

WVHA

LEGISLATIVE UPDATE

February 17, 2023

It's Day 38 of the 60-Day legislative session and the action is moving swiftly on several bills we're monitoring ranging from hospital payment issues to bills impacting hospital clinical and daily operations. [2225 bills have been introduced](#) in the Legislature. The last day to introduce bills in the Senate is Monday Feb. 20th. The deadlines for bill introduction in the Senate (and House) do not apply to originating bills in committee or supplemental appropriation bills. Here's a brief rundown of the action at the Capitol this week. If you have any questions, please contact [me](#).

PEIA Subcommittee meets

This week, the *Senate Finance Subcommittee* looking at PEIA – discussed [SB 268](#) which provides for a series of comprehensive changes to the Public Employees Insurance Agency. There are a number of key elements to the bill but the most important for hospitals are provisions which increase PEIA inpatient rates. The Subcommittee considered and adopted a number changes to the bill including clarifying that the minimum level of reimbursement for hospitals is at 110% of the Medicare rate. One important clarification that WVHA advocated for was the inclusion of language stating that critical access hospitals are also to receive payment based on the Medicare per diem, per day rate.

Other key elements of the bill:

1. Focus on the responsibilities of the PEIA Finance Board and
2. Pertain to spousal coverage.

Specifically, SB 268 says a state employer may not cover an employee's spouse, but the employee may add their spouse to their plan by paying the full spousal premium at the actuarial value of the plan. It's estimated that PEIA will save \$21 million by making this move.

As for next steps: it's expected that the Subcommittee will meet at least one more time to formally adopt the changes before sending the bill on to the full Senate Finance Committee for consideration. In case you missed the media rundown of the Subcommittee action, click [here](#).

Physician Payment bill advances from House Finance Committee – other WVHA priorities moving forward

This week, the House Finance Committee advanced [HB 2759](#) which would permit the draw-down of additional federal matching funds to expand the existing Physician Payment Improvement Program. This bill would essentially expand the Program to more physicians practicing in hospitals. 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. 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. This full House will consider the bill next.

- [HB 2993](#) – would establish licensure for the new federal Rural Emergency Hospital (REH) model. The bill passed the House this week by a vote of 95-0 and it's now in the Senate Health Committee for consideration.
- [HB 3166](#) – would 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. This week, the House Judiciary Committee advanced the bill to the full House and it's now on 2nd reading Monday.
- [SB 267](#) - would streamline and modernize 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.
- [SB 669](#) – would prohibit public disclosure of restricted information – otherwise known as “anti-doxxing.” The bill was introduced today in the Senate and it's been referred to the Senate Judiciary Committee for consideration.

SANE bill advancing

Another bill we've been following this session is [SB 89](#) – relating to sexual assault nurse examiners. This week, the House Health Committee significantly modified the bill from its original version that would have required hospitals to staff SANE nurses. As adopted by the House Health Committee, the bill now calls for the Sexual Assault Forensic Examination Commission to develop rules requiring a hospital to have a trained health care provider or transfer agreement as provided in a county plan- available to complete a sexual assault forensic examination. Available is defined in the bill as: having access to a trained sexual assault forensic examination expert via telehealth. The bill was advanced to the full House for consideration and it's up for passage on Monday. There was a companion bill introduced today in the Senate – [SB 675](#) which would increase reimbursement levels for sexual assault forensic examination kits, provide a mechanism for the Legislature to monitor adequacy of reimbursement rates, and assess the health levels of the Sexual Assault Examination Fund that funds these reimbursements. This bill is pending in the Senate Finance Committee.

Update on Childhood Immunization bills

Many of you have inquired about [SB 535](#) and legislative attempts to roll back our childhood immunization laws. Recent attention has focused on **SB 535** in the Senate - which creates a religious and philosophical exemption for school attendance vaccines. This bill is currently pending in the Senate Health Committee. There's been lots of outreach by physicians, pediatricians, nurses, and parents, and the WVHA has been active in the group effort to oppose this bill or any efforts to weaken our current immunization requirements. Please keep up the legislative outreach, because in addition to SB 535, there are other similar bills pending in the Legislature and we want to keep them from advancing. One example is: [SB 632](#) which prohibit the COVID-19 or other experimental vaccines for school attendance. The bill states

that parents or guardians have a right to object to vaccinations based upon reasons of conscience, including religious and philosophical reasons.

Certificate of Need

Several CON bills have been introduced this session and are on our radar. We're monitoring them very closely to help put the WVHA in the best possible position should they advance. Some of these include:

- [SB 613](#) – exempting hospitals from certificate of need requirements – *Senate Health Committee*
- [SB 612](#) - eliminating certain centers from certificate of need review – *Senate Health Committee*
- [SB 662](#) - expanding exemption for private practice physicians to provide MRIs – *Senate Health Committee*
- [HB 2789](#) – removing birthing centers from certificate of need – *passed House/now in Senate Health Committee*
- [HB 3337](#) - prohibiting additional drug and alcohol treatment facilities and services in a certain county – *advanced from House Health this week and it's now on the House Floor for consideration.*

Other key bills on the radar

- [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.
- [HB 2592](#) – providing safe harbor peer review for nurses. The WVHA Legislative Team recognizes this bill is problematic and will work with legislators to express the operational challenges in implementation. The bill is pending in the House Judiciary Committee.
- [HB 2186](#) – relating to surgical smoke evacuation –Senate Health Committee.
- [HB 2006](#) – DHHR reorganization – currently pending Senate Floor.
- [HB 2498](#) – medication assisted treatment programs and written policies – 2nd reading House Floor
- [HB 3101](#) – notification of breast density – 3rd reading House Floor
- [HB 3199](#) – relating to removing the requirement that an ectopic pregnancy be reported – Senate Health Committee
- [HB 3297](#) - allow patients to refuse residents and medical students – House Health Committee

- [HB 3388](#) - creating the health care professionals preceptor tax credit – House Health Committee
- [HB 3455](#) – patients right to choose physician – House Health Committee
- [SB 552](#) – relating to abortions – Senate Health Committee
- [SB 650](#) – allowing physician assistants to own practice – Senate Health Committee
- [HB 3274](#) - creating the Affordable Medicaid Buy-in Program – House Judiciary Committee

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

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