

WVHA

LEGISLATIVE UPDATE

March 1, 2024

Today is Day 52 of the 60 Day Session and the action at the State Capitol is moving swiftly. Wednesday was “Cross Over Day” and now the Senate is considering only House bills and the House is considering only Senate bills. This rule does not apply to the budget and supplemental appropriation bills. Below is a summary of the action in the final days of the session and if you have any questions, please contact [me](#) at 304-545-0128.

Budget Action Heats Up

Senate and House finance committees released their versions of the budget this week. The WVHA team is comparing budgets now in play by the Governor, Senate (**SB 200**) and House (**HB 4025**). In our initial analysis, we’ve noted decreases in the Medicaid budget, and we’ll be watching how the Senate and House address associated line items in the coming days. Between now and the conclusion of the Session next Saturday midnight March 9, it’s expected leaders will reconcile any differences and pass a budget as constitutionally required. However, overshadowing the discussions is a \$465 million obligation to the federal government over COVID spending on education. Legislative officials are talking definitively about a special session in May to address financial matters once major questions are closer to being resolved. Lawmakers will pass a budget during this regular session, but the end product could be more or less a “placeholder” in the form of a “skinny” budget. **Bottom line:** there’s uncertainty right now in the Legislature’s spending plan for FY 2025, so please be on the lookout for additional details as they unfold.

Medicaid bills on the radar

As the Legislature continues to grapple with the Budget, they’re also considering ways to contain costs within the Medicaid program. There are several bills advancing aimed at reducing costs within Medicaid and ensuring Legislative oversight of programmatic expenditures. We’re closely monitoring the following bills:

- [HB 5647](#) - MCO Tax to address a \$114 million shortfall in Medicaid – *passed the House, now pending Senate Finance*
- [HB 5685](#) –Medicaid Cost Containment, including requiring legislative approval of State Plan Amendments (SPAs) and Medicaid Waivers, among other provisions – *pending Senate Health*
- [SB 791](#) -Modifying membership of Medical Services Fund Advisory Council to include more legislator and stakeholder representation – *pending House Health*
- And 2 bills dealing with Medicaid and the substance use disorder population: [SB 805](#) - Medicaid reimbursements for services at residential substance abuse treatment facilities – *pending House Finance*; and [SB 820](#) - Automatic enrollment of substance abuse disorder population into managed care – *pending House Health*

[DPP Bill signed by the Governor](#)

The Governor this week signed [HB 5157](#)- the Facility Directed Payment Program (DPP). Centers for Medicare and Medicaid Services (CMS) recently changed the formula calculating the limit of federal funding a state can receive through the DPP. Historically, the cap has been the Medicare level, but other states like Kentucky received CMS approval to use the average commercial rate (ACR) which increased the federal funding limit. The bill will now allow WV Medicaid to seek similar approval from CMS. The bill removes the static tax rate on the Program and allows the hospitals to assess themselves at the maximum rate allowed by CMS. More importantly, this bill 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.

[Anti-Doxing approved by House Judiciary Committee](#)

[SB 477](#) is the Anti-Doxing bill we've been advocating for health care workers and first responders. Today, the House Judiciary Committee passed the bill with little discussion, and it's now on 1st Reading in the House on Monday. **Action Alert:** If you haven't already done so, please be sure to contact your [local Delegate \(s\)](#) and ask they support SB 477.

[340B legislation awaits action by the House Finance Committee](#)

[SB 325](#) is the 340B protections bill we've been advancing this session. The bill is pending in the House Finance Committee, and we expect them to consider it as early as Monday. 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. **Action Alert:** If you haven't already done so, please contact your local Delegate (s) on the [House Finance Committee](#) and ask they support SB 325.

[Action Alert: Childhood Immunization Exemptions](#)

[HB 5105](#) has already passed the House of Delegates [57-41](#) and is now pending in the Senate Health Committee. We're joining with others in the provider community including the Immunization Network to ask Senators to **VOTE NO on HB 5105**. Please focus your advocacy on the Senate.

Senators need to hear repeatedly from the health care provider community including physicians, nurses, clinicians, and others in opposition to this bill. If you have your Senator's cell number and you regularly communicate with them, this method will likely be the most efficient way to deliver the message. If you haven't already done so, please contact your [local Senator \(s\)](#) and ask they **VOTE NO on HB 5105. In your SUBJECT LINE**, please be sure to note: **OPPOSE HB 5105**. Currently, the bill:

1. Removes immunization requirements for students in private and parochial schools and in virtual public school, with the exception of those participating in West Virginia Secondary School Activities Commission sponsored athletics; and
2. Allows a religious exemption to the entire section of code, so children in licensed childcare facilities, public schools, and private, parochial or virtual schools who would otherwise need to meet the immunization requirements due to participating in WVSSAC athletics, will be able to obtain a religious exemption. There are no administrative requirements for the exemption (parents/guardians would simply need to submit a letter), so it will be easier to get an exemption than to get one's child(ren) vaccinated.

[SB 17 and the hospital quality data reporting mandate](#)

SB 17 is a Department of Health Rules bill. This bill contains an amendment to the Hospital Licensure Rule relating to hospital reporting of quality data. The bill is still pending the House floor and is currently on the House "inactive Calendar." The current amendment is available [here](#) but we're working collaboratively with House Health Committee members to express our concerns on the mandated reporting requirements contained in the amendment and trying to work on compromise language that will accomplish the intended goals of legislators. We expect the bill to be moved to the House "active" calendar as early as Monday and we'll be sure to send out communication clarifying the WVHA's position prior to any House floor action. Please be on the lookout for details.

[Status of Key Operational Bills Impacting Hospitals](#)

The WVHA is managing several bills directly impacting hospitals from a financial, clinical, regulatory, and operational perspective. If you have questions about the current language in the bill, please contact [me](#). Below is a status update.

- [HB 4320](#) - Relating to access for minor children's *medical records* – [pending Senate Judiciary](#)
- [HB 4376](#) - Relating to surgical smoke evacuation – [passed House, passed Senate- communicated to House](#)
- [HB 5361](#) - Flu shots offered to hospital patients age 50 and older voluntarily based upon CDC recommendations – [pending Senate Health](#)
- [HB 5530](#) – Requiring a hospital to disclose price and fee information for certain health care services – [pending Senate Health](#)

[Other Health Care Bills of Interest](#)

There are several bills impacting public health, physicians, physician assistants, pharmacists, and other clinicians that we're following this session. Below is a status update of a few health bills that are advancing:

- [SB 169](#) – Allowing physician assistants to own practice – [pending House Health](#)
- [SB 352](#) - Modifying Unborn Child Protection Act - [pending House Health](#)
- [SB 453](#) - Pricing and payment transparency from PBMs contracting with PEIA – [pending House Finance](#)
- [SB 632](#) - Relating to Dangerousness Assessment Advisory Board multi-disciplinary study group – [pending House Judiciary](#)
- [SB 667](#) – Creating Physician Assistant Compact – [pending House Government Organization](#)
- [SB 714](#) - Board of Osteopathic Medicine/Board of Medicine combine bill – [pending House Floor](#)
- [SB 769](#) - Prohibiting certain medical exams on anesthetized patients – [pending House Health](#)
- [HB 5297](#) - Prohibiting pubertal modulation and hormonal therapy re: gender transition – [pending Senate Health](#)
- [HB 5379](#) - Relating to financial assistance available for a prescription drug – [pending Senate](#)
- [HB 5635](#) – Prescription labeling – [pending Senate Health](#)
- *CON Bills in the Legislature*
 - [HB 4433](#) – Mobile CT exemption bill – [pending Senate Health](#)
 - [HB 5054](#)- Relating to the licensure of birthing centers – [pending Senate Health](#)
 - [HB 5286](#) - Eliminating the ability to sub-contract under CON re: personal care services- [pending Senate Health](#)
 - [HB 4408](#) – Development of specialized intermediate care facility – [pending Senate Health](#)

- *EMS Related Bills Advancing*
 - [SB 444](#) - Health insurance coverage for certain emergency services – *pending House Judiciary*
 - [SB 445](#) - Reducing certification periods and renewal fees for EMS personnel – *pending House Government Organization*
 - [SB 533](#) - Allowing EMS agencies to triage, treat or transport patients to alternate destinations – *pending House Health*
 - [HB 5347](#) - Establishing program for EMS personnel to become certified paramedics- *pending Senate Health*

- *Behavioral Health Bills Advancing*
 - [SB 442](#) - Immunity for mental health providers who are involved in mental hygiene checks – *pending House Judiciary*
 - [H B 5254](#) - Mental hygiene regions by Supreme Court of Appeals – *pending Senate Judiciary*
 - [HB 5248](#) – Regulation of behavioral health centers – *pending Senate Finance*

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

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