

WVIA

LEGISLATIVE UPDATE

March 3, 2023

It's Day 52 of the 60-Day legislative session and the action is moving swiftly to meet deadlines for bills out of committee and on to the floor for consideration by the last day. To keep bills moving, the Legislature will be in session this weekend. Here's a brief rundown of key bills. If you have any questions, please contact [me](#).

[House Finance Committee adopts SB 268 relating to PEIA – bill up for passage in the House tomorrow](#)

Following lengthy debate yesterday, the House Finance Committee adopted a revised version of [SB 268](#) which provides for a series of comprehensive changes to the Public Employees Insurance Agency (PEIA). The key provisions for hospitals were retained in the bill. They increase PEIA inpatient rates effective July 1, 2023, to 110% of Medicare, including language clarifying this rate also applies to critical access hospitals per diem, per day rate. The vote in committee was largely along party lines. The bill was fast-tracked and will be up for passage tomorrow in the House, with the general right to amend. Following action by the House, the bill will need to go back to the Senate for consideration of the House's changes. Read more about the House's action on PEIA from [MetroNews](#).

ACTION REQUESTED: Be sure to thank your [House Finance Committee members](#) for their support of the bill and the payment provisions related to hospitals and other health care providers. **Next Step - Call to Action:** If you haven't already done so, please contact your local delegate (s) and ask they support SB 268. Contact information is available [here](#). It's important that delegates immediately hear from the hospital and health care community as teachers and school service personnel are continuing to ramp up opposition to this bill. Today, multiple union groups representing state employees had a presser criticizing the PEIA solvency bill. They are asking lawmakers to slow down and consider the possible unintended consequences on public workers.

Other components of this bill:

- Sets numerous requirements for members of the PEIA Finance Board, requires a five-year analysis of potential future costs to the program and an actuarial study of the plans offered by PEIA.
- The bill also requires PEIA to return to an 80/20 employer-employee match beginning in July, though the employee/employer match would go to 70/30 for out-of-state medical care. An amendment was offered and adopted which would make the employee/employer match remain at 80/20 for health care in out-of-state counties contiguous to West Virginia counties.
- The bill would change the price of the plan for spouses of PEIA plan participants who have access to health insurance coverage to the actuarial value of the PEIA plan. PEIA estimated this could cost plan participants an additional \$147 per month. A committee amendment from the House Finance Committee added a definition for "actuarial value," meaning the value as recommended

by the health care actuaries hired by the PEIA Finance Board. The actuaries would need to submit the spouse actuarial value by Oct. 15 of each year to the PEIA Finance Board.

- According to figures from the Senate Finance Committee, SB 268 would provide \$76 million in savings in year one and more than \$500 million in savings by 2027.
- According to the most recent fiscal note available from PEIA, the bill would cost \$27.7 million when fully implemented. If the state returns to an 80-20 match beginning in July, premiums could increase by 26% for employees and 25% for employers after July. The bill would mark the first-time premiums have increased in more than a decade. With premiums frozen in place for years, the plan is closer to an 83-17 employer-employee match.
- PEIA insures more than 230,000 state employees, local government employees and retirees including more than 31,000 non-state employees, such as municipal employees.

[SB 267 - Prior Authorization advances to full House](#)

The House Health Committee today advanced [SB 267](#) to streamline and modernize the prior authorization process. This is a bill that WVHA has also been working on collaboratively with legislative leaders. This bill now moves on to the full House for consideration. This bill does the following:

- 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 the threshold for gold card from 100% down to 90% of final prior approval decisions;
- 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.

[Status of WVHA priority bills](#)

There are several bills the WVHA is proactively advancing this session. One bill, [HB 2993](#) has already completed legislative action and is on the Governor's desk for his signature. This bill would establish licensure for the new federal Rural Emergency Hospital (**REH**) model. Other active bills and their status:

- [HB 2759](#) - 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 bill will be considered by the Senate Finance Committee on Monday.*
- [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. *Pending the Senate Judiciary Committee.*

Senate Health Committee modifies Nurse Acuity Bill

Earlier this week, the Senate Health Committee changed [HB 2436](#) which establishes a standardized acuity-based patient classification system for nursing care. The major change removed reporting to the state Department of Homeland Security. The bill now places all staffing plans related to the acuity-based patient classification system – under health care peer review protection. The bills states: “the Legislature finds that based upon the nature of the acuity-based patient classification system it relies upon confidential patient information to generate a staffing plan model and therefore both the classification system and the staffing plan are considered confidential records as defined in §30-3C-3 of this code and are therefore not subject to discovery in any civil action or administrative proceeding.”

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. Current language of the bill is available [here](#). Bill is pending in the Senate Judiciary Committee.

Active hospital operational bills

- [HB 2186](#) - relating to surgical smoke evacuation –*pending Senate Health Committee*
- [HB 3101](#) – notification of breast density – *pending Senate Health Committee*
- [HB 3199](#) – relating to removing the requirement that an ectopic pregnancy be reported – *pending Senate Floor*
- [HB 3559](#) – relating to Safe Haven Baby Box – *pending Senate Judiciary Committee*
- [SB 552](#) – relating to abortions – *pending House Health Committee*

Other bills of interest and their status

- [HB 2007](#) – gender affirming care – *pending Senate Judiciary Committee*. Read more about the Senate Health Committee’s discussion of the bill [here](#).
- [HB 2754](#) – allowing pharmacy techs to administer immunizations - *pending Senate Floor*
- [HB 2757](#) – eligibility for WV Invest Program – *pending Senate Floor*
- [HB 2989](#) – relating to increasing the number of out-of-state medical students receiving in-state tuition – *pending Senate Education Committee*
- [HB 3192](#) – abolishing Center Nursing and transferring responsibilities to Higher Education Policy Commission – *pending Senate Finance Committee*
- [HB 3274](#) - creating Affordable Medicaid Buy-in Program – *pending Senate Health Committee*
- [SB 476](#) – increasing number of managed care organizations – *pending House Floor*
- [SB 646](#) – creating emeritus physician license – *pending House Health Committee*
- [SB 650](#)– allowing physician assistants to own practice – *pending House Health Committee*

CON Update

The bill to modify the CON Program – [SB 613](#) – is currently on the House floor for consideration and will be up for passage tomorrow. This bill exempts from CON "hospital services" defined to mean inpatient, outpatient, emergency room, surgical, diagnostic, imaging, and laboratory services provided on the

hospital's campus, among other changes to the CON Program. Per the WVHA Board of Trustees, the WVHA is taking no position on this bill.

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

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