

WVHA

LEGISLATIVE UPDATE

January 12, 2024

Lawmakers kick off new legislative session

It's been a busy first 3 days of the new legislative session with the introduction of [1,125 bills](#) in the Legislature. Many bills impact hospitals from a financial, clinical, regulatory, and operational standpoint. The WVHA Legislative Team will be reviewing these, and other bills introduced as the session unfolds. If you see any bills that we should put on the radar, please contact [me](#). Also, please check out the [Legislature's Website](#) for lawmaker and committee membership information and live stream action.

2024 WVHA Top Legislative Priorities

We've been working with key legislators and stakeholders to introduce 3 priority bills associated with the WVHA's 2024 Legislative Agenda. Description and status below. The Association's full 2024 Agenda and supporting information is available on our password protected [Advocacy Page](#).

SB 294 - DPP

- [SB 294](#) is the WVHA's facility Directed Payment Program (DPP) bill and it was introduced Thursday and referred to the [Senate Finance Committee](#). The bill continues the existing facility DPP which supplements Medicaid payments with funds to support hospital financial stability. All eligible hospitals pay a voluntary assessment as the state contribution toward drawing down additional federal matching dollars for Medicaid to pay allowable rates to hospitals.
- CMS recently made programmatic changes to the formula calculating the limit of funding a state can request to provide to hospitals through the DPP. While the program ceiling has historically been limited to what Medicare would have paid for a service (which does not cover the cost of care), the recent changes raise the ceiling to the average commercial rate (ACR).

- [SB 294](#) enables WVHA on behalf of hospitals to work with the state Medicaid office and CMS to submit a state plan amendment to implement the ACR change. The Facility DPP has been limited to participation of 23 acute care hospitals but in addition to the change in funding calculations, this bill enables the Association to expand the eligible participating hospital population to include critical access hospitals (CAH) and specialty hospitals.
- A companion bill in the House is expected to be introduced soon but we've been working with key legislative leaders in both chambers to advance the legislation early in the session.

Anti-Doxing

- To provide additional protections for our hospital workforce, WVHA is working with key legislators to introduce anti-doxing legislation. The bill will be introduced in the coming days.
- This bill will criminalize knowingly making the personal information of a health care worker, or their immediate family, publicly available on the internet with the intent to threaten or incite the commission of a crime of violence against that person, or with the intent and knowledge that the personal information will be used in this way.
- Currently under the bill, a **"health care worker"** is defined as "an employee, contracted healthcare provider, or individual serving in a governance capacity of a hospital." **"Personal information"** is defined as "the home address, home telephone number, personal mobile telephone number, pager number, personal e-mail address, or a personal photograph or video of a health care worker; directions to the home of a health care worker; or photographs or videos of the home or vehicle of a healthcare worker."
- A key component of the legislation provides a process for a health care worker 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 provides evidence that they are a health care worker and affirm under penalty of perjury that they have reason to believe that the dissemination of the personal information contained in the records that the official makes available on the internet poses an imminent and serious threat to the person's safety or the safety of the person's immediate family.

SB 325 - 340B

- Finally, WVHA is working with several stakeholders including the West Virginia Primary Care Association and community pharmacies to advance [SB 325](#) to prohibit certain activities by drug manufacturers and others, including denying to sell or deliver a 340B drug to a 340B covered entity. A companion bill in the House is expected to be introduced soon.

Other bills introduced

Childhood Immunization: Beyond our proactive measures, WVHA is working to protect our current public health policies involving school immunization requirements. Several related bills have already been introduced that attempt to roll back our policies, for example, by allowing for religious and philosophical exemptions. Today in the Senate, [SB 412](#) was introduced by Senator Tom Takubo as an alternative to those bills. The legislation deals with the medical exemption review process currently under the Public Health Office by creating an Immunization Appeal Oversight Board. The overarching goal of the legislation is to maintain current immunization policies while improving the process by which medical exemptions are currently reviewed on the state level. Please be on the lookout for additional information.

CON: Protecting the Certificate of Need (CON) program is another legislative goal. This week, there was already movement on [HB 4433](#) sponsored by Delegate Amy Summers, which would add mobile facilities providing mammography or low density CT to the list of CON exemptions. The bill was considered on Thursday by the [House Health Committee](#) where it was advanced to the full House for consideration. A companion bill in the Senate was introduced today as [SB 310](#). WVHA opposes the bills.

A small sampling of other bills introduced:

- [HB 4320](#) – Relating to access to minor children’s medical records
- [HB 4376](#) – Surgical smoke evacuation
- [HB 4438](#) – Require hospitals with no ASL interpreter on staff provide technology for hearing or speech impaired
- [HB 4215](#) – Ensure hospitals do not provide lesser treatment to unvaccinated individuals
- [HB 4479](#) – Allow patients refuse residents and medical students from observing/performing medical care

Governor’s State of the State Address

Governor Justice delivered his eighth and final State of the State Address on Wednesday. The Governor laid out a series of policy proposals for the session and presented his fiscal year (FY) 2025 State Budget totaling \$5.22 billion – an increase of about \$380 million from last year’s budget. According to budget officials, the increase is due to inflation in various sectors of the economy.

Of note is a budget line item in the **Governor’s Civil Contingent Fund of \$100 million in surplus funds for Rural Hospitals**. Larry Pack, Acting Secretary of Revenue said in budget presentations yesterday the Governor believes strongly that our rural hospitals need help with their infrastructure - with their capital projects, equipment, etc. Pack described the funding available as an application process however acknowledged details, including application criteria have not been finalized. Pack said additional time is needed to work out these and other details. The WVHA is working with the Governor’s Office to obtain additional information regarding this funding, and we will provide details as soon as we learn more.

Apart from this significant development, there are other key aspects of the Governor's budget, and the spending increases are highlighted below:

- average 5% pay raises for state employees - \$123 million
- a one-time \$100 million allocation for Congressional earmarks and flood relief
- a one-time \$50 million expenditure for contract nursing services for state facilities
- \$21 million for Medicaid administrative costs and services primarily related to the Children's Health Insurance Program
- \$4.6 million for the Chief Medical Examiner's Office
- \$30 million for tourism
- \$3 million for veterans
- \$42 million for PEIA (to cover the costs of premium increases)
- \$21 million for Corrections

RE: Medicaid - in presentations to the finance committees, it was noted the administration will support legislation to raise taxes on managed care organizations MCOs that carry out programs for Medicaid. As we've reported, this step is meant to counter the Medicaid shortfall resulting in a drop in the FMAP. This financial move could bring in \$114 million to help close the Medicaid gap. In addition, administration officials are proposing a \$40.6 million supplemental expenditure for Medicaid. In yesterday's presentation, Pack said if the MCO tax is passed by the Legislature, then the appropriation of \$40 million to Medicaid is what will be requested. Without passage of the MCO tax, additional dollars will need to be allocated to Medicaid to fill the shortfall.

There are several supplemental appropriation features of the budget based on revenue overestimate for the current fiscal year. Of note:

- \$30 million for the Nursing Workforce Expansion initiative;
- \$53 million for the state's two psychiatric hospitals.
- \$10 million to fund equipment purchase for volunteer fire departments and EMS providers;
- \$10 million for EMS education (recruitment and retention); and
- \$3 million for crisis pregnancy programs

Finally, the governor is proposing 3 tax cuts totaling an estimated \$49 million:

- A new state child and dependent care tax credit for 50% of the allowable federal tax credit;
- Exclusion of all Social Security benefits from the state income tax; and
- Expansion of the Senior Citizen Homestead Property Tax Credit.

To read the full transcript of the Governor's Address click [here](#).

If you have any questions, please feel free to contact [me](#), [Jim Kaufman](#) or [Brandon Hatfield](#). Thanks.

Tony