

Health Care Highlights[©]

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Good morning! The fourth interim session of the 83rd West Virginia Legislature took place last week (Sept. 16-19), with two more sessions planned before the new year. Gov. Jim Justice still could call the Legislature back for a special session, perhaps to address funding and benefits for the Public Employees Insurance Agency, and/or to discuss changes to this year's Opioid Reduction Act (**SB 273**), though the latter seems more likely to be tweaked in the 2019 regular session.

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Upcoming Interim Meetings

November 11-13

December 9-11

Andrew Wessels
Publisher and Editor
304.590.3778
awessels@sterlingwv.com



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Communications of WV

Health Care Highlights

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Vaccination Bill Coming in 2019

The Joint Committee on Children & Families on Tuesday charged committee counsel Charles Roskovensky with drafting legislation that would allow local physicians to grant medical exemptions from compulsory immunizations for school-age children. The change would eliminate the current review of exemption applications by a state immunization officer.

The committee, co-chaired by Sen. Patricia Rucker (who also sits on the Senate Health Committee), heard testimony from three mothers who experienced difficulty in obtaining medical exemptions for their children. Alisha Lowery of Hardy County, Bridget Lanham of Randolph County and Lauren Surbaugh of Monongalia County each described confusion in navigating the current process and communications issues with school nurses and state health officials.

Dr. Alvin Moss, a Morgantown nephrologist and founder of WVU's Center for End-of-Life Care, said 46 other states allow physicians to write medical exemptions, "and it is not questioned, not reviewed." He described West Virginia's current process as "cumbersome," and "the most restrictive" of any immunization policy in the U.S.

Delegate Chanda Adkins, director of West Virginians for Health Freedom, said the state's current vaccination policies don't seem to be improving the health of West Virginia children. She criticized the state's website as inaccurate and misleading in detailing vaccination requirements.

Proponents of the state's current law say it is the envy of other states. While West Virginia's immunization rates for young children are low, the rates for school-age children are among the best in the country. Dr. Brad Henry of the WV State Medical Association, Dr. Kathryn Moffett, a pediatric infectious diseases specialist, and state epidemiologist Dr. Loretta Haddy all spoke in favor of age-appropriate immunizations for a state that is medically underserved. "It's important to put this in the context of the health of our children," Moffett said. "These diseases are out there."

At Sen. Lynne Arvon's request, the committee agreed to seek a change in current law. Arvon lost a bid for re-election in the May primary.

Prior Authorization Bill Drafted

The Joint Committee on Health last Monday endorsed a draft bill regarding the regulation of electronic prior authorization procedures for insurance programs and managed care.

As faithful readers may recall, Gov. Jim Justice vetoed **SB 442** following the 2018 regular session, citing a provision that would have voided current contracts governing prior authorization response times. He said the bill "would be ruled as unconstitutional." That provision has been removed.

Under the new draft, to be introduced during the 2019 regular session, the Public Employees Insurance Agency (PEIA), managed care organizations and commercial insurers would develop forms for prior authorization, including instructions for submission of clinical documentation and electronic notification of receipt. The forms must be placed "in an easily identifiable and accessible place" on their websites by Oct. 1, 2019.

The bill also establishes prior authorization time frames:

- Insurers would accept electronic submission of prior authorization requests by July 1, 2020;
- Insurers would respond to electronic submission of requests within two days, if a condition could seriously jeopardize the life, health or safety of the patient or others because of the patient's psychological state. Standard electronic prior authorization requests would have to be approved within seven days;
- If the submission is incomplete, the health care provider must provide necessary information within 72 hours.

Insurers would list services that require prior authorization on their websites. Also, any prior authorization approved by one MCO is carried over to other MCOs for a three-month period, if the services are provided within the state. Insurers are required to use national practice guidelines to evaluate a prior authorization request.

LOCHHRA Gathers Info on Foster Care

The Legislative Oversight Commission on Health and Human Resources Accountability last week continued to gather information on how best to serve West Virginia's exploding foster care population, weighing the pros and cons of administrative services organizations (ASOs) versus managed care organizations (MCOs).

A proposal during the 2018 regular session to transition the foster care population into managed care, **HB 4241**, was amended in the House Health and House Finance Committees, only to fail on the House floor.

LOCHHRA heard from Jennifer Britton, vice president, and Caroline Duckworth, program director of KEPRO, Inc., during a meeting last Monday evening. WV Department of Health and Human Resources Deputy Secretary Jeremiah Samples also appeared before the committee. The managed care option seems to have the upper hand.

According to DHHR, 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.

DHHR's 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.

Gupta Leaving WV for March of Dimes Post

Dr. Rahul Gupta, commissioner of the state Department of Health and Human Resources and West Virginia's state health officer since 2015, on Tuesday was named senior vice president and chief medical and health officer at March of Dimes in Washington, D.C. Gupta, who also served ex officio as secretary of the WV Board of Medicine, will assume his new duties in early November.

In his new role, Dr. Gupta will provide strategic oversight for March of Dimes medical and public health efforts to improve the health of all moms and babies. In a news release, March of Dimes President Stacey D. Stewart said, "Dr. Gupta's leadership skills, accomplishments, vision, and passion for prevention will be crucial to meeting March of Dimes goals to give every mom and baby the best chance for a healthy start. State and federal data show that the health of pregnant women and babies in this country is getting worse, and there's an urgent need for the type of innovative solutions that Dr. Gupta has made his hallmark."

Dr. F. Sessions Cole III of Washington University in St. Louis, a member of the March of Dimes National Board of Trustees and chair of its Mission Advancement Committee, noted, "For many years, Dr. Gupta has been a national thought leader and a driver of good public policies on health issues critical to moms, babies, and families."

There has been no official word yet on who might step into Gupta's role at BPH, though DHHR Cabinet Secretary Bill Crouch hinted at a broad reorganization of DHHR during a Joint Finance Committee meeting last Monday.

Gupta, who reportedly had been under consideration for several national positions, has led the state's opioid crisis response and launched a number of pioneering public health initiatives. A specialist in internal medicine and preventive medicine, he served as executive director of the Kanawha-Charleston Health Department and the Putnam County Health Department from 2009 to 2014. He is also adjunct professor in the Department of Health Policy, Management and Leadership in the School of Public Health at West Virginia University, among other academic appointments.

He was named "West Virginian of the Year" in 2017 by the Charleston Gazette-Mail, and has received numerous teaching and service awards and honors. Gupta was honored in 2014 by the West Virginia Legislature for his leadership during the Elk River chemical spill.

Gupta and his wife, who is also a physician, have identical twin sons studying at Yale University.

WVU Medicine Developing Heart Transplant Program

WVU Medicine announced plans on Wednesday to start West Virginia's first heart transplant program at the WVU Heart and Vascular Institute. Gov. Jim Justice, on hand for a news conference in Morgantown, declared, "Providing our citizens with this critical, life-saving care right here at home will make the process of receiving a heart transplant so much easier on the patient and their family and friends."

According to a news release, nearly two dozen West Virginians currently await heart transplants. Those patients typically would travel to Cincinnati, Cleveland or Pittsburgh for the surgery.

"We constructed and equipped our 10-story WVU Heart and Vascular Institute to be the most state-of-the-art facility available, and we recruited nationally and internationally recognized cardiothoracic surgeons, cardiologists, and vascular surgeons in order to provide the most advanced care available," said Albert L. Wright, Jr., president and CEO of the West Virginia University Health System.

Gordon Gee, WVU president and chair of the WVU Health System Board of Directors, said, "As a land-grant institution, West Virginia University's purpose is to help people when it matters most. In a state where heart disease is the leading cause of death, that means making state-of-the-art cardiac care available close to home. Offering heart transplantation here is another huge advance toward a healthier West Virginia."

A letter of intent was filed with the West Virginia Health Care Authority on Aug. 10. The 203-page Certificate of Need application was filed on Aug. 20.

"For those with end-stage heart failure, we can assist the heart or provide them with a new one. Nearly one year ago, we successfully launched our artificial heart, or left ventricular assist device program, and many patients have received these life-saving devices with excellent outcomes," noted Dr. Vinay Badhwar, executive chair of the WVU Heart and Vascular Institute. "The next logical step is the development of a heart transplant program, and many of our recently recruited physicians and surgeons have significant experience in heart transplantation."

Medical Cannabis Banking Options Weighed

The Joint Committee on Health heard presentations last Monday from two attorneys regarding the banking prospects for the 2017 Medical Cannabis Act. The news was not encouraging. One revelation, however, lent an air of intrigue to the proceedings: Gov. Jim Justice requested a legal opinion on banking options from the state Attorney General's Office, which, according to media reports, has been compiled in draft form but not finalized.

Diana Stout, general counsel for State Treasurer John Perdue, told the committee that banks are unwilling to provide services to the marijuana industry in the wake of January directive from U.S. Attorney General Jeff Sessions rescinding what is known as the "Cole Memo." The memo, named for an assistant U.S. attorney who served during the Obama Administration, instructed federal authorities not to prosecute offenses in the 30 states (and the District of Columbia) which have enacted marijuana legislation. "It stifled the entire industry," Stout told the committee. "A lot of financial institutions have walked away."

Medical and recreational cannabis sales topped \$7 billion in 2017, Stout said, and sales are expected to grow to \$75 billion over the next few years. Nevertheless, federally insured banks, credit unions and community banks have grown wary of the business following Sessions' action. "Banks are just not willing to accept medical marijuana monies, period," she said, including the two banks with which the state does business – BB&T and U.S. Bank.

The State Treasurer's Office has explored two banking options – creation of a "State Bank," and adoption of a "Closed Loop" system. Under a bill known as the Medical Cannabis Banking Act, introduced by several House delegates in May, the Treasurer's Office would establish a payment processing system to monitor and facilitate financial transactions by and between caregivers, dispensaries, growers, processors, patients, physicians, and state government entities. Stout drew the analogy of a store credit or gift card that only can be used in that store. "Legislation would be required for us to move forward," Stout advised. "None of these solutions are going to be fast, from all indications."

At the request of Delegate Andrew Robinson, the committee will send a letter to the Attorney General urging him to respond to the governor's request for an opinion, and will ask the House Speaker and Senate President to do the same.

In Other Health Care Highlights ...

... The Legislative Rule-Making Review Committee on Wednesday approved several proposed rules changes, including measures by the state Board of Medicine regarding internal medical graduates and educational permits for allopathic residents, interns and fellows. The committee also approved four organizational measures for the Board of Pharmacy, a rule allowing fee adjustments for the Board of Dietitians and a rule for the WV Board of Osteopathic Medicine extending the \$125 Patient Injury Compensation Fund fee to Dec. 31, 2021. ...

... DHHR Cabinet Secretary Bill Crouch told the Joint Standing Committee on Finance last Monday that the state stands to receive \$27.9 million annually for the next two years in federal funding tied to medication assisted treatment (MAT). Crouch said DHHR has focused on getting money out to communities and health providers over the past several six months in an effort to deal with the opioid addiction crisis. "It is ... the biggest challenge the state has ever faced." ...

... A Performance Evaluation & Research Division audit of the state Board of Optometry recommended only minor tweaks to its processes, including providing status reports to complainants within six months and closing complaints within appropriate time frames; assuring adequate segregation of duties among staff; assuring that the board chair attends the WV Annual Seminar for State Licensing Boards; and considering a more conservative approach to expenditures for attending national conferences. PERD also recommended website improvements to provide a better online experience. ...

... Like a health care Pac Man, WVU has gobbled up several small West Virginia hospitals over the past several weeks. Wetzel County Hospital in New Martinsville has entered into a management agreement with WVU Hospitals effective Oct. 1. Established in 1920, the 58-bed facility employs 235 people. Jackson General Hospital in Ripley earlier entered into a management agreement with WVU Hospitals effective Sept. 1. Jackson General, founded in 1964, is a 25-bed non-profit critical access hospital that employs more than 300 people. And Braxton County Memorial Hospital signed a letter of intent to join WVU Health System in late August. A certificate of need application will be filed with the WV Health Care Authority. Braxton Memorial is a 25-bed critical access hospital established in 1981. ...

... The sixth annual Appalachian Addiction & Prescription Drug Abuse Conference is scheduled Oct. 18-20 at Embassy Suites in Charleston. More than 350 physicians, physician assistants, nurses, dentists, psychologists, lawyers, pharmacists, counselors, social workers and interested others attended last year's event, organized by Dr. P. Bradley Hall, executive medical director of the West Virginia Medical Professionals Health Program. The conference is recognized by both the West Virginia Board of Medicine and the West Virginia Board of Osteopathic Medicine, and satisfies the licensing boards' three-hour continuing medical education requirement on Best Practices Prescribing of Controlled Substances and Drug Diversion Training. Continuing education credits for several other disciplines are available as well. Topics are expected to cover a broad range of issues related to pain management, prescription drug diversion and about, and addiction and treatment issues. ...

Quotes of Note ...

... ***"What are the things we can do to help you? – And maybe it's just to stay out of your way."***

- Delegate Joe Statler, co-chair of the Joint Committee on VFDs and EMS, Martinsburg Fire Capt. David Weller, who chairs the EMS Advisory Council.

... ***"This is very confusing, especially with all of these acronyms, which some of us are not familiar with."***

- Delegate Barbara Fleischauer, during a meeting of the Legislative Oversight Commission on Health and Human Resources Accountability on administrative service organizations and managed care organizations.

... ***"He is the largest, most beautiful man – Gov. 'Big Jim' Justice."***

- President Donald Trump, introducing West Virginia's governor during an Aug. 21 rally in Charleston.

Our Next Issue

The next issue of ***Health Care Highlights*** will be published on Nov. 19, following the next round of interim committee meetings, Nov. 11-13. **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.