

**West Virginia Hospital Association
2008 Preliminary Legislative Summary
Healthcare Legislation of Interest**

Bill Number	Title of bills and brief description of the hospital and healthcare related bills passed by the Legislature during the 2008 Regular Session	Effective Date
SB 13	<p>Relating to Dental Practice Act generally – modifies the West Virginia Dental Practice Act. Among the provisions includes authorizing the Board of Dental Examiners to promulgate rules allowing dental hygienists to practice in public health settings, including in hospitals, under different degrees of supervision. The bill also establishes a special volunteer dental license and provides for civil immunity when performing in this capacity.</p>	Effective ninety days from passage
SB 185	<p>Clarifying mental conditions which prohibit firearms' possession and creating state registry of such persons (Governor's bill) – clarifies persons prohibited from possession of firearms due to substance abuse or mental illness; establishes a process in reporting the names of persons proscribed from possession of firearms due to mental illness to the central state mental health registry; authorizes reporting by the registry to the National Instant Criminal Background Check System; and prescribes a means for reinstating one's ability to lawfully possess a firearm. The bill also includes confidentiality provisions.</p>	Effective ninety days from passage
SB 234	<p>Creating Maternal Mortality Review Team – provides a method for the legislature to study the causes of maternal mortalities. This bill was recommended for passage by the Legislative Oversight Commission on Health and Human Resources Accountability (LOCHHRA) following recommendations by the Perinatal Wellness Project.</p> <p>The group, of which includes WVHA representation, recommended that a process be established to study the causes of maternal deaths.</p>	Effective ninety days from passage

	<p>The bill authorizes more extensive studies which would enable stakeholders to more fully develop a plan to avoid these deaths in the future.</p> <p>A Maternal Fatality Review Team is established under the bill to review the deaths of women who die during pregnancy, at the time of birth or within 1 year of the birth of a child.</p> <p>Hospital representation is included on the Team which is comprised of the following: Director of the Office of Maternal Child and Family Health Program; Chief Medical Examiner; Commissioner of the Bureau for Public Health; Director of the Division of Vital Statistics; Director of the Child Fatality Review Team; representation from each of the 3 Medical Schools; Director of Obstetrics, the Director of the Neonatal Intensive Care Unit and the Director of Pediatrics at each of the tertiary care hospitals in the state; one representative of the WV State Medical Association – WV Academy of Family Physicians – WV Society of Osteopathic Medicine – WV Nurses Association - WV Chapter of the State College of Nurse Midwives - WV Chapter of the American College of Obstetrics and Gynecology – and WV Chapter of the American Academy of Pediatrics.</p>	
<p>SB 286</p>	<p>Providing adult and child protective services workers personal immunity from civil liability - provides personal immunity from civil liability for adult protective services workers and child protective services workers for acts, errors or omissions that occurred during the course of their official duties.</p>	<p>Effective from passage</p>
<p>SB 317</p>	<p>Updating physician and podiatrist licensing requirements – extends the time period for applicants to pass necessary credentialing examinations from seven to 10 years, and requires an applicant who has not been successful in passing the examination after three attempts to appear before the Board of Medicine. The Board will determine if additional training or education is necessary.</p>	<p>Effective ninety days from passage</p>

	<p>The bill also eliminates two provisions. The first relates to the reciprocity provision. This elimination would require that all applicants meet the state’s licensing requirements prior to obtaining a license rather than granting a license based upon the reciprocity arrangement with another jurisdiction.</p> <p>The second provision would remove from an expired <i>Code</i> provision that once allowed the Board of Medicine to grant a license based upon “exceptional circumstances,” which included education and training credentials.</p>	
<p>SB 340</p>	<p>Requiring consumers' notification of information security breach - provides a procedure to notify consumers when the unauthorized acquisition of computerized data that compromises the security, confidentiality or integrity of personal information has occurred. Civil penalties and other remedies are provided for violations in the bill.</p> <p>WVHA worked collaboratively with a number of representatives in the business community, the AARP and the state Attorney General’s Office to improve the introduced version of the bill which was more onerous and did not fully take into account how medical information might be treated in the event of a data breach.</p> <p>New provisions in the bill state that an “entity that complies with the notification requirements or procedures pursuant to the rules, regulation, procedures or guidelines established by the entity’s primary or functional regulator shall be in compliance.”</p>	<p>Effective ninety days from passage</p>
<p>SB 349</p>	<p>Authorizing Miscellaneous Boards and Agencies promulgate legislative rules – Omnibus Rules Bill containing a variety of rules related to the following:</p> <p>authorizing the Board of Dental Examiners to promulgate a legislative rule relating to the board; authorizing the Medical Imaging and Radiation</p>	<p>Effective from passage</p>

	<p>Therapy Technology Board of Examiners to promulgate a legislative rule relating to the board; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to continuing education; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to a standard of ethics; authorizing the Board of Medicine to promulgate a legislative rule relating to continuing education for physicians and podiatrists; authorizing the Board of Medicine to promulgate a legislative rule relating to collaborative pharmacy practice; authorizing the Board of Medicine to promulgate a legislative rule relating to certification, disciplinary and complaint procedures, continuing education and radiologist assistants; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Pharmaceutical Cost Management Council to promulgate a legislative rule relating to prescription drug advertising expense reporting;</p>	
SB 398	<p>Authorizing Department of Health and Human Resources promulgate legislative rules – DHHR Omnibus Rules Bill containing a variety of rules related to: food establishments; water wells; water well design standards; hospice licensure; regulation of opioid treatment programs; newborn screening system; clandestine drug laboratory remediation; and emergency medical services.</p>	Effect from passage
SB 417	<p>Authorizing Department of Revenue promulgate legislative rules – Omnibus Rules Bill containing a variety of rules including: authorizing the Insurance Commissioner to promulgate rules relating to mental health parity.</p>	Effective from passage
SB 481	<p>Authorizing physician assistants to conduct mental health hygiene process examinations – includes physician assistants with proper psychiatric certification in the list of health professionals given authority to conduct examinations in the mental health hygiene process by a circuit court, mental</p>	Effective ninety days from passage

	<p>hygiene commissioner or designated magistrate.</p> <p>The current list includes physicians and psychologists as well as clinical social workers and advanced nurse practitioners with psychiatric certification.</p>	
SB 535	<p>Modifying certain penalties for DUI - eliminates the mandatory 24-hour jail sentence for first offense DUI, but toughens penalties for drivers arrested with blood alcohol levels over 0.15. The bill also includes provisions to require driver interlock devices.</p>	Effective ninety days from passage
SB 590	<p>Protecting health care workers (WVHA Legislative Agenda Item) - protects healthcare workers from acts of violence by inclusion as a named protected group in the <i>Code</i>.</p> <p>The <i>Code</i> currently includes police officers and other public safety workers, and the WVHA worked to include other health care workers. The Senate Judiciary Committee amended the bill early in the session to also include DHHR child and adult protective service workers which remained in the final bill passed by the Legislature.</p> <p>Specifically, the bill provides for enhanced penalties for the malicious and unlawful assault of health care workers. As defined in the bill, the following health care workers are covered:</p> <p>"Health care worker" means any nurse, nurse practitioner, physician, physician assistant or technician practicing at, and all persons employed by, a hospital, county or district health department, long-term care facility, physician's office, clinic or outpatient treatment facility."</p>	Effective ninety days from passage
SB 619	<p>Defining certain external defibrillators' user terms - adds definitions for anticipated and unanticipated users of external defibrillators. The bill limits liability of unanticipated users who gratuitously and in good faith render emergency care.</p>	Effective ninety days from passage

SB 645	<p>Exempting city and county hospitals from certain audit requirements (WVHA Legislative Agenda Item) - exempts 10 city and county owned hospitals from state auditing requirements related to the selection of auditing firms from a list of State-approved vendors.</p> <p>Under this bill, these hospitals would now have the flexibility to select their own auditor while at the same time be exempt from having to pay an 8% fee over and above the normal cost of the audit engagement to the State Auditor's office to oversee the audit process.</p>	Effective ninety days from passage
SB 673	<p>Making supplementary appropriation to Department of Health and Human Resources – provides a supplemental appropriation to the DHHR in the amount of \$5 million for social services.</p>	Effect from passage
SB 680	<p>Relating to corporate net income tax and business franchise tax – provides for the elimination of the Business Franchise Tax by 2015 and a phased reduction of the Corporate Net Income Tax rate (down to 6.5 percent by 2014). The bill also includes a "trigger" that would require the state's Rainy Day Fund to equal at least 10 percent of general revenues before annual phase-down kicks in. The measure also includes technical corrections to last year's combined reporting bill (S.B. 749) and certain tax credits for property taxes paid on manufacturing inventory.</p>	Effective from passage
SB 715	<p>Defining certain Public Employees Insurance Agency (PEIA) eligibility - allows the PEIA Director to define certain non-state retirees eligible for coverage</p>	Effective July 1, 2008
SB 722	<p>Granting regulatory power to certain Board of Pharmacy facilities – promotes patient safety and quality within the healthcare delivery system by clarifying that the Board of Pharmacy has oversight over pharmacies at ambulatory surgery centers and free clinics that offer pharmacy care.</p> <p>The bill defines a charitable clinic pharmacy as one organized as a not-for-profit corporation that offers</p>	Effective ninety days from passage

	<p>pharmaceutical care and dispenses prescriptions free of charge to appropriately screened and qualified indigent patients.</p> <p>Among the provisions of the bill includes one which specifies that a charitable clinic pharmacy shall meet some minimum standards for a pharmacy.</p>	
<p>HB 3056</p>	<p>Authorizing pharmacists to administer immunizations- authorizes certain pharmacists to administer immunizations under rules promulgated by the Board of Pharmacy.</p> <p>Immunizations covered under the bill include only flu and pneumonia shots by pharmacists under certain educational, training, patient safety, and reporting requirements by legislative rules of the Pharmacy Board. The rules are to be promulgated in consultation with the Board of Medicine and Board of Osteopathy. These 3 boards are also authorized, if they wish, to promulgate joint legislative rules for other immunizations such as Hepatitis A & B, Tetanus and Shingles.</p>	<p>Effective ninety days from passage</p>
<p>HB 4019</p>	<p>Relating to civil actions filed in the courts of the state – closes a loophole in West Virginia that decides whether a case should be heard here or in another state. The bill allows a West Virginia court to order a case to be heard in another state’s courts.</p>	<p>Effective ninety days from passage</p>
<p>HB 4036</p>	<p>Granting the board of Respiratory Care Practitioners rulemaking authority and the issuance of temporary permits to students – aims to address the state and national shortage of Respiratory Therapists by enabling the limited practice of students within their educational exposure, and the most basic of duties performed by Respiratory Therapists.</p> <p>The American Association for Respiratory Care, AARC, has produced projections for potential growth rates per region of the United States.</p>	<p>Effective from passage</p>

	<p>The region that contains West Virginia is projected to have a growth rate higher than most other regions. Combine this with a high prevalence of lung disease due to factors such as high use of tobacco and obesity, and our state is at an elevated risk for not having enough caregivers to meet the escalating demands.</p> <p>Because surrounding states offer student permits, West Virginia hospitals have lost potential employees as West Virginia students have crossed state lines to seek employment during school and then chosen to remain in other states post graduation as they have already become accustomed to the work environment and staff.</p>	
HB 4059	<p>Relating to medical qualifications for school bus operators – provides that persons who are currently or have previously been employed as a school bus operator may not be rendered ineligible for such employment as a result of having diabetes requiring insulin, if other medical requirements are met.</p>	Effective ninety days from passage
HB 4069	<p>Requiring vision screening for renewal of a driver's license – requires all persons applying for renewal of a driver's license to pass a vision screening administered by the Division of Motor Vehicles.</p>	Effective ninety days from passage
HB 4124	<p>Adding CPR and First Aid training to the health education curriculum in secondary schools – requires the addition of CPR and First Aid training to the health education curriculum in grades six through 12.</p>	Effective ninety days from passage
HB 4129	<p>Revising licensing requirements for professional licensing boards, including authorizing a special volunteer license for health care professionals - adds Psychologists, Physician Assistants, Registered Nurses, Pharmacists, Dentists, Dental Hygienists, Optometrists, Physical Therapists and Occupational Therapists to the list of providers who may be granted a special volunteer license to volunteer without payment in nonprofit health clinics, with immunity</p>	Effect from passage

	from civil liability. Current <i>Code</i> includes retired physicians.	
HB 4139	Relating to licensing persons using bioptic telescopic devices to operate a motor vehicle - allows for the issuance of driver's licenses to persons using bioptic telescopic lenses. The bill sets conditions, restrictions and limitations for licensing and also authorizes the Division of Rehabilitation Services to promulgate the criteria for applicant enrollment in low vision driving courses, and for establishing low vision driving courses.	Effective ninety days from passage
HB 4144	Relating to physician assistants and updating language to conform to national changes -updates language to conform to national changes and to require supervising physicians to be fully licensed without restriction or limitation, to require reporting of failure of any recertification examination and expiration until passage of the examination and to raise fees.	Effective ninety days from passage
HB 4304	Revised Anatomical Gift Act -modifies provisions of the Uniform Anatomical Gift Act. The bill is an update to reflect the current system of allocation of organs, tissue and corneas for transplantation, research, education and medical therapy. The bill makes it easier to make a document of gift, particularly as provided on driver's licenses issues by the Division of Motor Vehicles. It creates an authority in certain designated individuals, such as a holder of a medical power of attorney or health care surrogate, to authorize an anatomical gift on behalf of an incapacitated person in advance of end-of-life. The bill also expands the list of those persons who may make an anatomical gift after an individual dies when the individual wanted to be a donor but had not executed a document of gift. The bill makes it clear that an anatomical gift that does not specify the donees of organs and tissues goes to a recognized transplant organization	Effective ninety days from passage

	<p>responsible for allocating organs and tissues. It accommodates the use of donor registries upon which a potential donor may put a document of gift for notice purposes. It more clearly provides for a document of refusal if an individual does not want organs or tissues to be donated. It also attempts to resolve ambiguity and conflict in current law between anatomical gifts and “Do Not Resuscitate” instructions.</p>	
<p>HB 4404</p>	<p>Discount Medical Plan Organizations and Discount Prescription Drug Plan Organizations Act - provides a mechanism for the regulation and licensing by the Insurance Commissioner of discount medical plan organizations and discount prescription drug plan organizations that are becoming more prevalent.</p>	<p>Effective ninety days from passage</p>
<p>HB 4418</p>	<p>Establishing a statewide reporting system for hospitals to report their infection rates (WVHA Legislative Agenda Item)</p> <p>This is the bill that WVHA worked collaboratively on with key legislators and staff.</p> <p>As passed, the legislation is based on the CDC’s health care associated infection collection and reporting tool called the National Healthcare Safety Network (NHSN).</p> <p>The legislation also sets up an Advisory Council with expertise in infection control within the WV Health Care Authority to oversee the implementation of the collection and reporting of the data.</p> <p>Two important deadlines for hospitals are included in the bill including the following:</p> <p>The West Virginia Health Care Authority shall require that all hospitals implement and initiate this reporting requirement no later than July 1, 2009.</p> <p>The West Virginia Health Care Authority shall report no later than January 15 of each year to the legislative oversight committee on health and human</p>	<p>Effective ninety days from passage</p>

	<p>resources accountability, beginning in 2011. This yearly report shall include a summary of the results of the required reporting and the work of the advisory panel.</p> <p>As the bill traveled through the legislative process, the House Judiciary Committee amended the bill to:</p> <ol style="list-style-type: none"> 1. Remove the onerous legislative findings language originally included in the bill (<i>which do not have the weight of the law</i>); 2. Provide for some definitional and technical corrections; and 3. Remove reference to “data reported pursuant to the law by a specific hospital be utilized in any civil litigation brought in West Virginia against the reporting facility.” <p>However, WVHA strongly advocated that language be retained in the bill that clarifies that the “data collected and reported pursuant to this act may not be considered to establish standards of care for any purposes of civil litigation in West Virginia.”</p>	
<p>HB 4433</p>	<p>Increasing the maximum amount of a medical student loan that may be cancelled - increases the maximum amount of a medical student loan that may be cancelled annually from \$5,000 to \$10,000 to match the increased maximum annual \$10,000 loan amount.</p>	<p>Effective ninety days from passage</p>
<p>HB 4474</p>	<p>Relating to registered nurses required in operating rooms – codifies existing practice by providing that a circulating registered nurse is present during every surgical procedure in a hospital or ambulatory surgical facility.</p>	<p>Effective ninety days from passage</p>
<p>HB 4495</p>	<p>Limiting the use of the titles "registered nurse", "nurse practitioner", and "nurse" to certain qualified individuals – limits the use of the word "nurse" to those who are qualified and licensed to practice "nursing" by the WV Board of Examiners for Professional Nurses.</p>	<p>Effective ninety days from passage</p>

<p>HB 4513</p>	<p>Relating to the reimbursement of costs for newborn screenings – relates to reimbursement for expanded newborn screening tests approved by the Legislature last year.</p> <p>Legislative rules making their way through the process this year did not provide for a mechanism for providers to receive reimbursement for the tests. This bill clarifies that: newborn screenings shall be considered a covered benefit reimbursed to the birthing facilities by Public Employees Insurance Agency, the State Children's Health Insurance Program, the Medicaid program and all health insurers whose benefit package includes pregnancy coverage and who are licensed under in the <i>Code</i>.</p> <p>PEIA estimates a cost of about \$95 per child for an annual expenditure of \$140,000. CHIP annual costs are expected to be \$100,000.</p>	<p>Effective ninety days from passage</p>
<p>HB 4515</p>	<p>Relating to reports by health care providers of persons incompetent to drive an automobile - promotes highway safety by providing a mechanism by which health care providers may report when an individual they have treated has a condition that renders them incompetent to operate a motor vehicle.</p>	<p>Effective ninety days from passage</p>
<p>HB 4624</p>	<p>Providing per diem pay for volunteers who drive veterans to hospitals – Among the provisions of this bill includes one which provides that volunteers who will drive or transport veterans to veterans' hospitals from the veteran's home or local veterans' affairs offices, shall be paid an expense per diem of \$75 by the State Division of Veterans' Affairs.</p>	<p>Effective ninety days from passage</p>
<p>HB 4636</p>	<p>Making changes to workers' compensation insurance – makes changes to the workers' compensation code to reflect the complete privatization of the system beginning July 1, 2008. Provisions relate to government contracts with employers in default of certain compensation-related payments. The bill also permits the Insurance Commissioner to employ certain enforcement procedures to such employers. The establishment of certain rates for surcharges on insured employers,</p>	<p>Effective from passage</p>

	and changes to various revisions to the litigation system for compensation claims are also included in the bill. Also, the bill provides for increases in salaries of the members of the Board of Review.	
HB 4670	Authorizing the Public Employees Insurance Agency to charge interest to employers on amounts not paid on time - enables the PEIA to recover an additional interest amount from any employer that fails to pay in a timely manner any premium or minimum annual employer payment, which is due and payable to the PEIA or the Retiree Health Benefit Trust.	Effective ninety days from passage
HB 4676	Continuing the permissible appropriation of Public Employees Insurance Reserve Fund moneys to the bureau for medical services (WVHA Legislative Agenda Item) - continues the Medicaid Enhanced Payment Program, providing hospitals with enhanced Medicaid payments. Previously, the Program was required to be re-authorized every 3 years however this bill removes any sunset date.	Effective July 1, 2008
HB 4713	Expiring funds to the balance of the Department of Health and Human Resources, Health Care Authority – expires \$3.5 million of surplus funds projected to be in the 2008 budget for the Board of Risk and Insurance Management, and moves these funds into the Health Care Authority budget for 2008, to be used to support the West Virginia Health Information Network activities for the remainder of FY 2008.	Effective from passage

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