

# WVHA

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## LEGISLATIVE UPDATE

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### February 3, 2023

We're approaching the half way point of the 60 Day Regular Session next week with more than [1800](#) bills introduced in the Legislature. The last day to introduce bills in the House is Feb. 14<sup>th</sup>; last day in the Senate is Feb. 20<sup>th</sup>. These deadlines do not apply to originating bills in committee or supplemental appropriation bills.

- Health committees this week advanced several bills of interest to WV hospitals including [SB 267](#) modernizing the prior authorization process (*see below*). The House of Delegates also passed [HB 2436](#) – which deals with the implementation of an acuity-based patient classification system for nursing care. The vote was [95-1](#). It's now in the Senate Health Committee for consideration with a 2<sup>nd</sup> reference to the Senate Judiciary Committee.
- WVHA's priority involving PEIA reimbursement also remains on the Legislature's radar and the focus has shifted to [SB 268](#) and long-term solvency. This bill addresses hospital payments, but it also focuses on other structural and operational matters that aim to maximize the dollars directed to PEIA. The bill is in the Senate Health Committee, and it's expected to be considered soon. Already passed the Senate and over to the House is [SB 127](#) – focusing on increasing PEIA inpatient rates to hospitals to 110% of Medicare - effective July 1, 2023. Earlier this week, Jason Haught Interim Director of PEIA appeared before the House Finance Committee to present his budget. Some of the discussion focused on hospital inpatient rates - *in state vs out-of-state* - and Haught reaffirmed that as a state health insurance plan, PEIA pays out-of-state hospitals significantly more for the same services available in West Virginia.

Other developments involving hospitals and health care are happening at the State Capitol and below is a brief rundown of the action. If you have a question about bills introduced in the Legislature, please contact [me](#).

### [Prior Authorization changes advance](#)

The Senate Health Committee this week advanced [SB 267](#) to streamline the prior authorization process to ensure timely access to care. The bill was advanced to the Senate Finance Committee for further consideration. The WVHA Legislative Team is working collaboratively with legislative leaders and stakeholders to make a series of changes to the prior auth process favorable to hospitals and the provider community: Some of the key elements of the modified bill:

- Restores original definition for episode of care;
- Requires all submissions be submitted via an electronic portal and requires the portal be operational by July 1, 2024;

- Requires review decisions relating to the submission of additional information by a health care provider be within 2 business days;
- Sets time frame for peer review process to begin within 2 business days from the day of electronic receipt, if requested by the insurer;
- Reduces the peer to peer appeal process from 30 days to 5 business days from the date of request;
- Sets a time frame for decisions regarding the appeal of a decision at no longer than 10 business days;
- 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, among other provisions.

### **Immunization legislation gaining traction in Senate – CALL TO ACTION**

As we reported to you yesterday in our *Legislative Update*, [SB 535](#) is generating a lot of buzz at the State Capitol this week. The bill, which was introduced by 13 Senators, creates religious and philosophical exemptions for school attendance vaccines. If passed, this bill will:

1. Allow nonmedical exemptions to school and child-care center immunization requirements;
2. Remove provisional enrollment for immunization requirements; and
3. Remove the medical exemption review process.

[The WV Immunization Network](#) of health care providers and partners like WVHA (as well as many other groups) are initiating a **CALL TO ACTION to oppose this bill**. We're hearing strong legislative interest to advance this bill in the Senate Health Committee and to prevent it from doing so, we're asking health care providers in your community like pediatricians, physicians, nurses, and others **contact Senators to ask them to vote NO on SB 535**. Please also consider engaging business leaders in your community. Contact information for Senators is listed [here](#) but please note that 13 Senators have sponsored the [bill](#).

Also, please consider generating media through letters to the editor or op/eds explaining that our state has one of the most effective school immunization policies in the nation. Over the last several years, four states (California, New York, Maine and Connecticut) have mirrored their school immunization requirements on ours after their states experienced outbreaks of measles that resulted in hospitalizations. Allowing nonmedical exemptions will undoubtedly 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 **our state law has saved lives**. We are very proud of this accomplishment! West Virginia has been doing this right for years and we want to keep doing it right. Click [here](#) for additional message points.

### **72-Hour hospital hold bill introduced this week – other WVHA priority bills already introduced**

- This week, [HB 3166](#) was introduced in the House of Delegates to permit a hospital to hold a patient experiencing a psychiatric emergency for up to 72 hours. This bill expands the current 72-

hour hold in place for patients presenting in the hospital emergency department to the inpatient setting. This bill has been referred to the House Health Committee with a 2<sup>nd</sup> reference to the House Judiciary Committee.

- [HB 2759](#) - adjusts the hospital provider tax re: the Physician Payment Improvement Program to draw additional federal funds – this bill expands eligible providers to include those who are contracted by the hospital, but for who the hospital bills and collects for. The House Finance Committee is expected to consider this bill next week.
- [HB 2993](#) – creates state licensure for the new Rural Emergency Hospital (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. HB 2993 was introduced because state licensure is a necessary requirement under federal law to qualify for this designation. This bill is currently before the House Health Committee for consideration.

### **Certificate of Need Update**

This week the House Health Committee advanced 2 CON bills including:

- [HB 2789](#) – exempting birthing centers from certificate of need;
- [HB 2196](#) – exempting opioid treatment programs from requiring a certificate of need;

Both bills were advanced with only a change in their titles. This means they were made narrower so that other potential changes by way of amendments to the CON Program would not be acceptable. Each bill is now on the House floor for consideration.

It's worth noting that [HB 3205](#) to repeal the CON Program was introduced this week in the House by Delegates by Delegates: Worrell, Tully, Crouse, Dean, C. Pritt, and McGeehan. It's currently in the House Health Committee for consideration. The only CON bill introduced in the Senate thus far is: [SB 528](#) - requiring certificate of need be subject to legislative rulemaking. This bill is in the Senate Judiciary Committee for consideration.

### **Other recently introduced bills of note**

- [HB 3116](#) – The purpose of this bill is to create the "No Patient Left Alone Act" to provide in-person visitation in certain in-patient and resident health care facilities to ensure that no patient is left alone in the facility – House Health Committee
- [HB 3199](#) - The purpose of this bill is to not require a report for the termination of ectopic pregnancy – House Health Committee

### **Reminder: next week is Hospital Advocacy Week; Hospital Day at the Legislature- Thu. Feb. 9**

Just a reminder that next week Feb. 6-10 is *Hospital Advocacy Week* which will include a series of WVHA sponsored virtual events to begin the week and a Health Care Providers Legislative Reception on Feb. 8

and a Legislative Breakfast on Feb. 9 – both events are at the WV Culture Center. For more information on the week's activities, please click [here](#) or contact [me](#) or [Whitney Cherry](#).

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

Tony



**Tony Gregory** | Vice President, Legislative Affairs

**West Virginia Hospital Association**

100 Association Drive Charleston, West Virginia 25311

[tgregory@wvha.org](mailto:tgregory@wvha.org) | 304.353.9719 | [www.wvha.org](http://www.wvha.org)