standards for disposition when the accused, or their counsel, causes the 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.* Completed legislation, approved by the Governor, effective from passage.

### INSURANCE & HEALTH COVERAGE

[SB 221](#) Blair+ **Changes PEIA Finance Board** Gov. Org. reported Com. Sub., passed Senate 3/6, House Gov. Org. amended, 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** *The DHHR secretary is required to contact surrounding states to gauge interest in establishing a Medicaid compact, which*

would enable each state's health care providers to be paid for services provided to the other states' Medicaid participants. A report must be filed with the Legislative Oversight Commission on Health and Human Resources Accountability by Oct. 31. Completed legislation, approved by the Governor, effective 90 days from passage.

**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** *This bill defines the term "occurrence" in medical professional liability causes of action; provides for a statute of limitations; establishes venue in claims against certain health care providers; and addresses screening certificates of merit.* Completed legislation, approved by the Governor, effective 90 days from passage.

**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** Completed legislation, approved by the Governor, effective 90 days from passage.

#### **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. A report with conclusions and recommendations is due to the Joint Committee on Health by Dec. 31; the Joint Committee's co-chairs serve as non-voting members.* 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. A report of findings is due to the Joint Committee on Health by Dec. 31, and annually thereafter until the coalition sunsets on Dec. 31, 2020.* 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** *The tightly drawn legislation creates an Advisory Board within DHHR's Bureau for Public Health. 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.* 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** Completed legislation, approved by the Governor, effective 90 days from passage.

**HB 2520** Summers+ **Prohibits use of tanning devices by persons under age 18** *Current law allows individuals age 14-18 to use tanning beds with parental permission.* 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** Completed legislation, approved by the Governor, effective 90 days from passage.
- 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. It requires DHHR to ensure an additional 600 treatment beds by July 1, 2018.* 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** *Both medical boards must propose legislative rules. Immunizations for flu or HPV for patients 11-18 can only be administered with “written informed parental consent” and a physician prescription.* Completed legislation, approved by the Governor, effective 90 days from passage.
- 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** *Creates the Office of Drug Control Policy within DHHR. The role of the office is to serve as a data repository, coordinating information, resources, programs, and state and federal funds through a*

centralized location. Various public health and education initiatives and pilot programs would be created to prevent and treat substance abuse. The office would develop a strategic plan to reduce the prevalence of drug and alcohol abuse and smoking among both the youth and adult populations by at least 10% by July 1. The information reported to the office would include an emergency medical or law-enforcement response to a suspected or reported overdose, or a response in which an overdose is identified by the responders; medical treatment for an overdose; the dispensation or provision of an opioid antagonist; and death attributed to overdose or “drug poisoning.” Among those reporting information would be pharmacies, health care providers; medical examiners; law-enforcement agencies, including prosecuting attorneys, state, county and local police departments; and emergency response providers. 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** *This bill extends the system for tracking meth lab eradication efforts until June 30, 2023. Completed legislation, approved by the Governor, effective 90 days from passage.*

**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 ...***

... Danny F. Scalise II of Charleston has been appointed executive director of the West Virginia State Medical Association, after serving as interim executive director for the previous two months. The WVSMA's council made the decision at a recent meeting. Scalise was named to the interim post following the resignation of Brian Foy, who took a position at the U.S. Merchant Marine Academy's Alumni Association & Foundation. Scalise had been the WVSMA's director of public policy since November. Previously, he served as administrator of the Fayette County Health Department, and 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. ...

... As *HCH* predicted some weeks ago, additional recognition was indeed forthcoming for reporter Eric Eyre of the *Charleston Gazette-Mail*, who last week won a Pulitzer Prize for investigative reporting for his coverage of West Virginia's opioid epidemic. The 51-year-old Eyre previously captured a Scripps Howard First Amendment Award and a first-place award for investigative reporting from the Association of Healthcare Journalists. The state of West Virginia, as well as several individual counties and cities, have successfully sued large drug manufacturers, who flooded with state with hydrocodone and oxycodone over a six-year period, resulting in scores of fatal overdoses. ...

... In signing **HB 2459** on April 10, Gov. Jim Justice noted that the measure specifically helps Ohio Valley Medical Center in Wheeling to retain its 1,500 jobs by exempting its acquisition by California-based Alecto Health Care Services from going through the traditional certificate of need process. It's one of the few times he and Sen. Ryan Ferns have seen eye-to-eye on an issue during the recent legislative session – Justice as one point famously comparing Ferns to a barking poodle. “This legislation is important because it saves jobs and gives a lifeline to distressed hospitals in West Virginia,” Justice said in a news release. “This was too important to let politics get in the way of doing the right thing for the people of WV. Political party doesn't matter to me; I'm so thrilled Sen. Ferns and I could work together on this project.” OVMC, at one time the big dog in the Northern Panhandle health care market, has fallen on hard times in recent years. ...

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

... *“There is something that goes on in this great building that I don't like. We seem to think its ok to not tell the truth. We think we can just not tell the truth and that's just politics. Or we think we can play games and its politics. There are people here that are a bunch of junkies and they love it. They live for it. They think its great stuff. But you know at the end of all the games there's a name out there, there's a family out there and we're hurting them. We're hurting them with the games.”*

- Gov. Jim Justice, in vetoing **HB 2018**, the budget bill passed by the Legislature.

## ***Our Next Issue***

The next issue of *Health Care Highlights* will be published after the conclusion of the upcoming special session, once the Legislature has reached agreement on a fiscal 2017-18 budget. The issue an analysis of the budget as it related to health care issues, and will provide more details of health-related bills that passed this session.

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