

Health Care Highlights©

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Good morning! The first regular session of the 83rd 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 then called the Legislature into a special session to finalize a fiscal 2017-18 budget on May 3. He amended the call three times to add additional measures. The Legislature is expected to reconvene today.

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Health Care Highlights

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Budget to Become Law without Governor's Signature

Gov. Jim Justice announced Wednesday that he will allow a \$4.225 billion West Virginia budget (**SB 1013**) for fiscal 2017-18, passed by the Legislature on June 16, to become law without his signature. Justice's decision comes after 20 days in special session and avoids a government shutdown with the start of the new fiscal year on July 1. But the Governor made it quite clear that he is less than pleased with the outcome. "We just don't get it. Now, we're right up against D-day," he said. "I can't possibly put my name on this. I'm just going to let it go into law."

Justice said allowing a government shutdown would only make West Virginia the lead story on *Headline News*. He described **SB 1013** as an "absolute, terrible bill," later noting, "There is no plan here. All this does is kick the can down the road. We didn't have to do this. I had a plan on the table." He said the Legislature is unlikely to fix systemic holes in the budget process next year, since 2018 is an election year.

Justice vetoed **HB 2018**, the budget bill passed by the Legislature during the regular session, on April 13. That set the stage for the special session, which the Governor called for by proclamation on May 3, then amended three times to include additional measures. The Legislature is expected to reconvene today (Monday, June 26).

Preliminary Analysis of health spending in the SFY 2018 budget

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 \$1,824,458 for Statewide EMS Support (a decrease from the proposed \$2,298,605); 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: \$150,000 for the WV Center for End-of-Life Care (down from \$420,198); \$97,125 for the Diabetes Education and Prevention Program; \$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; \$101,005 for the James "Tiger" Morton Catastrophic Illness Fund (down from \$700,000); \$2,750,000 for Health Right free clinics; and \$125,000 for Sexual Assault Intervention and Prevention. A \$3 million line item for Tobacco Education is eliminated.

Medical Schools

- ✓ West Virginia School of Osteopathic Medicine would receive \$6,487,489.
- ✓ Marshall University Joan C. Edwards Medical School would receive \$11,857,733 plus \$235,104 for the Forensic Lab and \$155,964 for the Center for Rural Health.
- ✓ West Virginia University School of Health Sciences for the WVU School of Medicine would receive \$14,443,996
- ✓ The WVU School of Medicine - Charleston Division will receive \$2,152,767; and the Eastern Panhandle Division will receive \$2,093,146 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 \$158,372; MU \$163,219; SOM \$160,659. There is also a separate appropriation of \$386,457 for the SOM Rural Health Initiative - Medical Schools Support.

Governor Signs Medical Marijuana Legislation

Tightly drawn legislation to allow medicinal marijuana in West Virginia, signed into law by Gov. Jim Justice on April 19, creates an Advisory Board within the state Department of Health and Human Resources' Bureau for Public Health.

West Virginia is now the 29th state to allow the medical use of cannabis.

Under the West Virginia Medical Cannabis Act (**SB 386**), which becomes effective on July 5, the Advisory Board will include: the BPH commissioner or a designee; the superintendent of the West Virginia State Police or a designee; four physicians appointed by the WV State Medical Association - with one each from family practice/neurology/general practice, pain management, oncology/palliative care and psychiatry; a pharmacist designated by the WV Board of Pharmacy; a pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor; a member who is a horticulturalist, to be designated by the West Virginia Commissioner of Agriculture; a member designated by the West Virginia Association of Alcoholism and Drug Counselors; an attorney knowledgeable about medical cannabis laws; a member appointed by the West Virginia Prosecuting Attorneys Institute; and, one member appointed by the Governor, who shall be a patient, a family or household member of a patient or a patient advocate.

The bureau may issue permits for no more than 10 growers and 10 processors (\$5,000 application fee; \$50,000 permit fee and \$5,000 annual renewal fee) and 30 dispensaries (\$2,500 application fee, \$10,000 permit fee per location and \$2,500 annual renewal fee), 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.

A 10% tax is imposed of gross receipts on the sale of medical cannabis by growers and processors to dispensaries. All fees and taxes go into a Medical Cannabis Program Fund, 55% of which is allocated to the Bureau for Public Health. Of the remaining 45%: half is allocated to a Fight Substance Abuse Fund; 40% is allocated to the Division of Justice and Community Services, for grants to local law enforcement agencies for training, drug diversion, and other programs focused on crime and addiction; and, 10% is allocated to a fund for law enforcement professional training and professional development programs. (A bill introduced during the special session, **HB 109**, would make medical cannabis subject to consumer sale and service tax.)

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.

The BPH will develop a four-hour training course for physicians regarding the latest scientific research on medical cannabis, including its risks and benefit, and other information deemed necessary by the bureau. Successful completion of the course shall be approved as continuing education credits as determined by the WV Board of Medicine and the WV Board of Osteopathic Medicine.

Patients will be able to access treatment in different forms, including pills, oils, creams, ointments, gels, a form medically appropriate for administration by vaporization or nebulization; tinctures, liquid or dermal patch. It shall, however, be illegal to smoke medical cannabis, or to incorporate or sell it in edible form other than described above.

BPH is in the process of drafting temporary rules that are needed to implement the act. Those temporary rules will explain the program's operation, including how applications are to be submitted by growers/processors, dispensaries, patients and caregivers, and physicians. Under the act, the bureau may not issue the patient and caregiver identification cards necessary to obtain medical cannabis until July 1, 2019. More information can be found on DHHR's website at: <http://www.dhhr.wv.gov/bph/Pages/Medical-Cannabis-Program.aspx>.

PA Bill Resurrected in Special Session

A physician assistants' modernization bill gained new life when it was reintroduced during the special session of the Legislature, and signed into law by Gov. Jim Justice, effective 90 days from passage, or Sept. 7. Other health-related bills introduced during the special session include a bill related to the WV Health Care Authority, signed by the Governor and effective from passage, and proposals to sell Jackie Withrow and Hopemont hospitals.

Following an advocacy campaign launched by the West Virginia Association of Physician Assistants and supported by key lawmakers, **SB 1014** changes language in the Physicians' Assistant Practice Act to grant PAs equal footing with advanced practice registered nurses. The changes reflect a relationship with a "collaborating," rather than "supervising," physician. PAs will be allowed to prescribe a monthly supply of Schedule II and Schedule III drugs under certain circumstances, with specified restrictions. PAs also will be granted global signatory authority in a manner identical to APRNs for death certificates, orders for life-sustaining treatment, orders for scope of treatment and do-not-resuscitate (DNR) orders. The bill also adds a second PA representative to the WV Board of Medicine. The bill entitles PAs to 100 percent 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."

Justice vetoed the original legislation, **SB 347**, following the regular session out of concern over provisions that allowed 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. PAs successfully pointed out, however, that Justice's veto had ignored existing continuing education requirements. They also pointed 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.

Immunization Awards Presented

Several community and state leaders were recognized for their efforts last week during the annual Immunization Summit in Charleston. The event, held in partnership with the KidStrong Conference, was organized by the WV Immunization Network, the Center for Rural Health Development Inc., and the CAMC Health Education and Research Institute.

Jennifer Goldcamp, head nurse and program manager for Public Health Nursing at the Monongalia County Health Department, received an award for New Immunization Initiative for her efforts to improve vaccination rates, particularly regarding HPV. She and her staff conduct public school outreach and education presentations throughout her county. The Berkeley County Health Department received an Adolescent Immunization Award in recognition for educating, promoting, and improving adolescent immunization rates in the community. The staff educates parents about the importance of vaccines, including those not required for school. Also, in the first six months of the campaign, approximately 100 doses of Men B were administered to the 16-18 age group, resulting in a Men B series completion rate of 46 percent. Candy Fulp, school nurse for Mercer County Schools, received the Immunization Across the Lifespan Award, given in recognition for educating, promoting, and improving childhood, adolescent, and adult immunization rates in the community. She works with K-8 students in four schools. In addition, she and other school nurses gave 800 doses of flu vaccine during a single week in October to the faculty and staff.

Three medical school deans – Drs. Clay Marsh, Joseph Shapiro and Craig Boisvert – received "Immunization Advocacy" awards for exceptional public service and dedication to improving public health through immunization advocacy. They played an important role in providing reliable information about the importance of vaccination to both the Legislature and the general public during the 2017 regular session. Also receiving Immunization Advocacy awards were Dr. Lisa Costello, assistant professor in the Departments of Internal Medicine and Pediatrics at the West Virginia University, and Dr. Sharon Istfan, associate chief medical officer of Charleston Area Medical Center's Women and Children's Hospital.

Hot Shot Special Achievement Awards, recognizing those who have gone "above and beyond" to increase immunization rates and protect West Virginians from vaccine-preventable diseases, were presented to former delegate and House Health Committee chair Don Perdue, and Dr. Loretta Haddy, the state epidemiologist and the former director of the Office of Epidemiology and Prevention Services (OEPS) for over 30 years.

West Virginia Legislature

Health Care Bills Passed during the 2017 Regular Session

**At press time, the Joint Committee on Government and Finance had yet to assign interim studies to specific committees.*

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. 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." Completed legislation, approved by the Governor, effective 90 days from passage (July 3).

[HB 2459](#) Arvon **Aligns penalties for practicing without D.O. license with M.D. penalties** This bill includes the provisions of **HB 2630**, allowing the WV Board of Medicine and the WV Board of Osteopathic Medicine to share staff. Completed legislation, approved by the Governor, effective 90 days from passage (July 7).

[HB 2503](#) Ellington+ **Updates rulemaking authority of the WV Board of Osteopathic Medicine** Completed legislation, approved by the Governor, effective 90 days from passage (July 5).

[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. Completed legislation, approved by the Governor, effective 90 days from passage (July 3).

[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. Completed legislation, approved by the Governor, effective 90 days from passage (July 6).

[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. Completed legislation, approved by the Governor, effective 90 days from passage (July 7).

[HB 2839](#) Howell+ **Updates schedules for legislative review of departments and licensing boards** The bill also eliminates the requirement that an agency review include an analysis of the agency websites, and authorizes the Joint Standing Committee on Government Organization to review any agency or program for consolidation, termination or reassignment. Completed legislation, approved by the Governor, effective 90 days from passage (July 6).

CHILDREN

HB 2495 Rohrbach+ **Requires drug awareness and prevention programs in public schools** *County schools board are required to implement the programs no later than the 2018-19 school year. Instructors must coordinate with drug rehab specialists and law enforcement agencies. Completed legislation, approved by the Governor, effective 90 days from passage (July 5).*

HB 2373 Statler+ **Authorizes trained school bus drivers to administer epinephrine auto-injectors** *The bill also establishes immunity from liability except in cases of gross negligence or willful misconduct. Completed legislation, approved by the Governor, effective 90 days from passage (July 5).*

HB 2846 Fast+ **Allows high school students to qualify as pharmacy tech trainees** *Completed legislation, approved by the Governor, effective 90 days from passage (July 7).*

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. Completed legislation, approved by the Governor, effective 90 days from passage (July 6).*

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. Completed legislation, approved by the Governor, effective July 1.*

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** *The board will consist of the secretary of the Department of Administration, or designee, and eight members appointed by the Governor. Members will represent the interests of education employees, public employees, retired employees, and a participating political subdivision. Four public members at large will include members with specified experience in employee benefit programs, insurance benefits, financial management and health care. Completed legislation, approved by the Governor, effective 90 days from passage (July 6).*

SB 522 Gaunch+ **Defines audit procedures between pharmacy benefits managers and pharmacies** *Rule-making authority rests with the Insurance Commissioner. Completed legislation, approved by the Governor, effective 90 days from passage (July 3).*

HB 2119 Ellington+ **Repeals WV Health Benefit Exchange Act** *This act was never implemented. West Virginia instead opted for a state-federal exchange. Completed legislation, approved by the Governor, effective 90 days from passage (July 4).*

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 (June 19).*

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 (July 3).

HB 2739 Summers+ **Allows providers to receive supplemental Medicaid reimbursement for ground EMT services** Completed legislation, approved by the Governor, effective 90 days from passage (July 7).

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 (June 29).

SB 398 Takubo+ **Creates Emergency Volunteer Health Practitioners Act** *This legislation creates a registration system to allow volunteer health practitioners from other states to practice in WV while a state of emergency is in effect. It also provides for limitation of liability.* Completed legislation, approved by the Governor, effective 90 days from passage (July 4).

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 (June 29).

MISCELLANEOUS

SB 40 Stollings+ **Requires after-school emergency protocols** *The WV Secondary School Athletics Commission must promulgate rules by Aug. 1 to establish guidelines for emergency action plans to respond to injuries that occur on school property during school-sponsored events. Member schools must submit a plan to the Commission and their county boards of education by Dec. 31. Provides limited liability protection.* Completed legislation, approved by the Governor, effective Aug. 1.

SB 169 Ferns+ **Repeals article on assistance to Korea and Vietnam veterans exposed to chemical defoliants** *Recommended by LOCHHRA. These programs are administered at the federal level.* Completed legislation, approved by the Governor, effective 90 days from passage (July 3).

SB 170 Ferns+ **Repeals state hemophilia program** *Recommended by LOCHHRA.* Completed legislation, approved by the Governor, effective 90 days from passage (July 3).

SB 176 Ferns+ **Repeals code on detection of tuberculosis, high blood pressure and diabetes** *Recommended by the Legislative Oversight Commission on Health and Human Resources Accountability.* Completed legislation, approved by the Governor, effective 90 days from passage (June 6).

SB 187 Takubo+ **Provides for confidentiality of patient medical records** *Applies to physical, mental and emotional conditions; assures compliance with HIPAA regulations.* Completed legislation, approved by the Governor, effective 90 days from passage (July 6).

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 recommendations is due to the Joint Committee on Health by Dec. 31; the Joint Committee’s co-chairs serve as non-voting members.* Completed legislation, approved by the Governor, effective 90 days from passage (July 6).

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.* Completed legislation, approved by the Governor, effective 90 days from passage (July 6).

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. Completed legislation, approved by the Governor, effective 90 days from passage (July 5).

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 \$150 cap. Providers would be required to produce the records within 30 days of receiving a written request. Charges could include a \$20 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."* Completed legislation, approved by the Governor, effective 90 days from passage (July 6).

SB 686 Hall+ **Exempts DHHR direct care facilities from Purchasing oversight; requires legislative audit** *This bill originated in Finance Committee. The auditor will report findings to the Joint Committee on Government and Finance on or before July 1, 2020.* Completed legislation, approved by the Governor, effective 90 days from passage (July 7).

HB 2453 Eldridge+ **Expands list of persons the Commissioner of Agriculture may license to grow industrial hemp** *First-time applicants must complete statewide and national criminal background checks.* Completed legislation, approved by the Governor, effective 90 days from passage (July 4).

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 (June 29).

HB 2520 Summers+ **Prohibits use of tanning devices by persons under age 18** *The law had previously allowed individuals age 14-18 to use tanning beds with parental permission.* Completed legislation, approved by the Governor, effective 90 days from passage (July 7).

HB 2724 Armstead+ **Establishes community-based pilot project to promote public health** *Bill requested by the Governor. The project is created under the Herbert Henderson Office of Minority Affairs. A report is required annually by Jan. 1 to the Governor and the Joint Committee on Government and Finance, as well as the Select Committee on Minority Affairs interim committee. The pilot expires on July 1, 2021.* Completed legislation, approved by the Governor, effective 90 days from passage (July 6).

NURSING HOMES, LONG-TERM CARE & SENIORS

SB 171 Ferns+ **Repeals Programs of All-Inclusive Care for Elderly** *Recommended by LOCHHRA.* Completed legislation, approved by the Governor, effective 90 days from passage (July 3).

SB 564 Takubo+ **Modifies WV Independent Living Act and Statewide Independent Living Council** *The law now conforms to the requirements of the federal Rehabilitation Act of 1973.* Completed legislation, approved by the Governor, effective 90 days from passage (July 4).

HB 2404 Rowan+ **Bars criminals from acquiring money property from their victims** *The offenses may include causing death, abuse or neglect, or financial exploitation.* Completed legislation, approved by the Governor, effective 90 days from passage (July 5).

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 (June 30).

- SB 188** Takubo **Corrects definition of “telehealth” in medication-assisted treatment programs** *Completed legislation, approved by Governor 3/13, effective 90 days from passage (June 6).*
- SB 219** Weld **Creates offense of conspiracy to violate drug laws** *This bill creates distinct felony offenses of conspiracy to manufacture, deliver or possess with intent to manufacture or deliver heroin, cocaine or cocaine base, phencyclidine, lysergic acid diethylamide and methamphetamine distinguished by the weight of the controlled substance. Completed legislation, approved by the Governor, effective 90 days from passage (July 7).*
- SB 220** Weld **Creates new felony for drug delivery resulting in a death** *This bill also creates the criminal offense of failing to seek necessary medical attention for another while jointly engaged in illegal use of controlled substances when death occurs. Completed legislation, approved by the Governor, effective 90 days from passage (July 7).*
- SB 333** Takubo+ **Expands access to and reporting requirements of the CSMP database** *Allows access to the Controlled Substances Monitoring Program database by the deans of WV’s three medical schools, access to a physician reviewer by an employer of medical providers, and access to a chief medical officer or physician designated by a hospital CEO. Allows OHFLAC access for use in certification, licensure and regulation of health facilities. It also requires licensing boards to report to the Board of Pharmacy when notified of unusual prescribing habits of a licensee. Completed legislation, approved by the Governor, effective 90 days from passage (July 7).*
- HB 2083** Rodighiero+ **Increases penalties for exposing children to meth manufacturing** *Creates felony offenses related to the Methamphetamine Laboratory Eradication Act. Completed legislation, approved by the Governor, effective 90 days from passage (July 7).*
- HB 2329** Rohrbach+ **Prohibits production, manufacture or possession of fentanyl** *This legislation also classifies a fentanyl analog or derivative as Schedule I, and schedules additional drugs to Schedule I or the Uniform Controlled Substances Act. Completed legislation, approved by the Governor, effective 90 days from passage (July 7).*
- 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. Completed legislation, approved by the Governor, effective from passage.*
- 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 (June 13).*
- HB 2509** Ellington+ **Permits physicians to prescribe controlled substances using telemedicine** *Prescription of controlled substances listed in Schedule II of the Uniform Controlled Substances Act via telemedicine is permitted in certain circumstances. Prescribing limitations do not apply when a physician is providing treatment to patients who are minors , or if 18 or older, who are enrolled in a primary or secondary education program who are diagnosed with intellectual or developmental disabilities, neurological disease, Attention Deficit Disorder, Autism, or a traumatic brain injury. Physicians may not prescribe any drug with the intent of causing an abortion. Completed legislation, approved by the Governor, in effect from passage.*
- 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 (July 3).*
- HB 2526** Ellington+ **Classifies additional drugs to Schedules I, II, IV and V of the Uniform Controlled Substances Act** *An additional provision relates to the scheduling of a cannibidiol in a product approved by the Food and Drug Administration. Completed legislation, approved by the Governor, effective 90 days from passage (July 7).*

HB 2579 Sobonya+ **Increases penalties for illegally transporting controlled substances into WV** *This legislation provides a differing penalty for an offense involving marijuana. It also creates enhanced criminal penalties based on quantity. Completed legislation, approved by the Governor, effective 90 days from passage (July 7).*

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. Completed legislation, approved by the Governor, effective 90 days from passage (July 7).*

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 (July 3).*

HB 2766 Shott+ **Establishes Adult Drug Court Participation Fund** *A new special revenue fund, administered by the WV Supreme Court of Appeals, will consist of money received from individuals participating in the adult drug court program to be used to maintain the program. Completed legislation, approved by the Governor, effective 90 days from passage (June 20).*

PROFESSIONALS: HEALTH & MEDICAL

SB 4 Gaunch+ **Allows licensed professionals to donate time to care for indigent patients** *This bill allows professionals to donate time for indigent care. It also permits those licensed in other states to volunteer for a charitable function for a period not to exceed 10 days. The work may be performed in the professional's office or in a clinical setting. It also provides for special volunteer licenses for APRNs, LPNs and chiropractors. Completed legislation, approved by the Governor, effective 90 days from passage (July 5).*

SB 198 Takubo+ **Expands Health Sciences Program to emergency medicine professionals** *This legislation extends eligibility for loans to health care practitioners who practice in rural areas to include emergency medical providers. Completed legislation, approved by the Governor, effective 90 days from passage (July 3).*

SB 522 Gaunch+ **Defines audit procedures between pharmacy benefits managers and pharmacies** *Rule-making authority rests with the Insurance Commissioner. Completed legislation, approved by the Governor, effective 90 days from passage (July 3).*

HB 2301 Ellington+ **Permits individuals to enter into agreements for Direct Primary Care** *Recommended by Joint Committee on Health. Direct Primary Care, which existed as a pilot program for several years, is now permitted statewide. DPC allows private practitioners to charge patients a flat monthly fee in exchange for unlimited access and a range of primary care services. DPC operates outside of traditional health insurance, Medicaid and Medicare. The bill allows for rule-making authority by both medical boards, as well as the boards for dentistry, chiropractic medicine and registered nurses. Completed legislation, approved by Governor, effective 90 days from passage (June 13).*

HB 2804 Lane+ **Removes chiropractors from required CE on veterans' mental health conditions** *Completed legislation, approved by the Governor, effective 90 days from passage (July 7).*

REPRODUCTIVE RIGHTS & ABORTION

HB 2002 Kessinger+ **Modifies law requiring parental notification of abortions performed on unemancipated minors** *This bill provides a judicial process to not permit parental notification. Completed legislation, approved by the Governor, effective 90 days from passage (July 7).*

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

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

SB 151 **Rules Bundle.** Authorizes the Department of Administration to promulgate legislative rules. *This rules bundle incorporates a Risk Management Board rule regarding the Patient Injury Compensation Fund. Completed legislation, approved by the Governor, effective from passage.*

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

In Other Health Care Highlights ...

... Robert C. Knittle, former executive director of the West Virginia Board of Medicine, received a Distinguished Service Award from the Federation of State Medical Boards during the national organization's recent annual meeting in Fort Worth, Texas. During his 11-year tenure at the Board of Medicine, Knittle was known as a strong advocate for protecting the public, while modernizing systems and processes which regulate the practice of physicians, podiatrists and physician assistants in West Virginia. He retired at the end of 2016, and was succeeded by Mark Spangler as executive director. ...

... Speaking of Bob, **HCH** took note a few weeks back when Jim Axelrod of CBS News captured a prestigious Peabody Award for his series of news features on "Heart of the Epidemic: West Virginia's Opioid Addiction." Knittle and I worked with Axelrod and his production team on the series, sitting down for a lengthy interview and pointing CBS in the direction of several sources who contributed to the series. We take a certain vicarious satisfaction in his success. ...

... The state Senate, in a little noticed sidebar to the budget-dominated special session, approved a couple of health-related board nominations offered by Gov. Jim Justice, including D.C. Offutt Jr. of Barboursville, appointed to the West Virginia Board of Physical Therapy for the term ending June 30, 2019, and Jessica Santrock of Culloden, appointed to that same board for the term ending June 30, 2020. ...

... Among the legislative casualties of the 2017 regular legislative session was **HB 2446**, which would have required all executive branch state agencies to maintain a website that includes specific information. It seemed pretty straight forward, until you started to examine the details. In an April 25 veto message, the Governor observed that the bill would have required agencies to post contact information for each staff member, including office location. "Some state employees work in undercover positions and their office locations are in their personal homes, or in locations that are confidential for their safety. Requiring that their complete contact information be disclosed on an agency's website could put their safety and the safety of coworkers in jeopardy." Justice said the "spirit and intent of this legislation can be accomplished administratively by simply working with all our state agencies." ...

Quotes of Note:

<Editor's Note: Following are some of Gov. Jim Justice's "Greatest Quips" from the special session.>

... ***"We've got our leg in a crocodile's mouth. Maybe it works, and if it works we go straight to the roof. We do wonderful. If it doesn't work, we've got our foot in the crocodile's mouth in 2021 or 2022. But right now we've got our whole leg in the crocodile's mouth. And if you're men and he gets ready to bite, it's going to hurt more than your leg. If you hear what I said."***

- Gov. Jim Justice, as quoted by *MetroNews*, during a May discussion of West Virginia's budget stalemate.

... ***"I think we have a travesty. I can't possibly sign this. It's become a three-ring circus and it's cost our people real money. We don't need to cripple our state any more."***

- Gov. Jim Justice, announcing his budget bill decision last week.

... ***"From the very beginning, I have certainly not been your traditional governor, to say the very least."***

- Gov. Jim Justice, last Wednesday, announcing his decision to allow the state budget to become law, without his signature.

... ***"How dumb can we be? How bloomin' dumb can we be?"***

- Gov. Jim Justice, lamenting the lack of funding to promote West Virginia's tourism industry.

... ***"I don't know if Jesus himself could bring this bunch together. I've never seen anything like it."***

- Gov. Jim Justice, regarding a fractured Legislature's protracted special session.

Our Next Issue

The next issue of ***Health Care Highlights*** will be published following the upcoming August interim meetings.

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