

WVHA

LEGISLATIVE UPDATE

February 10, 2023

We've reached the half-way point of the 60 Day session and we've seen nearly [2,000 bills introduced](#) in the Legislature. The last day to introduce bills in the House is Feb. 14th; last day in the Senate is Feb. 20th. These deadlines do not apply to originating bills in committee or supplemental appropriation bills.

The WVHA celebrated *Hospital Advocacy Week* February 6-10, including *Hospital Day at the Legislature* on Thursday. More than 150 hospital leaders from around the state participated in the week's activities. Highlights included a *Hospital Day* Legislative Breakfast featuring a panel discussion with Senate Majority Leader Tom Takubo, Senate Health Committee Chair Mike Maroney, House Health Committee Chair Amy Summers and House Finance Committee Chair Vernon Criss. A virtual session on Monday helped kick off the week with Senate President Craig Blair and House Speaker Roger Hanshaw discussing legislative priorities. Thanks to our legislative leaders and to our participants and attendees for helping make *Hospital Advocacy Week* a success! To read a recap of events, check out this week's [Friday Report](#).

Several bills that we're proactively pursuing advanced this week from various committees including [SB 268](#) relating to PEIA hospital and provider payments. Other WVHA priorities advanced this week and below is a brief rundown of the action. If you have any questions, please contact [me](#).

[PEIA bill advances to Senate Finance Committee](#)

This week the Senate Health Committee advanced [SB 268](#) to deal with the long-term solvency of PEIA. This bill addresses hospital payments, but it also focuses on other structural and operational issues within PEIA. One key provision to note is this bill sets the PEIA reimbursement floor for all providers including hospitals at 110% of the Medicare rate. There are other key provisions that we'll be reviewing to compare the revised bill to the introduced version. The bill was adopted unanimously and now heads to the Senate Finance Committee for further consideration. It's expected that a Subcommittee will begin reviewing the bill as early as next week. Subcommittee members include: [Senator Ben Queen](#) (chair); and Senators [Donna Boley](#), [Charles Clements](#), [Randy Smith](#) and [Bob Plymale](#). To read more about the Health Committee's action yesterday, click [here](#).

One additional note: the Senate has already passed [SB 127](#) – which increases the PEIA inpatient rates to hospitals to 110% of Medicare - effective July 1, 2023. That bill is currently pending in the House Banking and Insurance Committee.

[Physician payment bill to be considered next week in House](#)

Another priority bill on the payment front is [HB 2759](#) which would permit the drawdown of additional matching funds to expand the existing *Physician Payment Improvement Program*. The *Program* was modeled after the existing Acute Care Facility (Directed Payment Program) where PPS hospitals pay a voluntary provider tax to help increase Medicaid payment rates. HB 2759 expands the eligible physicians that can participate in the *Physician Payment Improvement Program*. Currently only employed "W-2" employees are eligible, but this bill would expand eligible providers to include physicians who are contracted by the hospital and who the hospital bill and collect for. We expect the House Finance Committee to consider this bill early next week.

[Senate immunization bill follow-up – keep the pressure on](#)

We've been reporting to you about [SB 535](#) which creates a religious and philosophical exemption for school attendance vaccines. The bill is currently pending in the Senate Health Committee and there's been lots of outreach by physicians, pediatricians, nurses and parents. The WVHA has been active in the group effort to oppose this bill and general efforts to weaken our current immunization requirements. Based on what we've learned, the outreach is resonating with lawmakers so please keep up the effort. Some legislators have focused on an amended version of SB 535 that would call for only religious exemptions. Please reach out to your Senators and send a [personal note](#) emphasizing that allowing nonmedical exemptions will result in reductions in our state's immunization rates, allow preventable diseases that we have worked hard to eliminate to return to our state, and put our school students, school personnel, and their families at risk for these diseases. By maintaining high immunization rates among school-age children and low rates of vaccine-preventable diseases, our state law has saved lives. Contact information for Senators is available [here](#).

House Health Committee advances 2 WVHA priority bills

- The House Health Committee this week advanced [HB 2993](#) to establish licensure for the new federal Rural Emergency Hospital (REH) model. We worked with legislative leaders to introduce the bill to create state licensure for the new REH model authorized with the passage of the federal Consolidated Appropriations Act of 2021. Provisions in federal law provide an opportunity for Critical Access Hospitals (CAHs) and certain rural hospitals to be designated as an REH. The bill was introduced because state licensure is a necessary requirement under federal law to qualify for this designation. The bill will next be considered by the full House.
- The House Health Committee also advanced [HB 3166](#) to permit a hospital to hold a patient experiencing psychiatric emergency for up to 72 hours. This is an expansion of a bill we previously advocated for that allowed for a 72 hour hold of an individual who presents in an ED experiencing a psychiatric emergency. The bill moves on to the House Judiciary Committee for further consideration.
- Two other bills of note were adopted by the House Health Committee this week: [HB 2186](#) – relating to surgical smoke evacuation; and [HB 2592](#) – providing safe harbor peer review for nurses. Both bills were advanced on *Nurses Day at the Legislature*. The WVHA Legislative Team recognizes both bills are problematic and will work with legislators to express the operational challenges in implementation. HB 2186 is before the full House for consideration while HB 2592 has been referred to the House Judiciary Committee.

Other key bills on the radar

- [SB 267](#) – streamlines the prior authorization process. The bill is currently pending in the Senate Finance Committee. A few key elements of the bill include: requires all submissions be submitted via an electronic portal and requires the portal be operational by July 1, 2024; Expedites several timelines for review and approval; reduces threshold for gold card from 100% down to 90% of final prior approval decisions; and sets minimum gold card status at 6 months, with the insurer having the option to permit it longer; and Exempts the practitioner from all prior authorizations, not just procedure.
- [HB 2436](#) –establishes a standardized acuity-based patient classification system for nursing care. This bill has already passed the House and is now in the Senate Health Committee. Key provisions are to be implemented by July 1, 2024, and would require a facility to: direct each unit nurse staffing committee (*defined in the bill*) to annually review the facility's current acuity- based patient classification system and submit recommendations to the facility for changes based on current standards of practice; and submit, by July 1, 2024, and annually thereafter to the state Department of Homeland Security, the prospective staffing plan for each facility by unit. This staffing plan is protected information.
- [SB 89](#) – addresses the availability of sexual assault nurse examiners. This bill is pending in the House Health Committee. As originally introduced, this bill would have required hospitals to staff SANE nurses. 2 changes were made in the Senate: First- the bill was modified to amend: "shall staff" to "shall have on-call and available". This is

meant to allow for the sharing of these health care professionals between hospitals, as opposed to mandating each hospital employee a SANE nurse. The second change is the addition of an internal effective date of July 1, 2024. The delay would allow more opportunities to get health care professionals trained. We are continuing to work with stakeholders to ensure that any bill that advances is operational.

- [HB 2789](#) – exempts birthing centers from certificate of need (CON). Earlier this week, the House passed the bill by a vote of 73-26 after an hour-long floor debate. The bill is now pending in the Senate Health Committee. Our concern continues to be on ensuring liability protection for hospitals and our understanding is that a separate House bill will be introduced to address this issue.
- [HB 2429](#) – protects patient access to physician administered medications and prohibits the practice of “white bagging”. The bill is pending in the House Health Committee.

Senate Finance Committee hears more about state Telestroke Program

Finally, the Senate Finance Committee this week heard more about the state’s *Telestroke Program* and its impact on communities statewide. Dr. John Brick, Professor, JF Brick Endowed Chair of Neurology and Associate Dean of Rural Outreach at WVU School of Medicine, expressed appreciation to Senate President Craig Blair and to the Legislature for support of the *Program* and for providing \$1 million in funding for hospitals to enhance their telehealth services. Key partners include WVU Medicine, Charleston Area Medical Center Vandalia Health, and Mountain Health Network. WVHA was recognized for its efforts to administer the grant funding on behalf of the state to hospitals participating in the *Program*.

If you have any questions about the legislative action featured in this Report or bills introduced, please feel free to contact [me](#), [Jim Kaufman](#) or [Brandon Hatfield](#). Thanks.

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