

# FROM THE DOME

AN ADVOCACY UPDATE FROM THE WEST VIRGINIA HOSPITAL ASSOCIATION

Monday, March 9, 2020

## **2020 Regular Session Concludes**

The 2020 Regular Session concluded midnight Saturday with the passage of several key bills important to the WVHA and healthcare in West Virginia. The Legislature also approved the Fiscal Year (FY) 2021 Budget Bill ([SB 150](#)) and various supplemental appropriations to support state agency spending.

In total, **[355 bills completed legislative action](#)** (***187 House Bills, 168 Senate Bills***). By comparison, 294 bills completed action in 2019. This is the first time in recent history that passed bills topped 300.

We're pleased to report that several bills that we initiated, supported and engaged in on some level throughout the session with your input, were among those that completed legislative action. They're listed in the first highlighted section below.

The WVHA Legislative Team will follow-up with more thorough communications in the next couple of weeks highlighting specific bills passed by the Legislature during the 2020 Regular Session. This will include important implementation provisions that you and your staff should be familiar with moving forward. **As in years past, we'll be developing a comprehensive Final Legislative Report once bills are enrolled and we're able to review final language.** Finally, we'll be reviewing the Budget Bill in more detail and keeping you updated on the actions by Governor Justice on bills on his desk. In the meantime, if you have questions about a specific bill, please do not hesitate to contact [me](#), [Joe](#) or [Brandon](#).

I'd like to take this opportunity to thank the many of you who were engaged in our Advocacy Program throughout the 2020 Regular Session. We would not have achieved another successful session without member involvement from all perspectives – from our WVHA Board of Trustees and Leadership; WVHA Legislative Committee; and the many hospital healthcare professionals who engaged in the field on the Grassroots level.

With your help, we were able to advance, and in some cases, minimize threat to hospitals and/or defeat legislation, which was particularly challenging this Session. Some of the bills that did not advance this Session include:

- **HB 2007** and **HB 4580** (repealing CON); and other CON and Health Care Authority related bills including: **HB 4124** - Exempting certain health services from certificate of need; **HB 4971** Relating to a closing hospital introduced in response to the Fairmont Regional Medical Center announcement; and **SB 782** continuing the hospital assessment to the Health Care Authority;

- **HB 4028** – Prohibiting a hospital from having certain financial interests;
- **HB 4799** - Nursing Transparency and Staffing;
- **HB 4018** - Medicaid Work Requirements;
- **HB 4637** and **HB 4391** - Revisions to Health Care Decisions Act;
- **HB 4642** - Uniform Credentialing;
- **HB 4492** and **SB 628** -WV Vision Act; and
- Numerous immunization exemption bills.

## Top Hospital Bills that Completed Legislative Action

1. **[SB 767](#) (Non-Profit Hospital Board Composition Requirements)** – This bill repeals outdated *Code* requirements mandating non-profit hospital board composition. The following requirements are no longer applicable under the passage of this bill: “At least forty percent of the boards of directors of applicable hospitals shall, on or before July 1, 1984, be composed of an equal portion of consumer representatives from each of the following four categories: Small businesses, organized labor, elderly persons and persons whose income is less than the national median income. Special consideration shall be made to select women, racial minorities and handicapped persons.” **The bill goes to the Governor for his signature, and if signed will go into effect 90 days from passage March 5, 2020.**
  
2. **[HB 4003](#) (Telehealth Insurance Requirements)** - This bill provides for reimbursement for telehealth services at a rate negotiated between the provider and the insurance company. This bill applies to PEIA, Medicaid and commercial insurers. The bill expands the definition of “originating site” to include a person’s home; requires health plans to provide coverage for telehealth services if those same services are covered for in person services; and allows for reimbursement rates to be negotiated between the provider and the insurer, rather than requiring payment parity for equivalent services offered through telehealth technologies, among other provisions. **If signed by the Governor, provisions of this bill go into effect 90 days from passage March 7, 2020.**
  
3. **[HB 4009](#) (Involuntary Hospitalization)** –This bill permits an authorized staff physician at a hospital, after examination, to order the involuntary hospitalization of an individual whom the physician believes is addicted or mentally ill and likely to cause serious harm to himself or herself or other individuals. The bill is permissive for up to a 72-hour hold. There are other provisions providing for payment for services; limiting liability; requiring the West Virginia Supreme Court of Appeals to generate a statement for the attesting physician; providing the attesting physician statement be provided to the patient; requiring the West Virginia Supreme Court of Appeals to produce information to hospitals regarding contact information for mental hygiene commissioners, designated county magistrates, and circuit judges; and establishing that if a mental hygiene commissioner, designated county magistrate, or circuit judge does not respond to the request within twenty-four hours a report shall be filed to the West Virginia Supreme Court of Appeals. Late in the Session, provisions of **SB 278** relating to the involuntary hospitalization process (*unrelated to the hospital setting*) were added to the bill. This portion of the bill contains provisions dealing with the process and provides for the development of an orientation program for mental hygiene commissioners and magistrates who preside over involuntary hospitalization hearings; establishes criteria and time frames for the involuntary admission to and discharge of individuals from a mental health facility or state owned hospital; and addresses transportation of persons to a state owned

hospital, among many other provisions. **Upon the Governor's signature, provisions of this bill go into effect 90 days from passage March 7, 2020.**

4. **[HB 4108 \(CON Exemption Fee Bill\)](#)** – This bill deals with the exemptions from CON which require submission of information to the West Virginia Health Care Authority. The bill removes a \$1000 fee that was required of providers upon their submission of an application justifying an exemption; and requires providers to submit a statement detailing which exemption applies to justify the exemption. The bill also removes the 45-day review of the exemption request. **If signed by the Governor, provisions of this bill go into effect 90 days from passage March 7, 2020.**
  
5. **[SB 846 \(Hospital Closure bill re: patient medical records\)](#)** – This bill requires a hospital to publish a notice in a newspaper of general circulation informing the public where to retrieve medical records. The bill requires the newspaper to publish if medical records are moved and it also deals with confidentiality of the records. It also requires the notice to be published on the facility's web page. Provisions of this bill are effective from passage March 6, 2020. **If signed, provisions of this bill are effective from passage March 5, 2020.**
  
6. **[SB 797 \(Hospital Police Force\)](#)** – This bill authorizes governing boards of public and private hospitals to appoint and employ hospital police officers; provides for the qualifications, training, authority, compensation, and removal of hospital police officers; provides for training and examinations of law enforcement officers; provides for the assistance of local law-enforcement agencies upon request; and provides limitations on liability of hospital police officers. **If signed, provisions of this bill go into effect 90 days from passage March 7, 2020.**

## **Other Bills that Completed Legislative Action**

Below is a listing of other healthcare related bills that completed legislative action this session. Many of these were featured in our communications throughout the session. For a complete list of the [354 bills](#) that passed the Legislature, please visit the Legislature's [website](#).

### **Healthcare Workforce**

- [HB 4434](#) – WV Health Care Workforce Sustainability Study
- [SB 707](#) – Nursing Career Pathways

### **Insurance related bills**

- [SB 291](#) - Requiring PEIA and health insurance providers provide mental health parity
- [SB 648](#) - Providing dental coverage for adult Medicaid recipients
- [HB 4061](#) – Health Benefit Plan Network Access and Adequacy Act
- [HB 4543](#) - Relating to insurance coverage for diabetics

## **State Government Operations (DHHR, Bureaus, PEIA, Healthcare Workgroups etc.)**

- [SB 269](#) - Establishing advisory council on rare diseases
- [SB 288](#) – Relating to family planning and child spacing
- [SB 641](#) – Allowing WVCHIP flexibility in rate setting
- [SB 716](#) – Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization
- [SB 747](#) – Requiring Public Health to develop Diabetes Action Plan
- [SB 748](#) – Increasing awareness of palliative care services
- [SB 749](#) – Requiring Fatality and Mortality Review Team share data with CDC
- [HB 4494](#) – Tobacco Use Cessation Initiative
- [HB 4573](#) - Relating to Medicaid subrogation liens of DHHR
- [HB 4581](#) - Relating to WV Clearance for Access: Registry & Employment Screening
- [HB 4773](#) - Creating a workgroup to investigate and recommend screening protocols for adverse childhood trauma in this state

## **Substance Use Disorder/Pharmacy/Prescriptions/Etc.**

- [HB 4058](#) - Relating to pharmacy benefit managers
- [HB 4102](#) – Relating to opioid antagonists
- [HB 4103](#) – Relating to office of drug control policy
- [HB 4198](#) - Permitting a person to obtain a 12-month supply of contraceptive drugs
- [HB 4422](#) - The Patient Brokering Act
- [HB 4354](#) - Adding nabiximols to permitted list of distributed and prescribed drugs
- [HB 4395](#) - Removing the requirement that a veterinarian access and report to the controlled substance monitoring database
- [HB 4620](#) - Redefining definition of "recovery residence"
- [SB 42](#) - Permitting faith-based electives in classroom drug prevention programs
- [SB 544](#) - Authorizing pharmacists and pharmacy interns administer vaccines
- [SB 689](#) - Accountable Pharmaceutical Transparency, Oversight, and Reporting
- [SB 787](#) - Providing benefits to pharmacists for rendered care
- [SB 838](#) - Directing state police establish referral program for substance abuse treatment

## **Physicians, Nurses, Other healthcare professionals, etc.**

- [SB 560](#) - Permitting nursing home use trained individuals administer medication
- [SB 647](#) – Permitting physician assistants and APRNs issue do not resuscitate orders
- [SB 664](#) – Adding physician’s assistant to list of medical professionals capable of determining if individual lacks capacity
- [SB 770](#) - Revising requirements for post-doctoral training
- [HB 4375](#) - Speech-Language Pathologists and Audiologists Compact

## **MCOs**

- [SB 719](#) – MCO Provider Tax
- [SB 746](#) – Providing MCO’s access to uniform maternal screening tool

## Legislative Rules impacting hospitals and healthcare

- [SB 339](#) - Authorizing DHHR promulgate legislative rules including those related to enabling a Critical Access Hospital to convert to a Community Outpatient Medical Center; and rules related to grant funding for rural and primary care, among others.
- [SB 357](#) – Authorizing Department of Revenue promulgate legislative rules including rules pertaining to regulating pharmacy benefit managers; and
- [HB 4252](#) - Authorizing various medical professional licensing boards to promulgate legislative rules.

## Child Welfare (Foster Care, Adoption, etc.)

- [HB 4092](#) – Relating to foster care
- [HB 4094](#) - Continuing the Foster Care Ombudsman
- [HB 4129](#) – Relating to adoption
- [HB 4415](#) - Relating to missing and endangered children
- [HB 4551](#) - Relating to subsidized adoption

## Other Bills of Interest

- [SB 717](#) – Relating generally to adult protective services
- [SB 830](#) – Eliminating special merit-based employment system for healthcare professionals.
- [SB 851](#) – Requiring Governor’s Committee on Crime, Delinquency, and Correction propose rule in coordination with law enforcement and certain medical boards
- [HB 4007](#) - Born-Alive Abortion Survivors Protection Act
- [HB 4161](#) - Making it illegal to scleral tattoo a person
- [HB 4179](#) - Recognition of Emergency Medical Services Personnel Licensure Interstate Compact
- [HB 4362](#) - Relating to penalties for neglect, emotional abuse or death caused by a caregiver
- [HB 4476](#) - Providing for the timely and efficient collection, submission, testing, retention, and disposition of forensic evidence in sexual assault cases
- [HB 4497](#) - Requiring an external defibrillator device at any secondary school athlete event
- [HB 4544](#) - Relating to possession of any controlled substance on the premises of or within 200 feet of a public library
- [HB 4546](#) - Relating to tuberculosis testing for school superintendents
- [HB 4557](#) - Relating to centers and institutions that provide the care and treatment of mentally ill or intellectually disabled individuals
- [HB 4655](#) - Permitting military personnel in areas where on-the-job emergency medicine is part of the training to be granted automatic EMS or EMT certification

If you have any questions about a specific bill or WVHA’s legislative activities, please do not hesitate to contact me at the Association at 304-353-9719; on my cell at 304-545-0128 or at [tgregory@wvha.org](mailto:tgregory@wvha.org). Thanks.

Tony