



From the Dome
An Advocacy Update From The West Virginia Hospital Association

April 2009

2009 Session Completed

The 2009 60-day Regular Session of the Legislature ended Saturday, April 11 at midnight with the passage of 227 bills (118 Senate Bills and 109 House Bills). Below is a comprehensive summary of 2009 legislation that will help in understanding the actions taken by lawmakers regarding key healthcare issues that impact hospitals and the communities they serve. If you have any questions regarding these or other bills of interest, please do not hesitate to contact me at tgregory@wvha.org. **Following the legislative summary below is a brief synopsis of pending budget and special session activity scheduled to begin May 26.**

2009 Legislative Summary/Health Care Legislation of Interest

ATV Safety

SB 470 - Regulating all-terrain vehicles on Hatfield-McCoy Trail – Passed April 11, 2009; in effect 90 days from passage

This bill relates to regulating all-terrain vehicles (ATV) and utility-terrain vehicles on the Hatfield-McCoy Trail; standardizes the definition of "all-terrain vehicle"; and defines and regulates a utility-terrain vehicle, among other provisions.

HB 3240 - Giving the Commissioner of Motor Vehicles authority to approve ATV rider safety awareness courses – Passed April 11, 2009; in effect 90 days from passage

The purpose of this bill is to give the Commissioner of Motor Vehicles certain authority with regard to certificates of completion related to ATV rider safety awareness courses; and to limit the liability of the commissioner and any state higher education institute which is the operator, owner, trainer or promoter of an ATV rider safety awareness course approved by the commissioner.

Behavioral Health

SB 672 - Creating Mental Health Stabilization Act of 2009 – Passed April 8, 2009; to take effect July 1, 2009

The bill increases reimbursement rates in various mental health service codes, including for community-based mental health care providers. The legislation however, excludes services provided by licensed health care professionals such as physicians and other mental health providers, as well as hospitals that provide outpatient mental health services to Medicaid recipients. According to published reports, the state would set aside over the next three years, \$1.5 million annually to increase Medicaid reimbursement rates for community-based mental-health-care providers. When matched with federal Medicaid dollars, that would add up to an extra \$6 million a year.

SB 687 - Relating to Comprehensive Behavioral Health Commission – Passed April 10, 2009; in effect from passage

This bill extends the sunset date of the existing Comprehensive Behavioral Health Commission to June 30, 2011. Current members will continue to serve (***including continued representation from WVHA***). A report, with recommendations, is to be issued to the Governor and the Legislature by January 1, 2011. A provision in the bill requires the West Virginia Health Care Authority (WVHCA) to provide the commission with information needed to complete the study. Authority staff is to work jointly with the staff of the Bureau for Behavioral Health and Health Facilities in providing services to the commission. The commission shall make recommendations in its report relating to the certificate of need (CON) standards related to behavioral health services.

HB 3288 - Relating to mental health parity – Passed April 10, 2009; in effect 90 days from passage

The purpose of this bill is to comply with recent federal law changes with respect to mental health parity. More specifically, the bill relates to group accident and sickness insurance requirements to cover treatment of mental illness; provides that actual increases in costs for certain coverage determine whether cost containment measures may be applied by the Public Employees Insurance Agency (PEIA) and private carriers; and removes certain provisions regarding small groups.

Business Community

SB 246 – Relating to unemployment compensation generally (summary provided by the WV Chamber) – Passed April 11, 2009; in effect from passage

This bill, which is effective from passage, will provide about \$120+ million in added funds to the state's unemployment compensation program, which has seen an enormous increase in claims over the past several months.

West Virginia has experienced a 56 percent increase in the number of unemployed people since December 2008. Also, March 2009 had the lowest level of employment in West Virginia in at least 10 years.

The bill authorizes a one-time transfer of \$40 million in state funds (from workers' compensation premiums previously collected by the Insurance Commission) and generates \$70 million to \$75 million a year by increasing the taxable wage base to \$12,000 of gross wages on employees. This temporary wage base increase will go in effect when the state's UC fund drops to \$180 million, and remain there until the fund balance goes back to \$220 million on any February 15th. Once the balance returns to \$220 million, the unemployment compensation taxable wage base will be set at \$9,000. The bill does not include any additional temporary assessments, which were originally contemplated to be imposed on employers and employees.

The bill also contains several reforms that were advocated by the West Virginia Chamber and other business groups, including:

- establishing mandatory disqualification from unemployment comp benefits if a worker is terminated for failing a workplace drug or alcohol test;
- disallowing payment of unemployment compensation benefits to an individual who elects to take a voluntary retirement incentive package; and
- establishing disqualification for "gross" misconduct.

One provision, relating to strike benefits, will remain the same as current law.

SB 537 - Relating to workers' compensation (Summary provided by the WV Chamber) – Passed April 11, 2009; in effect 90 days from passage

The bill will modify language in the workers' compensation statutes to clean-up references and adjust practices more in line with insurance industry practices on prime subcontractor and subcontractor liability and subrogation. The bill also will establish mileage and travel reimbursement provisions based on the W.Va. Department of Administration's travel rules:

- Allows only the use of the most direct route
- Sets up prior approval for any overnight stays, and overnight stays will be at government rate
- Makes travel mileage for distance from home to work not reimbursable
- Sets the reimbursement rate to be 44.5 cents per mile

Certificate of Need (CON)

SB 321 - Modifying certificate of need process – Passed April 3, 2009; in effect 90 days from passage

This is the consensus and "agreed upon" legislation resulting from a special legislative interim study on Certificate of Need (CON) last year. Input into the legislation was provided by key stakeholders including the WVHA, West Virginia Health Care Authority, the West Virginia State Medical Association (WVSMA), and the health insurance industry. The following are key provisions in the bill:

- Increases the threshold for capital expenditures and for major medical equipment from \$2.0 million to \$2.7 million, with annual updates based on DRI each calendar year.
- Eliminates lithotripsy from CON review.
- Modifies CON application fee structure with a cap on fees paid by applicants. This will be accomplished through the legislative rule-making process beginning when the Health Care Authority at the conclusion of the regular 2009 session, and then presented to the legislature during the 2010 session.
- Eliminates CON for non-health related projects developed by a health care facility. An extensive list of projects is included in the legislation, and caps/dollar thresholds will be applied as follows:
 - \$10 million for hospitals with more than 100 licensed beds;
 - \$5 million for hospitals with less than 100 licensed beds;
 - \$5 million for other providers.
- Eliminates CON for acquisition or development of ambulatory care facilities by hospital – located in the same county; with a practice of no more than 5 physicians; and less than the capital expenditure threshold in effect at the time of the transaction (to be increased to \$2.7 million and increased annually). A public notice requirement will be developed via emergency rules (no later than July 1, 2009). The process must be utilized by the hospital that intends to acquire or develop the ambulatory care facility. If there is no objection raised, the project is deemed approved. If there is objection by an affected person as currently defined in Statute, then the Health Care Authority will determine the need for a CON related to the transaction.
- Development or acquisition of health care services outside of WV (*and within a county contiguous to the border of this state*) will be exempt from CON. Language was also added to indicate that the acquisition or development of the health care service outside of West Virginia is to be outside of/excluded from the hospital rate setting system.

- The Department of Health & Human Resources (DHHR), on behalf of a hospital operated by State government, can develop mental health beds for “forensic” patients without obtaining a CON; and any behavioral health provider selected by DHHR can develop services without a CON for the placement of WV children currently placed in out of state facilities.

Children/Child Care/Maternal Care

SB 307 - Creating Maternal Screening Act – Passed April 6, 2009; in effect 90 days from passage

The purpose of this bill is to establish an advisory council on maternal risk assessment within the Office of Maternal, Child and Family Health and to grant legislative rule-making authority to the Department of Health and Human Resources (DHHR) to develop a uniform maternal risk screening tool. This will serve as an alert to medical care providers of the need for greater evaluation and assessment of high-risk pregnancies. The council is comprised of the following (**including hospital representation**):

- (1) At least one private provider of maternity services;
- (2) At least one public provider of maternity services;
- (3) One representative from each of the state's three medical schools;
- (4) The Commissioner of the Bureau for Public Health or his or her designee;
- (5) The Director of the Office of Maternal, Child and Family Health or his or her designee;
- (6) At least one representative of a tertiary care center;
- (7) At least one representative of a facility with a level I or II obstetrical unit;
- (8) At least one certified nurse midwife;
- (9) At least one allopathic or osteopathic physician who is a private provider of maternity services at a facility with a level I or level II obstetrical unit .

HB 3336 - Continuing early intervention services to families with developmentally delayed infants and toddlers but eliminating the cost-free provision – Passed April 11, 2009; in effect 90 days from passage

This bill authorizes the Bureau for Public Health to continue providing early intervention services to families with developmentally delayed infants and toddlers; authorizes the ability to charge fees on a sliding scale and to bill third party payers; and establishes that any fees or payments by third party payers will go into the Birth-to-Three Fund.

Health Reform – Roadmap to Health Project

SB 414 - Relating to Pharmaceutical Cost Management Council and health care delivery systems – Passed April 11, 2009; in effect 90 days from passage

This bill updates the state’s medical home definition and establishes four kinds of patient-centered medical home pilots: **Chronic Care Model Pilots**, for smaller physician practices to work with payers and providers to identify various disease states and develop programs to improve the management of agreed-upon conditions of the patient. **Individual Medical Home Pilot**, for larger physician practices to seek medical home certification from NCQA. **Community Centered Medical Home Pilot**, to link primary care practices with community health teams that will grow out of the existing FQHC structure. **Medical Homes for the Uninsured Pilot**, aimed at the uninsured for screening, treatment of chronic disease and other aspects of primary and prevention services.

Provisions in the bill also create the Governor’s Office of Health Enhancement and Lifestyle Planning (**GOHELP**) to oversee coordination of state departments, agencies, bureaus and commissions for the purpose of redesigning health system delivery services in West Virginia. Also included in this

“omnibus health reform bill” are provisions transferring the powers and duties of the Pharmaceutical Cost Management Council to the new Director of GOHELP. The Director’s powers and duties are spelled out in the bill including reviewing all current medical home pilots at PEIA and Medicaid and making recommendations for expansion. An advisory panel of 5 government health officials and 9 public members (***including WVHA representation***) is created to be appointed by the governor to advise him and the Legislature on the delivery of health care services.

HB 2885 – Relating to uniform credentialing for health care providers – *Passed April 11, 2009; in effect 90 days from passage*

The bill calls for the Insurance Commissioner, in collaboration with DHHR to utilize an existing advisory council to review the current process being used for credentialing of medical providers. The council (***including WVHA representation***) is to work toward recommendations on a revised and streamlined credentialing process, and to submit the recommendations to the Legislature by January 1, 2010.

Insurance Coverage

SB 326 - Mandating certain dental anesthesia insurance coverage – *Passed April 11, 2009; in effect 90 days from passage*

This bill requires insurers to provide to insureds on or after July 1, 2009, certain anesthesia benefits for dental procedures and associated outpatient hospital and ambulatory facility charges.

SB 408 - Relating to model health plan for uninsurable individuals – *Passed April 9, 2009; in effect 90 days from passage*

This bill amends the “high-risk” health insurance pool by allowing the Insurance Commissioner to waive the eligibility waiting period for the high-risk plan and to use surpluses in the program to subsidize premiums of certain low-income persons.

SB 431 - Providing in-state medical providers notice of small group health benefit plan – *Passed April 7, 2009; in effect 90 days from passage*

The purpose of this bill is to reassign the responsibility for providing notice to in-state medical providers and receiving provider elections to opt out of the small-group insurance program from the Public Employee Insurance Agency (PEIA) to the West Virginia Health Care Authority.

SB 495 - Authorizing Insurance Commissioner to permit certain groups life insurance policies – *Passed April 10, 2009; in effect 90 days from passage*

The purpose of this bill is to give the Insurance Commissioner the authority to permit groups other than those specifically provided in article fourteen of the *WV Code* to get life insurance policies.

SB 552 - Relating to affordable health insurance plan proposals – *Passed April 11, 2009; in effect from passage*

This bill creates a new program enabling insurance companies to submit limited individual or group benefit plans for approval by the Insurance Commissioner. The bill is intended to provide subsidies to certain persons who lost their employer sponsored health insurance coverage as part of the American

Recovery and Reinvestment Act of 2009 (ARRA), where certain involuntarily terminated employees and their dependents are given a second opportunity to elect subsidized COBRA coverage.

COBRA gives workers who lose their jobs, and thus their health benefits, the right to purchase health insurance provided by their former plan under certain circumstances. If the employer continues to offer a group health plan, the employee and his/her family can retain their group health coverage for up to 18 months by paying the group rates. Under the recently enacted ARRA, certain eligible individuals will only be required to pay 35% of this COBRA premium, with the remaining 65% reimbursed to employers through a tax credit. The premium reduction lasts for nine months, and is generally available to any person who was COBRA-eligible between September 1, 2008 and December 31, 2009, and such eligibility is a result of the employee's involuntary termination from his/her job.

SB 669 - Extending Preventative Care Pilot Program – *Passed April 9, 2009; in effect 90 days from passage*

The bill extends the Preventative Care Pilot Program (created several years ago) for two years under certain conditions. The bill also authorizes the expansion of the number of pilot participants allowed from three to six by the West Virginia Health Care Authority and the Insurance Commissioner.

HB 2660 - Expanding the definition of limited health care service – *Passed April 11, 2009; in effect 90 days from passage*

The purpose of this bill is to expand the definition of limited health service to include dental care, vision care, podiatric care, pharmaceutical services (including Medicare prescription drug plans), and other services as determined by the Insurance Commissioner.

HB 3278 - Relating to the life and health insurance guaranty association – *Passed April 11, 2009; in effect 90 days from passage*

The purpose of this bill is to incorporate recent changes to the model legislation by the National Association of Insurance Commissioners concerning life and health guaranty associations.

Legislative Rules

SB 195 – Authorizing Department of Health and Human Resources (DHHR) promulgate legislative rules – *Passed April 9, 2009; in effect from passage*

This is the DHHR Omnibus Rules Bill containing a variety of rules related to: public water systems; licensure of medical adult day care centers; tuberculosis testing, control treatment and commitment; establishment of required qualifications and ethical standards for interpreters and transliterators under the Commission for the Deaf and Hard of Hearing; and child care center licensing.

SB 227– Authorizing Department of Administration promulgate legislative rules – *Passed April 11, 2009; in effect from passage*

This is the Omnibus Rules Bill for various state agencies including Insurance Commission rules related to: coordination of health benefits; long-term care insurance; continuing education for individual insurance producers; viatical settlements; discount medical plan organizations and discount prescription drug plan organizations; This rules bill also “disapproves” the State Tax Department’s proposed legislative rule relating to an exchange of information agreement between the State Tax Division and the

Department of Health and Human Resources Office of the Inspector General Medicaid Fraud Control Unit.

HB 2819 - Authorizing miscellaneous agencies and boards to promulgate legislative rules - Passed April 10, 2009; in effect from passage

This is the Omnibus Rules Bill containing a variety of rules related to the following health boards and commissions: authorizing the Board of Dental Examiners to promulgate a legislative rule relating to the Board ; authorizing the Board of Dental Examiners to promulgate a legislative rule relating to the formation and approval of dental corporations ; authorizing the Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary, complaint procedures, continuing education, and physician assistants; authorizing the Board of Medicine to promulgate a legislative rule relating to the establishment and regulation of a restricted license issued to an applicant in extraordinary circumstances ; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and the practice of pharmacy ; authorizing the Board of Pharmacy to promulgate a legislative rule relating to immunizations administered by pharmacists ; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the regulation of charitable clinic pharmacies ; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions ; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to policies, standards and criteria for the evaluation and accreditation of colleges, departments or schools of nursing ; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to limited prescriptive authority for nurses in advanced practice ; and authorizing the Board of Respiratory Care to promulgate a legislative rule relating to student temporary permits; among other board and commission rules.

Long-Term Care

HB 2504 - Establishing the Silver Alert Plan, an alert system for missing cognitively impaired persons – Passed April 10, 2009; in effect 90 days from passage

The purpose of this bill is to create an alert system for persons with cognitive impairments to assist in finding these individuals before harm comes to them.

HB 2788 - Protecting incapacitated adults from abuse or neglect by a caregiver – Passed April 11, 2009; in effect 90 days from passage

This bill relates to protecting incapacitated adults; providing criminal penalties for the offenses of abuse or neglect of incapacitated adults; providing definitions; establishing and revising criminal penalties for the unlawful misappropriation or misuse of funds or assets of an incapacitated adult by a caregiver; and providing exceptions.

HB 2884 - Long-Term Care Partnership Program – Passed April 11, 2009; in effect 90 days from passage

This bill allows the Bureau for Medical Services (Medicaid) in coordination with the Insurance Commissioner to jointly administer a program for the financing of long-term care. This would be accomplished through a combination of private insurance and Medicaid in accordance with federal requirements on qualified state long-term care insurance partnerships.

Medicaid/Funding

SB 322 - Exempting certain life insurance policies from Medicaid assignment – *Passed April 11, 2009; in effect 90 days from passage*

The purpose of this bill is to exempt life insurance policies with a death benefit of \$25,000 or less from assignment by Medicaid recipients. This would allow use for funeral and burial expenses.

SB 632 - Requiring insurers share certain information with Bureau for Medical Services – *Passed April 8, 2009; in effect 90 days from passage*

The purpose of this bill is to require insurers to share information with the Bureau for Medical Services (Medicaid) regarding claims that may have been paid by the bureau during a period when the individual was covered by other insurance.

SB 767 - Relating to certain Medicaid program contracts – *Passed April 11, 2009; in effect from passage*

The bill exempts certain Medicaid contracts from the competitive bid process of the Division of Purchasing, but establishes procedures and requirements for competitive bidding and awarding of such contracts by the DHHR Cabinet Secretary. The bill also adds member representatives to the Medicaid Advisory Council of the Primary Care Association and Behavioral Health Providers Association, and adds the co-chairs of the Legislative Oversight Commission on Health and Human Resources Accountability (LOCHHRA), or their designees, as nonvoting ex-officio members.

HB 3195 - Establishing a funding mechanism for state aid for local health departments – *Passed April 11, 2009; in effect from passage*

The bill authorizes legislative and emergency rules to establish a funding mechanism for state aid for local health departments and to basic public health services funds.

Public Employees Insurance Agency (PEIA)

SB 464 - Authorizing Public Employees Insurance Agency (PEIA) charge fee for paper transactions – *Passed April 11, 2009; in effect 90 days from passage*

The purpose of this bill is to permit PEIA to promulgate a rule to charge a \$5 fee to employers who transact business with the agency by paper when more efficient and less expensive electronic transactions are available.

SB 481 - Requiring employers provide certain documentation to PEIA – *Passed April 11, 2009; in effect 90 days from passage*

The purpose of this bill is to require that employers participating in PEIA plans provide, upon request, all reasonable documentation to operate the plans, including certain employment records.

SB 492 - Clarifying certain PEIA retirement requirements – *Passed April 11, 2009; in effect 90 days from passage*

The purpose of this bill is to specify certain terms of participation in PEIA by clarifying that dependents must live with the employee and by prohibiting public employees hired on or after July 1, 2009, from applying credit for years of teaching service toward premiums of PEIA upon retirement.

SB 572 - Repealing section creating Public Employee Leave Benefit Analysis Board – *Passed April 6, 2009; in effect 90 days from passage*

This bill abolishes the Public Employee Leave Benefit Analysis Board.

SB 588 - Repealing section creating Public Insurance Agency Advisory Board – *Passed April 6, 2009; in effect 90 days from passage*

The bill abolishes the Public Insurance Agency Advisory Board.

HB 3047 – Relating to capitated provider arrangements – *Passed April 11, 2009; in effect 90 days from passage*

This bill clarifies that the PEIA Director is authorized to enter into capitated provider arrangements for the provision of primary health care services.

Professions/Physicians/Medical, etc

SB 339 - Exempting certain licensed medical professionals from county hiring prohibition – *Passed April 11, 2009; in effect 90 days from passage*

This bill relates to exemptions for certain spousal relationships from county hiring and employment prohibition under limited circumstances; creates an exemption for certain spouses who were employed by the county prior to their engagement or marriage to a county official to county hiring prohibition; and creates an exemption for certain licensed professional medical personnel to county hiring prohibition.

SB 526 - Relating to osteopathy post-doctoral training requirements – *Passed April 7, 2009; in effect from passage*

This bill revises the standards for post-doctoral training as a requirement for licensure as an osteopathic physician and makes other updates and modifications to the current law.

HB 2309 - Updating the law governing the practice of occupational therapy – *Passed April 11, 2009; in effect 90 days from passage*

This bill updates the practice of occupational therapy by providing definitions; setting forth the scope of practice of occupational therapy; prohibiting practice or use of titles unless licensed; removing the requirement for referral by a physician or other health care practitioner; setting forth supervision requirements for assistants and aides; clarifying qualifications to serve as a board member; setting forth powers and duties of the board; providing exemptions from licensure; clarifying qualifications for licensure; setting forth examination requirements; providing for licensure for applicants from other jurisdictions; clarifying conditions of limited permits and temporary licenses; providing for renewal, suspension and revocation of licenses; providing for refusal to renew licenses; providing for reinstatement of lapsed licenses; setting forth complaint procedures; establishing grounds for disciplinary actions;

providing for hearing procedures and rights of appeal; providing rulemaking authority; providing for criminal investigations, proceedings and penalties; establishing that a single act may constitute evidence of practice; establishing special, retired, volunteer and inactive licenses ; providing civil immunity for healthcare professionals donating their expertise for the care and treatment of indigent and needy patients in a clinic setting; and providing effective dates for certain provisions.

HB 2423 - Relating to the Board of Medical Imaging and Radiation Therapy Technology – Passed April 10, 2009; in effect from passage

This bill updates the *WV Code* relating to the board of medical imaging and radiation therapy technology including provisions related to Nuclear Medicine Technologists and Magnetic Resonance Imaging Technologists training and certification.

HB 2566 - Expanding applicability of increased penalties for crimes against certain protected persons – Passed April 11, 2009; in effect 90 days from passage

This bill revises the section of the *WV Code* related to “certain protected persons.” The bill expands the applicability of increased criminal penalties for battery, malicious assault and unlawful assault against a government employee or contract worker to include all government workers and to expand this existing protection for health care workers to include contract health care workers.

HB 2801 - Updating language and making technical changes and clarifications of the West Virginia Board of Medicine – Passed April 11, 2009; in effect July 1, 2009

The purpose of this bill is to update language and make technical changes clarifying that the Board of Medicine is an autonomous board which may hire its employees at the board's will and pleasure, and provides for continuation of employment and coverage under the classified service of the Division of Personnel for current employees.

HB 2839 - Relating to the management of pain by physicians – Passed April 8, 2009; in effect 90 days from passage

This bill provides for a new definition of pain currently used by the Federation of State Medical Boards for recommended policies on pain management. The definition was developed by the International Association for the Study of Pain, and is the most widely used definition of pain in the world.

HB 2916 - Relating to the Emergency Medical Services Act – Passed April 11, 2009; in effect from passage

The purpose of this bill is to provide rule-making authority for fees for certification and recertification of emergency services personnel; provides for fees for certification and recertification of emergency services personnel to be deposited in the Emergency Medical Services Agency Licensure Fund; requires applicants for certification to submit to a criminal history background check; prohibits the release of results of criminal history background check to or by private entities; and establishes fees for certification and recertification of emergency services personnel.

Provider Tax

SB 724 - Relating to health care provider tax – Passed April 11, 2009; in effect 90 days from passage

The stated purpose of the bill is to clarify the intent of the Legislature as to the activities that qualify as physicians' services for purposes of the health care provider tax. The bill was submitted by the state Tax Department.

The bill clarifies that all physician services, regardless of where they are provided (in a hospital and in outpatient settings) for either staff physicians or employed physicians should be paid at the physician provider tax rate. All related services provided by, or in a hospital, would be taxed at the hospital rate. This is language that WVHA sought for bill clarification. Language is also included in the bill related to the retroactive application of the provisions: ***“The amendment to this definition in the year 2009 is intended to clarify the intent of the Legislature as to the activities that qualify as physician services”***. This provision would allow for the retroactive application of the changes sought in the bill. Despite concern expressed by WVHA, leading legislators and the Tax Department believed this language strengthens the bill and would help the State avoid a Budget gap in excess of \$300 million, including federal Medicaid match, if hospitals (*involved in appeals with the Tax Department*) were successful in their challenges (*related to how physician services are taxed*).

Tobacco Prevention/Cigarettes

SB 456 - Creating Reduced Cigarette Ignition Propensity Standard and Fire Prevention Act –
Passed April 11, 2009; in effect 90 days from passage

The bill creates a fire safety standard for cigarettes sold in the state and sets a reduced cigarette ignition propensity performance test and standard. The bill requires compliance certification by manufacturers and certain packaging markings. The bill authorizes the State Fire Marshall, law-enforcement agencies and their authorized representatives to enforce its requirements. The bill establishes penalties and creates a special fund for those penalties.

HB 2360 - Insuring that tobacco products are not sold in any packaging other than the original –
Passed April 11, 2009; in effect 90 days from passage

The purpose of this bill is to insure that tobacco products are not sold in any packaging other than the original factory wrapped package and to insure that cigarettes are not sold individually.

Miscellaneous

SB 493 - Transferring central registry for head injuries to Center for Excellence in Disabilities –
Passed April 8, 2009; in effect 90 days from passage

The purpose of this bill is to change control of the central registry for severe head injuries from the Division of Vocational Rehabilitation to the Center for Excellence in Disabilities.

HB 2404 - Relating to inmate reimbursement for medical services provided to persons held in regional jails –
Passed April 8, 2009; in effect 90 days from passage

This bill enables the director of the Regional Jail and Correctional Facility Authority to assess inmates serving a sentence in any regional jail, reasonable charges for health care and treatment services provided to them by the authority. The charges assessed against an inmate may be deducted directly from the inmate's trustee account without the inmate's consent. The inmate shall be notified of the amount deducted and the charges to which it has been applied.

HB 2539 - Authorizing professional licensing boards to combine administrative staff functions –
Passed April 11, 2009; in effect 90 days from passage

The purpose of this bill is to authorize professional licensing boards to combine administrative staff functions in order to provide services in a cost-effective manner.

HB 3083 - Permitting blood donations by persons age sixteen with parental consent – Passed March 26, 2009; in effect 90 days from passage

This bill states that any person seventeen years of age or older may donate blood without the permission or authorization of a parent or guardian and any person sixteen years of age may donate blood with the permission or authorization of a parent or legal guardian: *Provided*, That a parent or guardian may not be liable for any medical expense which may occur as a result of a minor donating blood under the provisions of this section.

BUDGET ACTIVITY

The 60-day Regular Session ended at midnight Saturday, April 11 without either chamber passing a budget bill. The House and Senate then began an extended session, but each adjourned early Sunday, April 12, until May 26. That's when the Legislature will reconvene until about June 6 to consider the fiscal year (FY) 2010 budget and other matters.

Normally, the Legislature goes into an extended session for a week following the conclusion of the Regular Session to consider and finalize the budget. This year however, legislators and the Governor's office wanted another month to analyze tax collection numbers and get a better idea of federal stimulus money headed to West Virginia.

Earlier in the session, the Governor told legislative leaders to scale back proposed spending for next budget year even more. The Governor first submitted a budget proposal of \$4 billion at the start of the session, but the state's worsening recession forced the administration to revise those projections downward for a second time.

The Governor now has reduced the projected revenue for the 2010 fiscal year beginning July 1st by almost \$200 million or about four-and-one half percent from his original predictions. In late March, the Governor announced a reduction of two percent, but was forced to revise the estimates again after crunching the most recent numbers

The Governor has stressed that he's not asking for across-the-board cuts, but he wants all state departments, to find ways to save money.

The WVHA is closely monitoring the activity surrounding the budget to ensure there are no hospital provider payment cuts being proposed as part of this latest cost-containment plan.

It is important to note that everything happening under the Capitol dome from now until the start of the "budget session" on May 26 will be measured by an economic situation that seems to change by the week. The uncertainty is compounded by continuing and on-going discussions on just how the state will utilize anticipated federal stimulus monies in areas like infrastructure, education and, health care, among other areas.

SPECIAL SESSION ACTIVITY

Governor Manchin says he'll call the Legislature into special session sometime during or after their extended session (to deal with the budget) that begins May 26.

The Governor (*as of this writing*) has outlined the first three bills that will be on that special session agenda. The bills did not pass the recently concluded 60-day Regular Session. They include bills:

- To provide additional instructional opportunities for third- and eighth-graders with academic deficiencies;
- To expand Office of Coalfield Community Development's authority to develop post-mining land use plans for mountaintop-removal sites; and
- To provide tax credits to attract high-tech Internet companies to the state.

The Governor has indicated he is reviewing other bills that could possibly be part of the special session agenda. He says he plans to continue his past practice of reaching agreements with leading lawmakers on the bills before the special session begins.

The extended session to work on the state budget is scheduled to run from May 26-June 6. It's possible the special session could take place toward the end of the extended session or begin when it ends. If you have any questions, please do not hesitate to contact me or WVHA staff. Thanks.

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