

WVHA

LEGISLATIVE UPDATE

Sunday, March 10, 2024

The 2024 Regular Session concluded midnight Saturday. In total, **280 Bills (123 House Bills, 157 Senate Bills)** completed legislative action. Below is a preliminary summary of key bills for hospitals and health care. Thanks to the hospital community for your grassroots support and for helping achieve the passage of legislative priorities for the WVHA. Playing defense on numerous bills introduced in the Legislature (primarily in the House) was also a top priority and we could not have accomplished this goal without your grassroots support. For a full list of bills that completed legislative action this session, please visit [here](#).

HB 5157 DPP Bill signed by the Governor – WVHA Priority

The Governor last week signed **HB 5157**- the Facility Directed Payment Program (DPP). As we've noted throughout session, this is enabling legislation which 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 State Plan Amendment (SPA) process and our working with the State Medicaid office 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. On Friday, it completed legislative action following the bill's passage in the House by a vote of [96-1](#) with no changes. It's now on the Governor's desk for signature. During House floor debate, 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 including those in governance positions along with 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.

SB 17 – Department of Health Rule and Hospital Licensure completes legislative action *WITHOUT* harmful hospital language

In the final hours of the session, the WVHA successfully removed an amendment to **SB 17** which is the Department of Health Rules Bill that contained an amendment to the Hospital Licensure Rule re: hospital reporting of quality data. On Saturday morning, the Senate removed the reporting language and sent the bill back to the House for consideration. The House agreed to the Senate change [90-5](#) but not before remarks were delivered on the House Floor by Delegates Amy Summers and Heather Tully disagreeing with the changes made in the Senate. The bill was then passed by the House [94-1](#). The bill completed legislative action *WITHOUT* any burdensome and duplicative language for hospitals relating to reporting of quality data.

HB 5105 – Immunization bill completes legislative action, now on to the Governor

Late Saturday, the Senate passed **HB 5105** – the immunization bill by a vote of [20-12 with 2 absent](#). Because the Senate amended the bill, it had to go back to the House for consideration and voted on again. The House vote was [70-29 with 1 absent](#). In summary, this bill would allow private and parochial schools to develop their own policies for immunizations and provide them legal protections for those choices. The bill also allows vaccine exemptions for students attending virtual public schools. Students who participate in West Virginia Secondary School Activities Commission-sponsored activities outside of their school would still be required to be vaccinated. The bill also clarifies that if a student is attending some virtual school and some in-person school, the student should follow the requirements of the in-person school. The final language approved is available [here](#).

Various CON bills do not advance this session

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/or died in the Senate Health Committee. These include some of the following we've been featuring this session:

- **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*

Bills directly impact hospitals complete legislative action

Two additional bills that completed legislative action impacting hospitals from a financial, clinical, operational, and regulatory perspective include, but are not limited to the following: Please note the passage of:

- **HB 4376** - Relating to surgical smoke evacuation - This bill states that on or before January 1, 2025, the Office of the Inspector General shall propose rules for legislative approval 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.
- **HB 5014** - 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
- **SB 36** –Department of Homeland Security legislative rules (containing SANE hospital legislative rules – previously approved requirements)

Other important hospital/health care provider related bills – complete legislative action

- **SB 445** - Reducing certification periods and renewal fees for EMS personnel
- **SB 453** - Requiring pricing and payment transparency from pharmacy benefits managers contracting with PEIA
- **SB 533** - Allowing EMS agencies to triage, treat or transport patients to alternate destinations
- **SB 667** - Creating Physician Assistant Compact
- **SB 714** - Transferring duties and licensing from Board of Osteopathic Medicine to Board of Medicine
- **SB 820** - Requiring automatic enrollment of substance abuse disorder population into managed care
- **HB 4595** - Relating to extending managed care to foster care population

Other health care bills of note – complete legislative action

Senate Bills:

- **SB 269** - Excluding test strips from definition of drug paraphernalia
- **SB 300** – Reorganizing Office of Inspector General within the new DHHR including increased oversight
- **SB 378** - Prohibiting smoking in vehicle when minor 16 or under is present
- **SB 428** - Establishing appeals from administrative rulings are to be filed with Intermediate Court of Appeals
- **SB 438** - Modifying roster requirements of authorizing entities
- **SB 475** - Relating to recovery residences
- **SB 602** - Cardiac Emergency Response Plan Act
- **SB 632** - Relating to Dangerousness Assessment Advisory Board multi-disciplinary study group (includes WVHA representation)
- **SB 668** - Increasing amount of certain controlled substances persons may purchase annually
- **SB 679** - Regulating certain plant-based derivatives, hemp-derived cannabinoid products, and Kratom
- **SB 681** - Revising service obligation for certain doctoral medical degree programs
- **SB 755** - Providing safeguards for online sales of tobacco products
- **SB 768** - Providing exception for sharing of confidential child welfare records
- **SB 875** - Relating to certain insurance coverage provided by BRIM

House Bills:

- **HB 4110** – Various health related boards and commissions legislative rules (boards of medicine, pharmacy, nursing etc.)
- **HB 4190** - Relating to the establishment of an alert system for missing cognitively impaired person
- **HB 4233** - Non-binary not permitted on birth certificates
- **HB 4274** - Renaming the Department of Health and Human Resources
- **HB 4431** - Permitting the cremation of unidentified remains
- **HB 4667** – Prohibiting syringe services programs from distributing listed smoking devices
- **HB 4756** - Creating a state Alzheimer’s plan task force
- **HB 4768** - Relating to increasing the number of out-of-state medical students receiving in-state tuition rates who agree to practice for a specific time within West Virginia
- **HB 4809** - Health Care Sharing Ministries Freedom to Share Act
- **HB 4874** - Relating to fatality and mortality review team
- **HB 4911** - Relating to the sale of raw milk
- **HB 4933** - Relating to Medicaid dental coverage
- **HB 4951** - To facilitate the interstate practice of School Psychology in educational or school settings
- **HB 4975** - Relating to establishing a foster parent information system
- **HB 4976** - Providing the contact information of the Inspector General on the agencies and boards websites of the executive departments
- **HB 5084** - Require retailers to verify identification and age upon purchase of vape products

- **HB 5162** - Establish a program to promote creation and expansion of registered apprenticeship programs
- **HB 5175** - Eliminate funding for the Center for Nursing and transfer its duties and authorities to the Higher Education Policy Commission.
- **HB 5347** - Relating to establishing a program for emergency medical services personnel to become certified paramedics
- **HB 5540** - Relating to fentanyl prevention and awareness Education (Laken's Law)
- **HB 5594** - Exempting the West Virginia School of Osteopathic Medicine, West Virginia University and Marshall University from contracts, agreements, or memorandums of understanding with spending units in state government with exceptions
- **HB 5690** - Creating a West Virginia Task Force on Artificial Intelligence

Hospital and Health Care Bills Not Advancing

This session, we managed and played defense on several bills that would have placed additional administrative burden and costs on hospitals and the delivery system. Most of these bills [originated in the House](#) and the WVHA Legislative Team managed to keep many off the committee agenda or worked in the Senate to keep them from advancing. In the end, several we featured in our Updates and throughout the session ultimately did not advance. Below is a small sampling of bills that **DID NOT** complete legislative action:

- **HB 4320** – Relating to access for minor children's medical records – *died in Senate*
- **HB 5054** – Relating to birthing centers – *died in Senate Health Committee*
- **HB 5163** - Relating to involuntary hold by law enforcement for a person determined to be an imminent danger – *died in House Judiciary 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*
- **SB 791** – Modifying membership of Medicaid Services Fund Advisory Council – *died in House*

State Budget FY 2025

The Legislature approved the Fiscal Year (FY) 2025 Budget Bill ([SB 200](#)) and various supplemental appropriations to support state agency spending. The Budget Bill sets the general revenue budget for FY 2025 beginning July 1, 2025, at \$4.996 billion. Key features of the budget include: the passage of **SB 841** - unemployment benefits bill; along with 5% pay raises for state workers (**HB 4883**) through general revenue funds, and the phasing out state taxes on Social Security (**HB 4880**). The pay raise bill provides pay increases for state workers whose pay scales are in state code. So, State Police personnel and public-school educators would be affected. That means State Police personnel would receive a \$2,900 annual salary increase. Teachers would receive a \$2,460 annual pay increase. And school service personnel would receive an additional \$140 a month. The estimated financial effect of fully eliminating income taxes on Social Security benefits would be a little more than \$37 million. The phase-out would mean a 35% cut retroactive to Jan. 1, 2024; 65% in 2025 and 100% in 2026. The legislation would build on a 2019 bill signed into law by the governor to exempt Social Security income from personal income taxes for most West Virginians, particularly those in lower tax brackets. That was also a three-year phase-out.

The WVHA Legislative Team will be evaluating the budget including the status of the Medicaid program and any associated line-items of importance to hospitals and health care. We want to be thorough in our analysis so please be on the lookout for information as soon as we have an opportunity to review the Budget in more detail. There's still some talk about a special session in May to round out some budget items, especially if some questions about state financial pressures can be resolved by then. Late last week, lawmakers learned the Governor's Office was in negotiations with the federal government over a potential \$465 million COVID-19 funding claw back related to the U.S. Department of Education. More to come as lawmakers evaluate revenue available to round out the FY 2025 since many proposals did not complete legislative action – including **HB 5647 the MCO tax** which was intended to fill a \$114 million hole in the Medicaid budget.

In the meantime, the WVHA Legislative Team will be producing a more detailed Legislative Summary in the coming days and weeks ahead. Also, we will be featuring the highlights of the 2024 Regular Session during a special WVHA sponsored online seminar call that we'll be scheduling in April. Please be on the lookout for details and for other legislative information in the coming days and weeks ahead.

If you have any questions, please feel free to contact [me](#). Thanks.

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