

# Health Care Highlights<sup>©</sup>

A Comprehensive Newsletter Covering Activities of the West Virginia Legislature and State Government

**June 15, 2015**

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Welcome to the 12<sup>th</sup> issue of award-winning *Health Care Highlights* for 2015. This year marks the 27th year of our unique health care publication. Our newsletter reaches more than 5,000 health professionals and health policymakers.

*Health Care Highlights* is published weekly during the regular legislative session and extended Budget session, and monthly during the interim periods between legislative sessions by the firm **Government Relations Specialists, LLC**.

*Health Care Highlights* provides a special focus on health topics of interest, legislative health deliberations, and a special section featuring the history and status of all health care bills enacted by the West Virginia state Senate and the House of Delegates throughout legislative sessions, which have now been approved by the Governor.

As in past years, we follow issues relating to patient advocacy; hospice services and end-of-life decisions; organ and tissue donation and education; diabetes programs; primary and specialty medical practices; behavioral health initiatives; child health care services; hospital topics; health care delivery systems; pharmaceutical availability; insurance coverage; health care management; preventive health and wellness programs; children topics, and public safety.

These are the issues represented by the firm **Government Relations Specialists, LLC**, publisher of *Health Care Highlights*.

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## ***Upcoming Legislative Interim Meetings***

September 13-14 2015  
October 18-19 2015  
November 15-16 2015

The 2016 regular session of the West Virginia Legislature convenes on January 13, 2016.



Thom Stevens, Publisher  
304-344-8466  
[HealthHighlights@aol.com](mailto:HealthHighlights@aol.com)



Andrew Wessels, Editor  
304-590-3778  
[Awessels.sterling@gmail.com](mailto:Awessels.sterling@gmail.com)  
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## ***LOCHHRA Examines Drug Testing***

Despite variations in structure and costs, members of the Legislative Oversight Commission on Health and Human Resources Accountability (LOCHHRA) learned last week about one consistent outcome of efforts to drug test recipients of public assistance – a low rate of positive test results.

Rochelle Finzel, a group director for the National Conference of State Legislatures, told LOCHHRA that testing welfare recipients for controlled substances is authorized under the federal Personal Responsibility and Work Opportunity Reconciliation Act, which created the Temporary Assistance to Needy Families (TANF) program in 1996. TANF replaced the former Aid to Families with Dependent Children (AFDC) program.

Although the courts struck down legislations in Michigan and Florida based on 4<sup>th</sup> Amendment prohibitions against unreasonable search and seizure, nearly all states (except Delaware) have proposed some type of testing since 2009. Finzel said all use screenings, questionnaires or other means of determining “reasonable suspicion” to prompt testing.

“Generally, there has not been a high rate of positive results,” Finzel said. “It’s a fairly low rate.” Among states showing a low rate of positive tests are: Florida – where 2% failed and 2% refused testing; Oklahoma – 168 positive tests over a 14-month period; Mississippi – eight positive tests out of 5,578; Tennessee – 10 positive tests out of 812 in the first month; and Utah – nine positive tests out of 400 applicants. Of course, it is difficult to determine how many did not enroll in public assistance for fear of taking the required drug test.

Finzel said there is a great deal of variation in how states try to quantify the costs of their drug testing programs. Often, she said, cost estimates do not factor in staff time or other administrative costs. Other variables include the state’s obligation to provide treatment options, privacy, and benefits to children whose parents test positive. The majority of positive drug screens, she noted, have been for marijuana use.

Several mandatory drug-testing bills – including those that would have required testing for driver’s license applicants and state legislators – failed during this year’s session.

## ***Historic Declines in Teen Birth Rates***

The U.S. has seen historic declines in teen birth rates since the early 1990s, “one of the nation’s greatest success stories related to public policy in the last two decades,” according to Laura Tobler, health program director for the National Conference of State Legislatures.

Tobler, presenting via conference call, told the Joint Committee on Health last Monday (June 8) there is still much work to be done. She said 53.7% of West Virginia teenagers report having sex, and although 86.8% said they used contraception, that doesn’t mean the contraception was effective or used consistently. One in three girls in West Virginia cite pregnancy as a reason for dropping out of high school, she said, which impacts their education, health and poverty.

Tobler outlined the “intergenerational impact” of teen pregnancy. “Daughters of teen moms are three times more likely to become teen parents themselves,” she told lawmakers, “making it much more difficult to achieve educational, career and other life goals. Only half achieve a high school diploma by age 22.”

West Virginia’s 31% decline from 1991 to 2013 represents the lowest rate of decline of any state, leaving the Mountain State with the sixth highest teen birth rate in the nation. Significant disparities persist among rural adolescents, youth in foster care, older teens (18-19), and racial and ethnic groups. “West Virginia has made a lot of progress,” Tobler said, “but the rates are still higher than the national average.”

West Virginia education standards require sex education, including instruction on abstinence and contraception. She said the state’s teen pregnancy rate could be as much as 80% higher without the state’s 149 Title X clinics and 110 school-based health centers in 35 West Virginia counties. Federal funding for programs like the state’s Adolescent Pregnancy Prevention Initiative have proven to reduce teen pregnancy and other risk behaviors. “Teens are making better choices,” she said. “But there really is no silver bullet to fix the issue. It’s slow and steady progress.”

## ***Legislative Issues to Watch***

Legislative observers and faithful readers of *Health Care Highlights* will do well to keep an eye on developments on a couple of key issues leading into the 2016 session. Among them, the Joint Standing Committee on Government Organization is researching the liability implications to West Virginia's Chapter 30 licensure and governing boards of a U.S. Supreme Court case involving the North Carolina Board of Dental Examiners. In addition, the Legislature will review a recent W.Va. Supreme Court case on wrongful conduct involving a Mingo County case, which potentially opens the door for drug abusers to seek damages from prescribing doctors and dispensing pharmacies, even though lawmakers passed a bill last session on comparative fault in civil lawsuits.

## ***Interims Committees Study Key Health-Related Issues***

West Virginia Senate President Bill Cole and House Speaker Tim Armstead identified a list of health-related topics to be considered by joint committees during this interim period between the end of the 2015 legislative session in March and the beginning of the second session of the 82<sup>nd</sup> West Virginia Legislature next January. They are as follows:

### **Legislative Oversight Commission on Health and Human Resources Accountability (LOCHHRA)**

- Public-private partnership model for the operation and maintenance of all or some of the state's hospitals and nursing facilities;
- State hospitals related to the Hartley case;
- Managed health care system within the Bureau for Medical Services;
- School-based Medicaid programs; and,
- Drug testing for welfare recipients and/or for teens obtaining a driver's license.

### **Joint Committee on Health**

- Pharmaceutical benefits management industry;
- Need for health insurance policies to provide adequate coverage to encourage adoption of abuse deterrent formulation technologies for opioids in order to assist in the state's continuing efforts to eliminate prescription drug abuse;
- WV Health Care Authority and the certificate of need process;
- Insurers cover topical ophthalmic treatment early refills in a manner similar to or consistent with CMS guidelines;
- Access costs associated with cancer clinical trials; and,
- Teen pregnancy rates in WV.

Several other peripheral health-related study issues may merit scrutiny in the coming months. These include:

- State Police: Increased options for dealing with drug cash transfers via gift cards / Western Union cards (Joint Standing Committee on the Judiciary);
- Creation of Office of Inspector General in Attorney General's office (Joint Standing Committee on the Judiciary);
- Audits of state government agencies (Joint Standing Committee on Government Organization);
- Issues, needs and challenges facing senior citizens (Select Committee on PEIA/Seniors/Long-Term Care);
- Statewide fiber optic broadband infrastructure network (Joint Commission on Economic Development); and,
- Strategies to assist and attract small businesses (Joint Commission on Economic Development).

## ***Nine States Now On Board with Interstate Medical Licensure Compact***

Nine states, including West Virginia, now have enacted the Interstate Medical Licensure Compact, which supports medical license portability between states and expands access to health care, particularly to those in rural, underserved areas.

“When Gov. Robert Bentley signed the Alabama bill into law on May 19, that satisfied the requirement of seven states needed to trigger formation of the Interstate Medical Licensure Compact Commission,” explained Robert C. Knittle, executive director of the West Virginia Board of Medicine. “Now the work can begin to get the Commission up and running, to put the managerial and administrative structure of the Compact into place.”

West Virginia was the fifth state to pass an Interstate Compact bill, joining Idaho, South Dakota, Utah and Wyoming. Since then, Alabama, Minnesota, Montana and Nevada have enacted similar legislation. A bill remains pending in Illinois, while Pennsylvania also is considering an Interstate Compact bill.

Knittle said the Compact legislation streamlines the process to allow physicians to be licensed in multiple states, while assuring that individual state regulatory oversight standards, necessary to protect patients, remain unchanged. The legislation clarifies that the physician must be licensed in the state where the patient is located. It further affirms that the practice of medicine occurs where the patient is located at the time they are treated by a physician.

Gov. Earl Ray Tomblin signed West Virginia’s bill (**HB 2496**) on March 31, with an effective date of June 10. The bill had overwhelming, bipartisan support in both the state Senate and House of Delegates, and received strong endorsements from both the Board of Medicine and the WV Board of Osteopathic Medicine, as well as the Federation of State Medical Boards.

The Interstate Compact Commission will meet later this year. Members of the Commission will include two voting representatives appointed by each member state. For more information about the Interstate Medical Licensure Compact, visit <http://licenseportability.org/>.

## ***Addiction & Prescription Drug Abuse Conference Slated***

The annual Appalachian Addiction & Prescription Drug Abuse Conference, scheduled Sept. 24-26 at the Embassy Suites in Charleston, stacks up as one of the premier physician education events of the year. This conference is the fourth of its type held since inception of the licensure boards’ three-hour CME Best Practices Prescribing of Controlling Substances required education.

Topics cover a broad range of issues related to prescription drug abuse and addiction. They include the disease model of addiction, addiction and co-morbid pain, neonatal abstinence syndrome, proper prescribing, diversion, and updated epidemiologic statistics. A number of case studies will be presented.

Support for the conference is provided by the WV State Medical Association, the WV Society of Addiction Medicine, the WV Medical Professionals Health Program, the WV Board of Medicine, the WV Board of Osteopathic Medicine, the WV Osteopathic Medical Association, and the state Department of Health and Human Resources’ Bureau for Behavioral Health & Health Facilities.

Experts from West Virginia and around the country will discuss addiction and treatment issues, and share best practices. This year’s focus is: “***The Treatment of Pain & Addiction Utilizing Education and Proper Prescribing: The New Paradigm Continued.***” The conference provides more than 14 hours of Category 1 CME and all physicians and other licensed health care professionals are welcome to attend. For those unable to attend, the WVSMA will condense this program into a three-hour webinar accessible to all physicians. There are additional CME /CEUs for multiple other disciplines as well.

To register, visit [www.wvsma.org](http://www.wvsma.org). For more information, email [karie@wvsma.org](mailto:karie@wvsma.org) or call (304) 925-0342, ext. 12.

## ***Delegate Organizes WV Addiction Summit***

On a related note, Delegate Chris Stansbury on June 1 organized a West Virginia Addiction Summit at the West Virginia Culture Center in Charleston, bringing together a panel of 12 experts to present information and gather ideas from an audience of 75-100 physicians, families and other stakeholders.

Dr. Rahul Gupta, who also is the West Virginia state health officer and commissioner for the Bureau for Public Health, said 3,000 overdose deaths over the past five years can be attributed to prescription drug abuse and heroin. West Virginia's overdose death rate not only is the highest in the U.S., but it is 20 percent higher than the second leading state.

"We are in the middle of an epidemic like never before," Gupta said. "Heroin-related deaths are on the increase. It's imperative that the West Virginia Department of Health and Human Resources, Bureau for Public Health works across agencies in our state, and with federal and local partners to address these challenges that need a contemporary solution."

As drug addiction increases, communicable diseases such as Hepatitis B and C and HIV also are on the rise. Gupta said the Legislature's passage of the Opioid Antagonist Act and the Good Samaritan Bill during this past session are to be seen as positive steps forward, but the effort must be sustained.

Some other observations from the panelists:

- Commissioner Jim Rubenstein, WV Division of Corrections: 85% to 90% of incarcerations can be attributed directly or indirectly to drug or alcohol abuse, with a projected \$500 million impact by 2017.
- House Speaker Tim Armstead, on economic development: "We have to have people to fill those jobs who are drug-free."
- Joseph Garcia, Gov. Earl Ray Tomblin's director of legislative affairs: "This is personal for him (Tomblin) and for many people. These issues hit home."
- Attorney General Patrick Morrisey: "Everyone can be part of the solution. I keep hearing, 'Where is the coordinated plan?'"
- Kanawha Circuit Judge Jennifer Bailey: Drug courts are "an incredible, effective tool" that help to reduce recidivism rates. "We just need assistance on so many levels."
- WV Supreme Court Justice Brent Benjamin: "This insidious epidemic knows no demographic bounds. Unfortunately, we are still working with the same number of treatment facilities that we did 10 years ago."
- James Titus, Union Mission: A recovering drug addict and former prison inmate, now the organization's program director. "I never saw love. I never knew what that meant."
- Commissioner Vickie Jones, Bureau for Behavioral Health and Health Facilities: "The state has placed renewed emphasis on the continuum of care for substance abuse – prevention, early intervention, treatment and recovery."

Several audience members described personal experiences with the ravages of drug abuse and their frustrations in trying to seek help for themselves or loved ones. One mother anguished over her son's overdose death in 2014. "My son went away to college and came home a heroin addict," she said.

Gov. Earl Ray Tomblin, through the Governor's Advisory Council on Substance Abuse, U.S. Sen. Joe Manchin, and U.S. Attorneys Booth Goodwin and William Ihlenfeld are among others leading efforts to address the epidemic through education and reform. Manchin and Sen. Tim Scott have launched a Prescription Drug Abuse Caucus at the national level. Manchin also has introduced the FDA Accountability for Public Safety Act and the Prescription Drug Abuse Prevention and Treatment Act.

Stansbury has created a West Virginia Addiction Action Group which will continue collaborative efforts through focus groups, town hall meetings and an interactive website.

### ***Jones Honored with Lifetime Achievement Award***

Tom Jones, who retired in 2014 after a dozen years at the helm as CEO of West Virginia United Health System – “my dream job” – received the Lorenelle White Lifetime Achievement Award during *The State Journal*’s annual Who’s Who in West Virginia Business gala on May 28 at the Embassy Suites hotel in Charleston.

Dr. Christopher Colenda, who succeeded Jones as president and CEO of WVUHS, offered this quote in the event program: “There is not a hospital executive who has done more for the state of West Virginia for health care delivery than Tom Jones. Tom has a great capacity for seeing over the quarter-by-quarter financial performance. He understands the dynamics of health care – the relationship of patients to their doctors, the relationship of patients to their community hospital, and the importance of an academic medical center to the overall infrastructure of a comprehensive health care system.”

A former chief operating officer at Wheeling Hospital, he became CEO of St. Mary’s Hospital in Huntington in 1990. A decade later, he was selected to lead Genesis Hospital System, which included St. Mary’s, Cabell Huntington Hospital and Pleasant Valley Hospital. Under his leadership at WVUHS, the system expanded from WVU Hospitals in Morgantown and United Hospital Center in Clarksburg to include hospitals in Martinsburg, Ranson and Parkersburg.

*The State Journal* initiated its lifetime achievement award in 2005 in memory of Lorenelle White, the former owner and publisher of the weekly newspaper.

Senate Health Committee Chairman Ryan Ferns’ father, Mike Ferns Sr., was among more than a dozen other honorees. The elder Ferns owns several auto and motorcycle dealerships in West Virginia, Ohio and Pennsylvania.

### ***Robinson, Bliziotos Recognized for Rural Health Leadership***

Cabin Creek Health System CEO Craig Robinson and Terri Bliziotos with the West Virginia Medical Institute have been selected co-recipients of the Center for Rural Health Development’s 2015 West Virginia Rural Health Leadership Award. Both were chosen in recognition of their leadership and noteworthy accomplishments in improving health care access and quality in West Virginia’s rural communities. They received their honors May 1 at the West Virginia Governance Forum at Stonewall Resort and Conference Center.

Cabin Creek Health Systems (CCHS) is a federally qualified health center in Kanawha County with five community health centers and three school-based centers located throughout the Kanawha Valley. Prior to joining CCHS, Robinson was the founding executive director of New River Health Association in Fayette County. “Craig was one of our state’s early thought leaders in improving access and quality of care for enrolled populations of uninsured adults,” said Sharon Lansdale, president and CEO of the Center for Rural Health Development.

Bliziotos owns a health care consulting business, Peak Performance Consulting, which assists physician practices in achieving National Committee for Quality Assurance (NCQA) recognition as a patient centered medical home. She also serves as the lead project coordinator with the WV Medical Institute, assisting physician practices with transformation needed to remain viable in the new health care environment.

“Terri has a broad understanding of the factors impacting physicians today, particularly primary care practitioners struggling to run a small business in the rapidly changing health care market,” Lansdale said. “Her love is collaboration in developing patient-centered innovations, especially at the community level.”

### ***Major Gen. Hoyer Receives YLA Award***

Major Gen. James A. Hoyer formally received the 2015 Spirit of the Mountains – Lewis N. McManus Youth Leadership Association Service Award during an April 23 reception in the Governor’s Mansion. The award, named in honor of the former House Speaker, celebrates a lifelong commitment to helping others, hard work, education, responsible citizenship and building futures for all, especially youth. Hoyer is adjutant general of the WV Joint Forces Headquarters and leads the agency’s Mountaineer Challenge Academy for at-risk youth. The Youth Leadership Association’s Youth in Government program, created in 1958 by the late Gov. Cecil Underwood, celebrated its 58th Anniversary with the Youth in Government Student Legislature and Supreme Court at the Capitol in April.

## ***Immunization Summit Begins Tuesday***

The annual West Virginia Immunization Summit, in partnership with the KidStrong Conference, begins Tuesday (June 15) at the Charleston Civic Center, targeted toward health care and public health professionals, educators, students, business leaders, consumers and others interested in reducing vaccine-preventable diseases in the Mountain State.

Among the anticipated speakers are Donna L. Weaver, RN, MN, a nurse educator with the National Center for Immunization and Respiratory Diseases in the Centers for Disease Control and Prevention; and Jeff Neccuzzi, director of the Division of Immunization Services in the WV Bureau for Public Health, who will present updates from the national and state perspectives, respectively.

The West Virginia Immunization Network (WIN) annual awards dinner takes place at 6 p.m. Tuesday at Embassy Suites.

On Friday, DHHR Cabinet Secretary Karen Bowling, BPH Commissioner Rahul Gupta and officials with Cabin Creek Health Systems urged parents to check their children's immunization status during an awareness event hosted by Riverside Health Clinic, based at Riverside High school in Belle. "Now is the best time for parents to schedule required school vaccinations as doctors' offices will be extremely busy with immunizations and sports physicals in the weeks leading up to the start of school," Bowling said.

## ***In Other Health Care Highlights ...***

... The West Virginia Office of Emergency Medical Services has reported more than 6,000 administrations of Naloxone since 2012 to try to reduce the effects of opioid overdose and save lives, according to BPH Commissioner Rahul Gupta. That figures does not include hospital administrations of the drug. Meanwhile, EMS has completed a train-the-trainer program with a series of regional meetings in May, and local first responder agencies are now training their members. ...

... BMS, meanwhile, has launched its revamped website at: <http://www.dhhr.wv.gov/bms3/Pages/default.aspx>. The site still can be accessed off of DHHR's main website ([www.dhhr.wv.gov](http://www.dhhr.wv.gov)) as well. ...

... As funding streams run dry, 18 of West Virginia's local health departments have less than six months of operating cash on hand, according to a report in *The Charleston Gazette*. The Gazette identified the 18 following a Freedom of Information Act request. They include the Barbour, Brooke, Cabell-Huntington, Clay, Doddridge, Fayette, Grafton-Taylor, Jackson, Lincoln, Logan, McDowell, Mineral, Morgan, Putnam, Randolph-Elkins, Summers, Wayne and Wyoming health departments. Amy Atkins, director of DHHR's Division of Local Health, told the Public Health Impact Task Force in May that eight of the departments operated at a deficit between 2011 and 2013. According to the Gazette, 11 of the health departments receive no direct contributions from their county commissions, and 13 receive no funding from county levies. Adkins said her division receives a state allocation of \$16.6 million, and \$15.7 million of that total flows to local health departments, *The State Journal* reported. ...

... Dr. Patrick Conway, chief medical officer for the Centers for Medicare and Medicaid Services, was keynote speaker at the Choosing Wisely quality conference in Charleston last month. Conway said he was impressed with West Virginia's plans to improve health care with "better care, smarter spending and healthier people." Conway said he supports the Medicare Care Choices Model, which would allow earlier access to hospice care for those who want more aggressive treatments. He views this as an important improvement. He also predicts that health care reimbursement will continue to evolve toward a value-based model rather a fee-for-service. Dr. Jeffrey Coben of the WVU School of Public Health also spoke at the conference about the State Innovation Model (SIM) grant, which is being used to move West Virginia toward a value-based payment system with the patient-centered medical home concept. (*Editor's Note:* Special thanks to Chris Zinn of the Hospice Council of West Virginia for reporting on this event.) ...

... Congratulations to Steven Shaffer, appointed by Gov. Earl Ray Tomblin to the House of Delegates to represent the 52<sup>nd</sup> District, filling a vacancy created by the resignation of Larry Williams. A former coal miner, Shaffer was elected mayor of Tunnelton in 1980. He was later elected to the Preston County Board of Education in 1996, serving a total of four years. Shaffer received his undergraduate degree from Fairmont State University and graduated from the WVU College of Law in 2003. He served as the assistant prosecutor for Preston County from 2003 to 2005, and currently is a partner at Estep & Shaffer, L.C. Attorneys at Law. ...

# *Health Care Highlights*®

**Thom Stevens, Editor**

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***Your Best Source for West Virginia Legislative & Governmental Health Information***

## *Quotes of Note:*

***“Hope everyone had a good spring. We’re going to try to be productive this year with our interims.”***

- Delegate Joe Ellington, welcoming members of the Joint Committee on Health meeting last Monday.

***“As you’re fully aware, I’m somewhat challenged technologically.”***

- Delegate Don Perdue, asking follow-up questions after a presentation by House Health counsel Charles Roskovensky on Microsoft Office 365, which gives lawmakers greater access to supporting documents on interim study topics.

***“In our complex society, any approach to the problem of medical care, it seems to me, leads at once to a question of responsibility. After responsibility has been placed, and assumed, then arises the question of policy and methods. . . . Whatever may be the right policy, we know that today there is an interdependence in community life that answers in the affirmative, on a very practical basis, the question, ‘Am I my brother’s keeper?’ Being our brother’s keeper is not just a sentimentality. It is to a marked degree a necessity. Responsible citizens realize that under modern conditions a destitute, diseased element of our population is a liability and a threat to the rest of the population. In our hearts and in our hands we know that we must have less sickness, less disease and less contagion in our human family.”***

- Clarence W. Meadows, WV Governor 1945-1949, Part of an Address delivered at the 79th Annual Meeting of the West Virginia Medical Association in Huntington on May 14, 1946 (69 years ago)

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