



**FROM THE DOME**

**Sunday, March 11, 2012**

**2012 REGULAR SESSION COMPLETED**

The 2012 60-day Regular Session of the Legislature ended Saturday, March 10 at midnight, with the passage of 214 bills (*101 House Bills, 113 Senate Bills*). The WVHA will be developing a more comprehensive summary of 2012 legislation that will help in understanding the actions taken by lawmakers regarding key healthcare issues that impact hospitals. In the meantime, please find below a brief summary and small sampling of:

- Bills of interest that completed legislative action;
- Bills receiving **no** legislative action (dead); and
- Brief description of next steps for the development of the FY 2013 Budget

Also, provided is a link to all the bills that completed legislative action this session.

[http://www.legis.state.wv.us/Bill\\_Status/Bills\\_all\\_pass.cfm?year=2012&sessiontype=RS&btype=bill](http://www.legis.state.wv.us/Bill_Status/Bills_all_pass.cfm?year=2012&sessiontype=RS&btype=bill)

**BILLS COMPLETED LEGISLATIVE ACTION**

Below is a sampling of the health care related/social services/business community bills that completed legislative action. A more comprehensive summary will be developed and provided in the days and weeks ahead.

<b>SB 76</b>	<b>Creating Green Buildings Act</b> - <i>all relating to requiring new building construction projects of public agencies and projects receiving state funds to be designed and constructed complying with the ICC International Energy Conservation Code and the ANSI/ASHRAE/IESNA Standard 90.1-2007; setting forth findings; defining terms; and setting standards for construction projects with federal funding.</i>
<b>SB 109</b>	<b>Permitting unlicensed personnel to administer medications or assist in certain circumstances</b> – <i>applies to an ICF/ID, a personal care home, residential board and care home, behavioral health group home, private residence in which health care services are provided under the supervision of a registered nurse or an adult family care home that is licensed by or approved by the department.</i>

SB 110	<b>Relating to Broadband Deployment Council</b>
SB 161	<b>Relating to mandatory reporting of child abuse and neglect</b>
SB 211	<b>Creating traffic offenses for texting or using handheld wireless communication device while driving</b> – <i>makes it a primary offense to operate a motor vehicle while sending or reading a text message. The bill also makes it a secondary offense for speaking on a handheld cell phone as of July 1, 2012, then the crime becomes a primary offense as of July 1, 2013. Fines would be \$100 for a first violation, \$200 for a second infraction and \$300 for a third offense.</i>
SB 214	<b>Clarifying sunrise review requirement for establishment, revision or expansion of professional scope of practice</b> – <i>would first require any scope of practice expansion to be considered by the independent professional Legislative Auditor's Office - Performance Evaluation Review Division before consideration of a bill by the Legislature.</i>
SB 245	<b>Authorizing DHHR promulgate legislative rules</b> - <i>contains a series of health-related legislative rules: credentialing verification organizations; safety and treatment programs; all-payer claims database --data submission requirements; all-payer claims database program's privacy and security; vital statistics; AIDS-related medical testing and confidentiality; family child care facility licensing requirements; family child care home registration requirements; child care quality rating and improvement system, among others.</i>
SB 287	<b>Authorizing Department of Revenue promulgate legislative rules</b> – <i>contains a series of legislative rules including: authorizing the Board of Directors of the West Virginia Health Insurance Plan to promulgate a legislative rule relating to a premium subsidy.</i>
SB 365	<b>Increasing membership of PEIA Finance Board</b> – <i>increases membership from 9 to 11 members by adding one representative of a political subdivision and one additional representative of the public having experience in the financing, development or management of employee benefit programs.</i>
SB 379	<b>Authorizing Board of Registered Professional Nurses designate certain treatment and recovery programs for licensees</b> – <i>relates to substance abuse rehabilitation program for nurses as established by the Board of Nursing – similar to the West Virginia Medical Professionals Health Program.</i>

<p><b>SB 414</b></p>	<p><b>Expanding definition of "medical services applicant" under Volunteer for Nonprofit Youth Organizations Act</b> – <i>adds other health professionals to the current list of physicians and physician assistants, dentists and dental assistants, nurses and physical therapists.</i></p>
<p><b>SB 435</b></p>	<p><b>Relating to nursing home residents' personal funds conveyance upon death</b></p>
<p><b>SB 437</b></p>	<p><b>Relating generally to substance abuse</b> – <i>This is the Governor’s Substance Abuse Bill.</i></p> <p><i>Among the key areas: Regulates methadone treatment programs; Creates Chronic Pain Clinic Licensing Act; Requires licensure boards to establish drug diversion training &amp; best practice controlled substances prescribing; Regulates Internet pharmacies &amp; requires valid practitioner-patient relationship prior to filling prescriptions; Requires 24-hour pharmacy reporting to Controlled Substance Monitoring Program Database; Requires positive photo identification, birth date &amp; source of payment of patient's dispensed prescription; Requires training for law-enforcement to access Controlled Substance Monitoring Program Database; Mandates Pharmacy Board to create Advisory &amp; Review Committees; Provides immunity for prescribing practitioners to notify law enforcement of certain patient violations; Requires Chief Medical Examiner to provide certain information on drug overdoses; and of Controlled Substances Monitoring Program Database; Requires WV pharmacies to adopt a multi-state electronic tracking system – called NPLEx to track pseudoephedrine sales and provides for renewal of the system by January 2015; Requires Pharmacy Board to provide annual reports to the Legislature; and Creates "Fight Substance Abuse Fund" with \$7.5 million aimed for drug and alcohol abuse treatment programs.</i></p> <p><i>Compromise was reached in the last hours of the session on the most contentious point of the bill related to pseudoephedrine: the bill sets daily purchase limits of 3.6 grams, lowers the monthly purchase limit to 7.2 grams and limits the total amount of pseudoephedrine a person may purchase in a year to 48 grams.</i></p>
<p><b>SB469</b></p>	<p><b>Relating generally to other post-employment benefits</b> – <i>deemed the next step for the funding plan to pay off the \$5 billion state debt for future retiree health care costs. This bill creates a funding stream to pay off the state's last remaining long-term liability of \$5 billion by 2036, saving county school boards \$485 million in future OPEB liability payments freeing up funds for local system uses. The money will come from money currently used to pay off the debt in the old Workers' Compensation Fund. West Virginia is the first state to approve a comprehensive plan to take care of its OPEB debt. The bill also contains various health and hospital related PEIA cost-containment measures consistent with policies established by the Center for Medicare and Medicaid Services (CMS).</i></p>

SB 471	<b>Authorizing Supreme Court establish mental hygiene commissioners' compensation</b>
SB 484	<b>Relating generally to child welfare</b>
SB 498	<b>Relating to records of abuse, neglect or exploitation of vulnerable adults</b>
SB 507	<b>Relating to voluntary and involuntary hospitalization of mentally ill persons –</b> <i>relates generally to mental hygiene issues and contains provisions related to petition for right to possess firearms due to a mental health disability.</i>
SB 535	<b>Expanding certain prescriptive authority for chronic diseases -</b> <i>Permits prescribing medications for treatment of chronic conditions by advanced nurse practitioners, physician assistants and assistants to osteopathic physicians and surgeons. "Chronic condition" in the bill as a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity. The prescriber authorized in this section shall note on the prescription the chronic disease being treated.</i>
SB 572	<b>Replacing "advanced nurse practitioner" with "advanced practice registered nurse"</b> – <i>merely updates appropriate name changes for nurses with advanced degrees.</i>
SB 575	<b>Repealing code related to prior disability under Emergency Medical Services Retirement System</b>
SB 588	<b>Relating to Wholesale Drug Distribution Licensing Act of 1991</b>
SB 597	<b>Requiring installation of carbon monoxide detectors in certain facilities –</b> <i>applies to hospitals <u>only</u> for new construction beginning January 1, 2013. Specifically says that beginning January 1, 2013 all single station carbon monoxide detectors with a suitable alarm or a combination smoke detector and carbon monoxide detectors shall be hardwired into an alternating current (AC) electrical source, with battery backup, when installed in all newly constructed apartment building, boarding houses, dorms, <u>hospitals</u>, long-term care facilities, adult or child care facilities, assisted living facilities, one-and two family dwellings intended to be rented or leases, hotels and motels.</i>

SB 611	<b>Developing special community-based pilot demonstration project to improve at-risk youth outcomes</b>
SB 650	<b>Making supplementary appropriation from General Revenue to DHHR-- Division of Human Services - increases the general fund appropriation to Medicaid by about \$14 million which would generate close to \$50 some million.</b>
SB 677	<b>Expiring funds from DHHR, Medicaid Fraud Control Fund, and making supplementary appropriation to DHHR, Division of Human Services – appropriates Medicaid Fraud Unit surplus recoveries of \$3.7 million to the Medicaid Trust Fund for expenditure in Fiscal Year 2012.</b>
SB 678	<b>Making supplementary appropriations from State Fund, General Revenue, to various accounts – among other supplementals, appropriates projected general fund surplus to various departments including to Medicaid and to state hospitals for HVAC upgrades.</b>
HB 4001	<b>Authorizing boards to establish fees by legislative rule</b>
HB 4002	<b>Relating to annual seminar requirements for professional licensing boards</b>
HB 4007	<b>Relating to unemployment benefits for certain spouses of military personnel</b>
HB 4012	<b>Removing the Commissioner of the Bureau for Public Health from certain boards</b>
HB 4015	<b>Creating the Herbert Henderson Office of Minority Affairs</b>
HB 4028	<b>Authorizing the temporary suspension of certification of emergency medical service personnel or licensure of emergency medical service agencies without a hearing or prior notice if there is probable cause</b>
HB 4062	<b>Creating an in-home direct care workforce registry – purpose is to provide the public a list of in-home care workers who have passed a criminal background check and voluntarily agreed to be included with their qualifications.</b>

<p><b>HB</b> 4077</p>	<p><b>Relating to activities that may be performed by a dental hygienist without a prior exam by a dentist</b></p>
<p><b>HB</b> 4139</p>	<p><b>Authorizing miscellaneous agencies and boards to promulgate legislative rules –</b> <i>contains rules for various health boards and agencies including the following: authorizing the Board of Dental Examiners to promulgate a legislative rule relating to fees established by the Board; authorizing the Board of Medicine to promulgate a legislative rule relating to the formation and approval of professional limited liability companies; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to fees for services rendered by the Board; authorizing the Board of Osteopathy to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances Act; authorizing the Board of Pharmacy to promulgate a legislative rule relating to continuing education for the licensure of pharmacists; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure of wholesale drug distributors; and authorizing the Board of Pharmacy to promulgate a legislative rule relating to immunizations administered by pharmacists.</i></p>
<p><b>HB</b> 4239</p>	<p><b>Increasing the membership of the West Virginia Board of Osteopathy</b></p>
<p><b>HB</b> 4260</p>	<p><b>Relating to insurance coverage for autism spectrum disorders -</b> <i>clarifies the benefits provided under the 2011 law mandating insurance coverage for autism -- will effectively expand treatment options for children diagnosed with autism spectrum disorders. The bill also allows insurers to take steps to contain costs when autism coverage increases a plan's overall annual spending by at least 1 percent.</i></p>
<p><b>HB</b> 4263</p>	<p><b>The West Virginia Buy American Act -</b> <i>the bill, as it was originally designed, would have required that all products used when building state funded projects come from American manufacturers. West Virginia contractors believed the bill was wildly impractical, even though it had a waiver provision for supply or cost issues with the American made product. The legislature settled on creating a task force to study the idea.</i></p>

HB 4327	<b>Requiring pulse oximetry testing for newborns</b> - <i>the Commissioner of the Bureau for Public Health is to require each birthing facility licensed by DHHR to perform a pulse oximetry screening on every newborn in its care, when the baby is 24 to 48 hours of age, or as late as possible if the baby is to be discharged from the hospital before he or she is 24 hours of age.</i>
HB 4332	<b>Relating to transfer of service credit from Public Employees Retirement System to Emergency Medical Services Retirement System</b>
HB 4390	<b>Uniform Power of Attorney Act</b> – <i>bill establishes clear process, duties and uniformity.</i>
HB 4396	<b>West Virginia Fire, EMS and Law-Enforcement Officer Survivor Benefit Act</b>
HB 4424	<b>Relating to modified mental hygiene procedures</b> - <i>relating to modified mental hygiene procedures; extending the termination date of the modified mental hygiene procedures pilot project; authorizing additional programs throughout the state; and continuing the pilot project through July 1, 2013</i>
HB 4438	<b>Provider Sponsored Network Act</b> – <i>describes the services to be performed and programs to be undertaken by a PSN; Authorizes the DHHR to recognize and contract with PSN; assign Medicaid beneficiaries to a PSN; Provides for payment for services provided by a PSN; provides for participation of health care providers in a PSN, addresses business and insurance risk, provides for shared savings with the State and defines shared amounts; provides minimum capital and surplus amounts; provides an anti-trust exemption. The House Finance Committee created 2 categories of PSNs: a risk model and shared savings model. The Senate Judiciary Committee further clarified oversight with the Insurance Commission, among other change.</i>
HB 4481	<b>Relating to the Comprehensive Behavioral Health Commission</b> - <i>increases the membership of the Commission and the membership of the Advisory Board to the Commission; reestablishes the Advisory Board; and repeals the termination date of the commission.</i>
HB 4486	<b>Relating to the disclosure of insurance coverage</b> – <i>requires insurance companies to disclose the amount of auto insurance coverage their insurees carry when there are liability claims.</i>
HB 4504	<b>Relating to development and operation of a nursing home on the grounds of a nonprofit community health care organization</b> - <i>relating to development and operation of a nursing home on the grounds of a nonprofit community health care organization; meeting certain restrictions and exempting them from nursing home moratorium</i>



HB 4542	<b>Relating to unemployment compensation benefits</b>
HB 4549	<b>Imposing a monetary penalty on unemployment compensation recipients for obtaining benefits through the use of fraudulent statements</b>
HB 4652	<b>Making a supplementary appropriation to various agencies - <i>Bill increases Medicaid federal funds appropriation by an estimated \$80 million with an additional \$5 million for administrative costs.</i></b>
HB 4656	<b>Making a supplementary appropriation to the Division of Human Services - Temporary Assistance for Needy Families</b>
HB 4657	<b>Making a supplementary appropriation to the Department of Administration - Office of the Secretary - Employee Pension and Health Care Benefit Fund, Division of Purchasing, Department of Environmental Protection, etc.</b>

### **BILLS RECEIVING NO LEGISLATIVE ACTION (DEAD)**

A series of bills followed throughout the session did not receive any further legislative action, and below is a brief sampling of some of the bills. Additionally, it's important to note that in lieu of legislation introduced during the session, legislators frequently commit an issue to study by the Legislature during the upcoming interim period. This occurs in situations where there are simply too many objections or concerns to a bill for consideration. Many of the bills listed, along with other health-related issues may be committed to study during the interim period beginning in April.

**HB 4301 – Relating to reimbursement for copies of medical records**

**SB 423 – Relating to reimbursement for providing patient health care records**

**HB 4025 – Requiring health care providers to provide the first request for a copy of a patient's medical records without charge**

**HB 3005 – Ensuring Patient Safety (Nurse Staffing)**

**HB 3010 – Ensuring Patient Safety (Nurse Staffing)**

**HB 3253 – Relating to forensic medical examination services for victims of sexual offenses**

**HB 4032 – Providing immunity from civil liability hospital volunteers who in good faith render emergency care at a hospital**



**SB 503 and HB 4379 –Relating to Patient Injury Compensation Fund payments**

**HB 4399 and SB 504 –Relating to several liability for health care providers**

**SB 672 - Clarifying limitations for nursing home actions identical to other medical professional liability**

**HB 2374 – Providing standards for hospitals' charity care programs and bad debt collection**

**HB 4033 – Requiring doctors and hospitals bill patients within one year of when the goods and services were provided**

**SB 656 - Requiring direct health care providers wear identification badges**

**HB 4468 – Prohibiting insurance companies from discriminating against health care providers**

**SB 194 – Requiring health insurers cover maternity and contraceptive services for dependents**

**SB 521 – Relating to subrogation rights of PEIA**

**HB 4426 – Requiring a copayment to a physical therapist and an occupational therapist be the same as a physician or osteopath**

**SB 457 – Continuing Rural Health Initiative**

**SB 390 – Relating generally to state revenue funds**

**SB 4 – Relating to child's right to nurse**

**SB 201 – Creating Unintentional Pharmaceutical Drug Overdose Fatality Review Team**

**HB 4047 - Relating to Pharmacy Act**

**SB 7 – Relating to administration of Naloxone in suspected drug overdoses**

**SB 139 – Making failure to wear safety belts primary offense**

**SB 60 – Creating felony for driving under the influence and causing serious bodily injury**

**SB 340 - Relating to interscholastic athletics concussions and head injuries**

**SB 608 – Authorizing use of search warrant to draw blood from DUI suspect**

**HB 4261– Relating to review of state administrative agency rule-making**

**SB 647 – Providing Board of Medicine and Board of Osteopathy initiate certain independent disciplinary proceedings**

**HB 4430 - Relating to employee work breaks**

**FY 2013 BUDGET ACTIVITY**

The 60-day regular session ended at midnight Saturday without either chamber passing an FY 2013 budget bill, as expected. The Senate and House then began an extended session that will run through next week to complete the budget and any other supplemental appropriations and/or likely corrections to bills passed.

Budget conferees for SB 160 – the Budget Bill are:

Senators – Prezioso, Stollings, Plymale, D. Facemire, Unger, Edgell, Sypolt  
Delegates White, Campbell, T., Poling, M., Perdue, Varner, Anderson, Evans

The WVHA is closely monitoring the activity surrounding the budget and continuing to analyze the differences between the Governor’s proposed budget and those of the Senate and House. Our main goal of course is to ensure there are no hospital provider payment cuts being proposed as part of any cost-containment plans within the budget. We will also be working to ensure that government health care programs like Medicaid are adequately funded moving into the next fiscal year.

It’s already being reported by media outlets that: Medicaid is expected to be a recurring topic as West Virginia lawmakers complete the budget. Officials say the reasons have nothing to do with the recent federal health care overhaul but rather medical inflation and a decline in federal matching funds are among the culprits. As a result, Gov. Earl Ray Tomblin has proposed increasing the state's share of Medicaid funding by \$132 million. The governor has updated his budget proposal twice since January, and added more money for Medicaid each time. Lawmakers also recently increased Medicaid funding in the current budget, through various supplemental appropriations noted above. This approach aims to bank funds both for the new budget year and the one after that. But the House and Senate must now agree.

*If you would like additional information regarding the bills described in the “Dome” or would like a status report on other bills of interest or legislative activity including upcoming budget deliberations, please do not hesitate to contact me. Thanks.*

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