

# WVHA

## LEGISLATIVE UPDATE

**March 8, 2024**

Today is Day 59 of the 60-Day Session – which ends at midnight Sat., March 9<sup>th</sup>. Although the session hasn't concluded, we want to share a few updates including several key bills that have already completed legislative action and now on the Governor's desk for signature. Among these is WVHA's top Legislative Priorities for the Session: **DPP, 340B and Anti-Doxing**. We'll distribute a *Wrap-Up* following the session and then develop a more comprehensive *Summary* in the weeks ahead. We'll also be scheduling a member-wide *Webinar* highlighting key bills of interest. Please be on the lookout for this information.

### **HB 5157 DPP Bill signed by the Governor – WVHA Priority**

The Governor last week signed **HB 5157**- the Facility Directed Payment Program (DPP). The bill removes the static tax rate on the DPP Program and allows the hospitals to assess themselves at the maximum rate allowed by CMS. This bill also expands hospitals eligible to participate in the Program from 23 up to approximately 57 hospitals, including critical access hospitals. Look for additional information soon from WVHA on the process for implementing the provisions of HB 5157.

### **340B legislation completes legislative action – WVHA Priority**

**SB 325** is the 340B protections bill we've been advancing this session. This morning, the House passed SB 325 by a vote of **96-1** with no changes, and it now has completed legislative action and heads to the Governor's desk. There was a motion by Delegate Amy Summers to delay the effective date to January 1, 2025, instead of the normal 90 days from passage. Her motion failed **14-83**. This is the bill that prevents pharmaceutical companies from implementing policies that restrict our hospitals' ability to utilize contract pharmacies under the federal 340B program. We'll be working with our partners to distribute a joint letter of support/request for the Governor to sign this bill into law.

### **Anti-doxing bill completes legislative action – WVHA Priority**

**SB 477** is our Anti-Doxing bill which completed legislative action this week. This bill applies to all health care workers and those in governance positions along first responders (like law enforcement, EMS, and firefighters). The bill now heads to the Governor for his signature. There are two parts to the bill: 1) aims to criminalize making the personal information of a health care worker and first responder, or their immediate family, publicly available on the internet with the intent to threaten or incite the commission of a crime of violence; and 2) provides a process for a health care worker/first responder to submit a written request to a state or local government to remove personal information from records available on the internet - if he or she believes the personal information contained in the records poses an imminent and serious threat to the person's safety or the safety of the person's immediate family.

### **Action continues on several bills of interest, others complete legislative action**

As of this writing, we're continuing to follow the action on several bills still active in the Legislature including, but not limited to the following:

- **HB 5105 – Immunization bill** - The Senate is currently considering HB 5105 – the immunization bill. Because the Senate amended the bill, it must go back to the House for consideration. Currently, the bill provides for religious exemption for private and parochial school students. The bill allows these schools to set their own standards with the caveat that students participating in WVSSAC sports must comply to the same immunization policy as public-school students. It appears this bill is “agreed to” between Senate and House members and it will then next head to the Governor, pending final action.
- **SB 17 - Department of Health Rule and Hospital Licensure** – The WVHA is continuing to manage SB 17 which is a Department of Health Rules Bills. This bill contains an amendment to the Hospital Licensure Rule relating to hospital reporting of quality data. The bill recently passed the House and is awaiting action by the Senate. Because the House changed the bill, the Senate must act on it and we’re working with key Senators to remove the quality reporting language. It will then have to go back to the House for consideration.
- **HB 5014 (\$ for hospitals)** – Supplemental appropriation bill totaling \$6 million for hospital grants and research programs - \$4 million for all hospitals to apply for grants and research programs and \$2 million to the West Virginia University Health System Federal Food and Drug Administration Pilot Program. Funding is from the Governor’s Civil Contingent Fund – *now in Senate.*
- **HB 4320 (medical records)** -Relating to access for minor children’s medical records. This bill was modified significantly in the Senate Judiciary this week and it currently does not relate to medical records at all – now relates to end-of-life care. We’re continuing to follow this bill and topic as it may still wind up in this bill or another bill in the final hours of the session – *still active*

Additionally, as we’ve reported, the WVHA has been managing several bills this session directly impacting hospitals from a financial, clinical, regulatory, and operational perspective. One that we’ve featured is **HB 4376** relating to surgical smoke evacuation. This bill has already *completed legislative action.* This bill states that on or before January 1, 2025, the Office of the Inspector General shall propose rules for legislative approval in accordance with the provisions of **[§29A-3-1](#) et seq.** of this code requiring a health care facility licensed under this chapter that utilizes energy generating devices to use a smoke evacuation system during any surgical procedure that is likely to produce surgical smoke. Also *completed legislative action* is **SB 714** combining boards of Medicine and Osteopathic Medicine. For bills that have completed legislative action so far, click [here](#).

### [Various CON, other bills die in committee](#)

Several bills were introduced in the Legislature this session impacting the Certificate of Need (CON) program. Earlier this session, **HB 4909 (CON Repeal)** was advanced to the full House by the House Health Committee 13-9. HOWEVER, the bill was immediately placed on the House’s “inactive” Calendar and it died on “crossover day.” Other CON bills did not advance this session including bills that were either considered by the House Health Committee, passed the House; and died in the Senate Health Committee. These include:

- **HB 4408** – Development of specialized intermediate care facility – *died in Senate Health Committee*

- **HB 4433** – Mobile CT exemption bill – *died in Senate Health Committee*
- **HB 5286** - Eliminating the ability to sub-contract under CON re: personal care services– *died in Senate Health Committee*
- **HB 5303** – Neighborhood hospital – – *died in House Health Committee*

Just a few of the other bills that had been advancing this session but died in Committee include some of the following:

- **HB 5054** – Relating to birthing centers – *died in Senate Health Committee*
- **HB 5254** –Relating generally to the creation of mental hygiene regions by the Supreme Court of Appeals – died in Senate Judiciary Committee
- **HB 5297** - Relating to prohibiting pubertal modulation and hormonal therapy when provided to assist in a gender transition - *died in Senate Health Committee*
- **HB 5361** - Flu shots offered to hospital patients age 50 and older voluntarily based upon CDC recommendations – *died in Senate Health Committee*
- **HB 5530** – Requiring a hospital to disclose price and fee information for certain health care services – *died in Senate Health Committee*
- **HB 5647** - MCO Tax – *died in Senate Finance Committee*
- **HB 5685** – Relating to Medicaid Cost Containment - *died in Senate Health Committee*

If you have any questions about bills featured in today's *Update* or bills introduced this session, please feel free to contact [me](#) at 304-545-0128. Thanks.

Tony