

# Health Care Highlights<sup>©</sup>

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

**March 9, 2015**

**VOLUME 27, ISSUE 8**

Welcome to the 8th 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 monthly during the periods in 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 introduced in the West Virginia state Senate and the House of Delegates.

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Today is the 55<sup>th</sup> day of the 60-day regular legislative session.

This week, we continue tracking the health care-related bills that remain under consideration by the House and Senate. The House introduced 1,022 bills this session, and the Senate 585 bills. Of the 1,607 total bills introduced, we have tracked 282 health care-related bills (17.5%). Of those, 69 bills or 24.5% remain active; the remainder are, for all intents and purposes, now considered dead.

## ***2015 Key Legislative Dates***

**March 14:** Adjournment at midnight. ([WV Const. Art. VI, §22](#))

**March 15:** Extended session possible, but not expected, to work only on the Budget Bill and other appropriation bills.



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## ***Final Week of Session Will See Flurry of Activity***

The activities at the Legislature will accelerate to record pace this week as the final five days of the regular session count down. Most bills will have to be out of their final committee by Wednesday in order to go through three days of floor readings for final passage by Saturday's midnight *sine die* (final) adjournment.

Currently, there are **69** health-related bills still **ACTIVE**. That is nearly 24.5% of the **282** bills we have been tracking since the start of the legislative session. These 69 health bills are profiled in this issue on our **ACTIVE** bill status list. In reviewing our bill status, you may notice that bills you've been following are not included in this issue. It could mean they are **DEAD**. That is our projection because these did not complete the passage route in their chamber of origin by the 50<sup>th</sup> day, but does not necessarily mean that a particular bill has been voted down. Make sure to check the **ACTIVE** list to determine if a **DEAD** bill with the same provisions might have been amended into an **ACTIVE** bill.

## ***Interim Legislative Study Resolutions Begin to Surface***

As the Legislature enters the final week of its regular session, study resolutions are beginning to emerge. This typically happens when issues considered by the Legislature still contain a number of unanswered questions and more research is necessary, or the issue is very controversial. Accordingly, study resolutions are recommended and such work is carried out during the "interim period" between legislative sessions. During that interim period, committees meet for three days each month. Several House and Senate committees originated study resolutions last week dealing with the state's drug abuse issues, the pharmaceutical benefits management industry and workplace safety for employees of state-operated behavioral health facilities. These are found listed later in this issue. Next week, we will feature more as they originate and move through the legislative process.

## ***MPLA Going Back to Governor***

A bill that would modernize medical liability reforms and avert a potential health care crisis is being returned to Gov. Earl Ray Tomblin, who vetoed the measure last Wednesday for technical errors. The Senate amended and repassed **SB 6** on Friday, and has asked the House to concur. The bill earlier had passed the Senate on Feb. 2 and the House on Feb. 17.

The Medical Professional Liability Act, first passed in 2003, places caps on the amounts that juries can award to successful plaintiffs in malpractice lawsuits for trauma and non-economic damages.

The new legislation broadens the definitions of medical activities, medical facilities and health care providers and clarifies inclusion of physician assistants, advanced professional registered nurses, pharmacies and pharmacists, nursing homes, and others; tightens expert witness requirements; clarifies the collateral source definition; and ties the trauma cap to inflation (the Consumer Price Index) with an upper limit of 150% of the original amount.

A broad coalition of West Virginia's health care community has supported the bill, including the West Virginia Hospital Association, the West Virginia Health Care Association, the West Virginia Academy of Family Physicians, Emergency Medical Services - West Virginia Coalition, the West Virginia Behavioral Healthcare Providers Association, the West Virginia State Medical Association, and the West Virginia Osteopathic Medical Association

## ***CPR Bill Signed by Governor***

Gov. Earl Ray Tomblin signed into law a bill that will require students to complete 30 minutes of training in cardiopulmonary resuscitation prior to graduation. The bill, **SB 7**, also requires training in first aid and care instructions for conscious choking, and becomes effective July 1.

The Governor signed the bill on Feb. 24, after it cruised through the Senate (Feb. 2) and House (Feb. 11) with few amendments. A bill signing ceremony has been scheduled for this Wednesday (March 11).

Teachers are not required to be certified trainers in CPR in order to provide instruction. However, instruction may be provided by community members, such as emergency medical technicians, paramedics, police officers, firefighters, licensed nurses and representatives of the American Heart Association or the American Red Cross. Schools may choose to provide longer instruction in CPR and also may opt to include information regarding use of automated external defibrillators (AEDs). Any instruction that results in certification must be taught by an authorized CPR/AED instructor.

## ***House Health Acts on Hospital Board Measure***

A bill which clarifies open board meetings for hospitals moves to the House Judiciary Committee after approval last Tuesday by the House Committee on Health and Human Resources. “There is a lot of confusion out there in the hospital community about what hospital meetings need to be noticed to the public,” Joe Letnaunchyn, executive director of the West Virginia Hospital Association, told the committee.

The bill, **SB 399**, clarifies that hospitals owned or operated by nonprofit corporations, nonprofit associations or local governmental units have only one governing body whose meetings shall be open to the public, whether that governing body is a Board of Directors or a Board of Trustees. It establishes certain matters that may be acted upon in executive session by the governing body of a hospital, and clarifies and expands the authorization for holding executive sessions. A hospital’s medical staff, the executive committee of a medical staff, and other committees and subcommittees of the medical staff are not considered governing bodies of the hospital, the bill clarifies. The bill passed the Senate on Feb. 25.

## ***House, Senate Override Veto on Abortion Bill***

As expected, both the West Virginia House of Delegates and the state Senate voted last week to override Gov. Earl Ray Tomblin’s veto of the Pain-Capable Unborn Child Protection Act (**HB 2568**). It was the second year in a row that the Governor vetoed the controversial measure on constitutional grounds, but the first time since 1987 that the House and Senate passed a veto override. The last override took place in 1987 on then-Gov. Arch Moore’s budget bill.

The West Virginia Constitution states that if the Legislature is still in session when the Governor vetoes a bill, a simple majority vote of the members of both legislative bodies is necessary to override the veto. The original passage of the bill had broad bipartisan support, with the House passing the measure on Feb. 11 by a vote of 87-12 and the Senate passing it on Feb. 25 by a vote of 29-5.

The Governor issued the veto on March 3. “As governor, I must take into consideration a number of factors when reviewing legislation, including its constitutionality,” Tomblin said. “At the start of the regular session, I urged members of the Legislature to consider a compromise that would help us establish legislation that would pass constitutional muster. Having received a substantially similar bill to the one vetoed last year on constitutional grounds, I must veto House Bill 2568.”

House Speaker Tim Armstead and Senate President Bill Cole said they believe the bill is constitutional and, according to Armstead, “will withstand any constitutional challenge.” The House override vote on Wednesday was by a 77-16 margin. The Senate waited until Friday, a day after Lobby Day for Women’s Lives at the Capitol, before voting 27-6 to override the veto.

The bill bans abortions after 20 weeks post-conception. According to Planned Parenthood, 99% of abortions in the U.S. occur prior to 20 weeks; according to the U.S. Centers for Disease Control and Prevention, six abortions were performed in West Virginia in 2011 (the last year in which data is available) after 20 weeks.

Attorney General Patrick Morrissey issued a statement prior to the override votes, saying his office is prepared to defend the bill in court. “Currently, West Virginia law does not limit how late an abortion can occur,” Morrissey observed. “While no one can predict with certainty how a court will rule, I believe that there are strong, good-faith arguments that this legislation is constitutional and should be upheld by the courts.”

## ***CHIP to Transfer to DHHR***

The Children’s Health Insurance Program will be transferred from the state Department of Administration to the state Department of Health and Human Resources on May 19 under a bill signed into law by Gov. Earl Ray Tomblin.

The Governor signed **SB 262** on Feb. 25, effective 90 days from passage or on May 19. The bill earlier had been approved by the Senate on Feb. 10 and the House on Feb. 18. Both CHIP and the Children’s Health Insurance Agency will come under DHHR’s wing. The move makes logistical sense – about 10,000 children now covered under CHIP will transition to Medicaid coverage under the Affordable Care Act in the new few months – and provides for efficiencies in technical support and administration.

## ***Planned Obsolescence – Boards Bid Adieu***

A pair of Senate bills eliminates nearly two dozen unnecessary boards, councils, task forces, commissions and committees from West Virginia code. Gov. Earl Ray Tomblin already has signed **SB 255** into law, effective 90 days from passage or on May 21, while the other, **SB 294**, awaits his approval.

Among the entities trimmed in **SB 294** (passed in the Senate on Feb. 10 and the House on Feb. 20) are: the WV Sheriffs' Bureau; the Clinical Laboratories Quality Assurance Advisory Board; the Care Home Advisory Board; the Comprehensive Behavioral Health Commission; the Public and Higher Education Unified Educational Technology Strategic Plan, including the Governor's Advisory Council for Educational Technology; the WV Consortium for Undergraduate Research and Engineering; the Governor's Commission on Graduate Study in Science, Technology, Engineering and Mathematics; the WV Rural Health Advisory Panel; the Ohio River Management Fund Advisory Board; the Occupational Safety and Health Review Commission; the Occupational Safety and Health Advisory Board; the Environmental Assistance Resource Board; the Commercial Hazardous Waste Management Facility Siting Board; the Workers' Compensation Board of Managers; the State Medical Malpractice Advisory Panel; the WV Steel Futures Program, including the Steel Advisory Commission; the WV Health Insurance Plan Board; the Alternative Dispute Resolution Commission; and the Sexually Violent Predator Management Task Force.

Among those on the chopping block in **SB 294** (passed in the Senate on Feb. 19 and the House on March 3) are: the Council for Community and Economic Development, transferring powers and duties to the executive director of the West Virginia Development Office; the Statewide Intrastate Mutual Aid Committee, while also making technical corrections to the code to reference a state of preparedness; the Principals Standards Advisory Council; and the West Virginia Health Insurance Plan Board.

## ***Health Exchange Info Benefits Consumers***

The Patient Protection and Transparency Act (**SB 366**), advanced Thursday by the House Committee on Health and Human Resources, requires that specific information be available to consumers for each qualified health plan offered for sale through a health insurance exchange. Proponents say the measure helps consumers make informed choices.

The list of 15 items includes: names of physicians, hospitals and other providers in network; a list of the types of specialists in network; exclusions from coverage by category of benefits; restrictions on use or quantity of covered items and services by category of benefits; the dollar amount of copayments; the percentage of coinsurance by item and service; required cost-sharing; information sufficient to determine whether a specific drug is available on formulary; clinical prerequisites or authorization requirements for coverage of specific drugs; a description of how medications will be included in or excluded from the deductible; a description of out-of-pocket costs that may not apply to the deductible for a medication; information sufficient to determine whether a specific drug is covered when furnished by a physician or clinic; an explanation of the amount of coverage for out-of-network providers or non-covered services; the process for a patient to appeal a health plan decision; and contact information for the qualified health plan.

Phil Reale, presenting the National Health Council, said pharmaceutical manufacturers support the bill. "All of the information is available already, but it's difficult to access," he explained. "The trade association supports this so the consumer understands that they will receive the treatment they are accustomed to receiving, including prescriptions. This is a complaint that has flowed up, from the grassroots."

Highmark Blue Cross Blue Shield currently is the only insurer providing plans under West Virginia's health benefit exchange. Reale said Blue Cross offers multiple plans, and consumers sometimes base their decisions strictly on cost, without fully exploring other aspects of the plans. More than 30,000 people have insurance through West Virginia's state-federal exchange.

Delegate Patrick Lane said he believes the bill is consumer friendly, and blasted an earlier fiscal note attached to the bill "that someone thinks is going to influence public policy." Lane questioned any purported costs associated with maintaining a database to meet the bill's mandate, saying that any child can upload PDF documents to a website.

## ***House Health Moves Senate Bills***

The House Committee on Health and Human Resources on Thursday advanced a series of bills passed by the Senate earlier in the session. The committee:

- Amended **SB 523**, which provides limited immunity to a person who seeks emergency medical assistance for someone experiencing a drug or alcohol overdose. It also provides immunity to the overdose victim upon completion of a drug rehab program, as well as limited immunity to law enforcement. The amendment clarifies that the caller would not face any sanction for violation of a condition of pretrial release, probation, furlough or parole. “If there’s fear of being arrested, they might not make the phone call,” said Delegate Mike Pushkin. “We’re trying to prevent people from dumping bodies. We’re trying to save lives.” The bill now moves to House Judiciary Committee.
- Amended **SB 30**, which permits shared ownership agreements to consume raw milk. Proponents of the bill say efforts to limit raw milk consumption are, “another example of government meddling in our personal lives.” Opponents, however, say raw milk consumption constitutes a potential public health hazard from communicable diseases such as e-coli. “It’s a question of whether my right to be healthy begins where your right to be sick ends,” said Delegate Don Perdue. The bill will be on 2<sup>nd</sup> reading today (March 9).
- Rejected **SB 386**, which would have excluded mobile X-ray services from the health care provider tax. The bill would have resulted in the loss of \$120,000 annually to the State Medicaid Share Fund or \$500,000 with the loss of federal matching money. “Who wouldn’t want to have a tax break?” Delegate Chris Stansbury argued. “I think this is just going to be the first in a long line of folks who are going to come to us. Where do you draw the line?”
- Passed **SB 363**, which would allow the Court of Claims to reimburse health care providers on a percentage basis, as approved by the Joint Committee on Government and Finance. Providers currently are reimbursed at 100% of cost. The Court of Claims receives its funding from penalties assessed to those convicted of misdemeanors and felonies in municipal, magistrate and circuit courts. Nearly 700 claims were filed last year; the average paid to claimants is \$6,500 and medical expenses make up about 55% of costs, according to administrator Cheryl Hall. The bill now moves to House Judiciary Committee.

## ***Organ Donation Brings Hope from Tragedy***

The family of a West Virginia University freshman who died tragically in November say they find comfort in knowing that his organs, donated through the Center for Organ Recovery and Education, have helped others in desperate need.

Theron and Kimberly Burch, the parents of 18-year-old Nolan Burch, revealed their late son’s gift during a recent interview with **WPXI-TV** in Pittsburgh. The interview was recounted in a story published Feb. 12 in ***The Daily Athenaeum***, the WVU student newspaper. Burch died in Ruby Memorial Hospital after his blood alcohol content reached .493 – more than six times the legal limit.

Theron Burch said his family arrived at the hospital after driving from their home in western New York. Given information about their son’s condition, they consulted with physicians and staff from the hospital as well as CORE. “We were asked if it’d be okay if the folks from CORE talked to us and of course we said that’s fine and that’s how it started. They afforded time for some things to get right within (Nolan’s) system and allowed him to be able to donate more than what they had expected,” Theron Burch said. “At the end of the day, as tragic as it was, it was still a blessing for other folks.”

Burch said his son would have wanted to help others by donating his organs. “I know for a fact he would have done it and would be proud of what he’s done,” Burch said. “It’s hard. It’s bittersweet. We just hope a part of him lives in the folks who received his organs.”

According to the **DA** article, Nolan’s organs were donated to several people, including a 25-year-old college student who now plans to return to school and a 60-year-old man who is the guardian of his grandchildren. “Nolan would be happy. He’d be proud that he did something to save other people,” Kimberly Burch said. “That was Nolan, always thinking of other people.”

## ***Senate Health Advances House Bills***

The Senate Committee on Health and Human Resources on Thursday advanced a series of single-committee referenced bills passed by the House earlier in the session. Each bill is on passage stage today (March 9):

- Amended **HB 2100**, which permits hospital patients to designate a lay caregiver to receive discharge instructions and provide after-care. The amendment provides immunity from liability for hospitals for services rendered or not rendered by the lay caregiver. Sen. Ron Stollings said communications often break down when patients transition from one care setting to another. “Having this person there upon discharge does many good things,” he said. “This is a very good bill. I think it’s going to cut down on hospital readmissions and improve the overall quality of care.” Sen. John Unger agreed. “I come from a perspective of pastoral care,” he explained. “To be able to have someone who cares for that patient, who listens in ... I think it’s much needed here in this state.”
- Amended **HB 2999** to recognize neonatal abstinence centers, and remove them from being considered as skilled nursing facilities, which currently are under a state moratorium. Under the bill, facilities such as Lily’s Place in Huntington, which provides services for children born with addictions, would be considered as unique medical services in conducting certificate of need review. The amendment adopted by Senate Health would give the Cabinet Secretary of the Department of Health and Human Resources emergency rule-making authority and clarifies that the bill pertains to stand-alone facilities and not to units within hospitals.
- Advanced **HB 2880**, which would create a drug treatment pilot program using opiate blocker medications. The bill, originated last month in the House Committee on Health and Human Resources, would study up to 200 enrollees in the state Supreme Court’s Adult Drug Court Program and the Division of Corrections’ work release program struggling with opioid addiction. The court and the division would select a research partner to assist in the program. The partner could be a state university or a nationally recognized criminal justice research institute with extensive experience in the evaluation of criminal justice and substance abuse projects. Although the medication is not specified in the bill, the intent is to study the use of Vivitrol® or naltrexone, as a long-release, non-narcotic alternative to methadone or suboxone, which are opiate derivatives that themselves can be addictive and divertible. Naltrexone is designed to eliminate the cravings associated with opioid use.
- Approved **HB 2272**, which allows the state Board of Pharmacy to establish an official prescription paper program, and clarifies that pharmacy interns can perform certain immunizations with training. David Potters, the board’s executive director and general counsel, said the bill, based on Tennessee’s model, would give providers flexibility in selecting vendors for prescription pads, as long as the vendor meets specified criteria.
- Advanced **HB 2776**, which permits certain optometrists, APRNs and PAs to prescribe Schedule II hydrocodone combination drugs for up to three days per 30-day period. The bill became necessary when the federal government moved these drugs from Schedule III to Schedule II last year.

## ***VERA Déjà vu***

The Senate Education Committee on Wednesday heard a presentation from a group called the West Virginia Coalition for Retirement Options, spearheaded by AARP–WV and others, which is asking the Legislature to study state options to give small business owners access to retirement plans. The key word here is "options" as the efforts last year were on requirements for a state-run system. In 2014, the Legislature killed a bill to create a Voluntary Employee Retirement Accounts (VERA) system. Then, during 2014 interims, the Joint Standing Committee on Finance studied a Senate concurrent resolution, **SCR 91**, regarding group government-managed retirement savings plans. The committee recommended that, because of the number of organizations and individuals making a statement against West Virginia becoming the first state to implement such a plan, that the Legislature continue to monitor similar efforts in other states.

A broad coalition of business and industry in West Virginia expressed “grave concerns” about the VERA proposal during a November 2014 meeting of the Joint Finance Committee and the Joint Standing Committee on Pensions and Retirement. The coalition included the WV Business & Industry Council, the WV Chamber of Commerce, the National Association of Insurance and Financial Advisors-WV, Independent Insurance Agents of WV, Community Bankers of WV, West Virginia Bankers Association, the Securities Industry and Financial Markets Association, and the ACLI.

# West Virginia Legislature

## ACTIVE\* Health Care Bill Status as of 3/8/15

*\*Only ACTIVE bills are listed as all others failed to be passed by the legislative chamber of origin by March 4.*

To review current status, visit [www.legis.state.wv.us](http://www.legis.state.wv.us)

*To find a particular bill, look below for the bill number under a general health category. A description of the bill is provided along with the bill's lead sponsor, additional information about the bill, committee references and other legislative action. For those receiving this newsletter electronically, please note that bill numbers are web-links to the bill text, so you may click on the blue bill number while holding down the control key and information on the bill will open in your web browser.*

### APPROPRIATIONS & BUDGET

- [SB 233](#) Cole+ **Budget Bill SFY 2016** (see [HB 2016](#)) *Bill proposed by Governor. Of note; 26.3% of all state expenditures are allocated for Health and Human Resources. To Finance.*
- [SB 463](#) Cole+ **Supplemental appropriation to Medicaid** (see [HB 2771](#)) *Governor's bill to provide \$14.7 million for fiscal 2015. Finance reported, passed Senate 2/25; House Finance reported, House passed 3/3; pending approval by Governor.*
- [SB 471](#) Cole+ **Supplemental appropriation to Human Rights Commission and Medicaid** (see [HB 2763](#)) *Governor's bill to provide \$42,845 to HRC and \$100 million in federal funds to Medical Services. Finance reported, passed Senate 2/25; House Finance reported, passed House 3/3; pending approval by the Governor.*
- [HB 2016](#) Armstead+ **Budget Bill SFY 2016** (see [SB 233](#)) *Bill proposed by Governor. Of note; 26.3% of all state expenditures are allocated for Health and Human Resources. To Finance – on agenda 3/9*
- [HB 2698](#) Armstead+ **Supplemental appropriation to Medicaid** (see [SB 464](#)) *Governor's bill to provide \$9.7million for fiscal 2015 from State Excess Revenue Lottery Fund. To Finance*
- [HB 2760](#) Armstead+ **Supplemental appropriate to the Bureau for Senior Services for Medicaid** (see [SB 474](#)) *Governor's bill transfer \$31.36 million from fiscal 2015 lottery profits to Lottery Senior Citizens Fund. Finance reported, passed House 2/28; Senate Finance reported, passed Senate 3/6; pending approval by the Governor.*
- [HB 2766](#) Armstead+ **Expires funds to State Fund, General Revenue** (see [SB 468](#)) *Governor's bill to expire funds from Joint Expenses and DHHR, DHS, TRIP Fund. Finance reported Com. Sub., on 3<sup>rd</sup> reading 3/9.*
- [HB 2769](#) Armstead+ **Expires appropriations and cash balances in State Fund, General Revenue** (see [SB 465](#)) *Governor's bill to expire funds from various accounts for fiscal 2015. Finance reported Com. Sub., on 3<sup>rd</sup> reading 3/9.*
- [HB 2770](#) Armstead+ **Supplemental appropriation Medicaid** (see [SB 464](#)) *Governor's bill to provide \$9.7 million for fiscal 2015 from State Excess Lottery Revenue Fund. Finance reported, passed House 2/23; Senate Finance reported, passed Senate 3/6; pending approval by the Governor.*
- [HB 3021](#) Nelson, E.+ **Supplemental appropriation to Division of Health and Division of Human Services** *This bill provides \$180,248 to the State Trauma and Emergency Care System, and \$41.2 million to Medicaid. House Finance originated, on 3<sup>rd</sup> reading 3/9.*
- [HB 3022](#) Ashley+ **Supplemental appropriation to State Treasurer's Office, WVSOM, etc.** *This bill provides \$410,629 to the State Treasurer's office, \$500,000 to the WV School of Osteopathic Medicine, among others. House Finance originated, on 3<sup>rd</sup> reading 3/9*

### BOARD LICENSURE AND REGULATION

- [SB 255](#) Cole+ **Eliminates unnecessary boards, councils, task forces, commissions and committees** (see [SB 239](#), [SB 294](#), [HB 2101](#), [HB 2177](#), [HB 2469](#)) *Bill proposed by Governor. Gov. Org. reported Com. Sub., Judiciary reported, passed Senate 2/10; House Gov. Org. reported, passed House 2/20; approved by Governor 3/3, effective May 21.*
- [SB 294](#) Cole+ **Eliminates unnecessary boards, etc.** (see [SB 255](#)) *Bill proposed by Governor. Gov. Org. reported, Judiciary reported, passed Senate 2/19; House Gov. Org. reported, passed House 3/3; pending approval by the Governor*

- SB 334** Ferns **Updates telemedicine and medical services delivery standards** (see **HB 2497**) *Reformulates what constitutes the unauthorized practice of medicine and podiatry under the Board of Medicine, including qualified exemptions. Also updates and defines telemedicine and medical services delivery standards. It establishes criminal penalties for unauthorized medical practice. Amendments added the Board of Osteopathic Medicine to perform telemedicine and APRNs to perform telehealth.* Gov. Org. reported, Health reported Com.Sub., passed Senate 2/20; to House Judiciary
- HB 2098** Hamrick+ **Authorizes health professionals to provide services at state-run veterans' facilities without obtaining authorization to practice from Board of Medicine or Board of Osteopathic Medicine** Veterans' Affairs amended, Health amended, passed House 2/19; to Senate Health
- HB 2103** Howell+ **Requires licensing boards to provide public access to disciplinary actions** *Also requires medical and health license applicants to submit to state/national crime records checks with fingerprints.* Gov. Org. amended, Finance reported Com. Sub., passed House 2/26; Senate Gov. Org. appointed subcommittee, then Finance
- HB 2233** Walters+ **Requires review of legislative rules 5 years after initial approval** Judiciary reported Com. Sub., Finance amended, passed House 3/4; to Senate Judiciary.
- HB 2239** Howell+ **Creates a Board of Health Professions** *Creates a "Logistical Advisory Board" to promote efficiency and economies of scale by consolidating or sharing technology and technology services.* Health amended, Gov. Org. reported Com. Sub., passed House 3/3; to Senate Gov. Org.
- HB 2272** Ellington+ **Allows Pharmacy Board to maintain official Rx paper program** *This bill allows pharmacy interns to perform certain immunizations, with training and supervision. Joint legislative rules are required from the WV Board of Medicine, the WV Board of Osteopathic Medicine and the WV Board of Pharmacy.* Health reported, Gov. Org. reported, passed House 2/20; Senate Health reported; on 3rd reading 3/9
- HB 2432** Ellington+ **Allows Board of Pharmacy to license felons** Health reported, Gov. Org. reported Com. Sub., passed House 2/20; Senate Gov. Org. reported, on 3rd reading 3/9
- HB 2496** Ellington+ **Adopts Interstate Medical Licensure Compact** (see **SB 330**) *This bill allows physicians to be licensed in multiple states, affirms that the practice of medicine occurs where the patient is located at the time of physician-patient encounter, and requires the physician to be licensed by the state medical board where the patient is located. It is supported by the state Board of Medicine and the state Board of Osteopathic Medicine. Similar legislation has been passed in 3 states and introduced in 16 other states.* Health amended, Judiciary reported Com. Sub., passed House 3/2; to Senate Health
- HB 2662** Stansbury+ **The Eye Care Consumer Protection Law** *This bill gives authority to the Board of Optometry to prohibit optometrists from operating eye exam kiosks.* Health reported Com. Sub., passed House 2/24; to Senate Health

### CHILDREN

- SB 7** Stollings+ **Requires CPR and care for conscious choking instruction in schools** (see **HB 2007**) *This bill requires 30 minutes of CPR training prior to graduation. It also includes training in first aid and care instructions for conscious choking. Teachers are not required to be certified trainers in CPR; instruction may be provided by community members. Schools may opt to include information regarding use of automated external defibrillators (AEDs). Any instruction that results in certification must be taught by an authorized CPR/AED instructor.* Passed Senate 2/2; passed House 2/11; approved by the Governor 2/24, effective July 1.
- SB 286** Ferns+ **Streamlines medical exemptions to compulsory immunizations and vaccine boosters of students** (see **HB 2556**) *This bill does not include non-medical or religious / personal preference exemptions. A child entering school or a state-regulated child care center must be immunized against chickenpox, hepatitis-B, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough – or obtain a medical exemption from the commissioner of the Bureau for Public Health. The bill maintains DHHR's interpretive rule currently in place governing administration of immunizations and the medical exemption process.* Health reported Com. Sub., 2<sup>nd</sup> reference to Judiciary dispensed; passed Senate 2/18; House Health reported, to Judiciary
- HB 2669** Ellington+ **Eliminates compulsory tuberculosis testing for low-risk school children and personnel** (see **SB 424**) *This type of testing is no longer recommended by the CDC and the cost of the tests is unjustified by the results. There has never been an active case of tuberculosis discovered through this testing.* Education reported, 2<sup>nd</sup> reference dispensed, passed House 2/20; Senate passed 2/25; approved by the Governor 3/3, effective May 26.

**HB 2999** Miller **Authorizes neonatal abstinence centers for infants under the age of 1 year.** *Creates these centers as a unique service in conducting certificate of need review and provides exemption from moratoriums on certain nursing facilities. Lilly's place in Huntington is an example.* Health reported Com. Sub., passed House 3/3; Senate Health amended; on 3rd reading 3/9

**HB 3017** Pasdon+ **Addressing sudden cardiac arrest in interscholastic athletes** *This bill requires guidelines and information about the nature and warning signs of sudden cardiac arrest. It requires the signature and return of information by the athletes and parents or guardians prior to practice or competition. It requires head coaches to complete commission-approved recognition and return-to-play protocol annually, as well as CPR instruction.* Education originated bill; passed House 3/3; to Senate Education

### **HOSPITALS**

**SB 336** Ferns+ **Provides criteria for application of penalties held in abeyance to future hospital rate applications** *The bill prohibits these penalties for future rate applications effective 5/31/15 and waives all such penalties prior to that date.* Gov. Org. reported Com. Sub., Judiciary reported Com. Sub., passed Senate 3/2; House Gov. Org. reported; on 1<sup>st</sup> reading 3/9.

**SB 398** Ferns+ **Extends expiration date for UPL health care provider tax on eligible acute care hospitals for one year and adjusts the tax rate** (see **HB 2614**) Health reported, Finance reported, passed Senate 2/20; House Finance reported, House amended, passed House 2/26; Senate concurred 2/27; approved by the Governor 3/5, effective July 1.

**SB 399** Ferns **Requires open board meetings for nonprofit or government hospitals** *Clarifies applicability to a hospital's single governing body.* Health reported, Judiciary reported, passed Senate 2/25; House Health reported, to House Judiciary

**HB 2100** Williams+ **Permits hospital patients to designate a lay caregiver to provide aftercare** (see **SB 244**) *Interim bill recommended by Select Committee on PEIA/Seniors/Long-Term Care. This bill permits hospital patients to designate a lay caregiver to receive discharge instructions and provide after-care. It provides immunity from liability for hospitals for services rendered or not rendered by the lay caregiver.* Health amended, passed House 2/19; Senate Health amended; on 3rd reading 3/9

**HB 2652** Ellington+ **Reduces the assessment paid by hospitals to the Health Care Authority** *This bill would cap the assessment at no more than one-tenth of 1% of the hospital's gross receipts and defines the items to be used in that calculation. It would have a \$1.3 million annual impact on the HCA. The bill is supported by the WV Hospital Association.* Health amended, Finance reported Com. Sub., passed House 2/26; to Senate Finance – on agenda 3/9

### **INSURANCE & HEALTH COVERAGE**

**SB 262** Cole+ **Transfers CHIP and Children's Health Insurance Agency from Department of Administration to DHHR** (see **HB 2210**) *Bill proposed by Governor.* Health reported, Judiciary reported, passed Senate 2/10; House Gov. Org. reported, passed House 2/18; approved by Governor 2/25, effective May 19.

**SB 267** Cole+ **Eliminates GOHELP** (see **HB 2209**) *Bill proposed by Governor; would save \$250,000 from current budget.* Health reported, Judiciary reported, passed Senate 2/10; House Health reported; to Judiciary.

**SB 274** Cole+ **Allows flexibility to DHHR in complying with TANF** (see **HB 2382**) *Bill proposed by Governor.* Health reported, Judiciary reported Com. Sub., passed Senate 2/17; to House Judiciary.

**SB 295** Ferns+ **Establishes appeal process for DHHR Board of Review and for Medicaid decisions** (see **HB 2589**) Health reported, Judiciary reported, passed Senate 2/10; to House Judiciary

**SB 363** Cole **Allows Court of Claims to set max rate/service limitations for health reimbursement** *The Court of Claims would reimburse providers on a percentage basis, as approved by the Joint Committee on Government and Finance. Providers may not charge claimants for any difference between the cost of services and the Court's payment.* Health reported, Judiciary reported, passed Senate 3/4; House Health reported, to Judiciary

**SB 366** Ferns+ **Creates Patient Protection and Transparency Act** *Requires information to consumers when purchasing health coverage through an insurance exchange about covered services, network providers and Rx drugs on a non-discriminatory basis.* Insurance reported Com. Sub., Finance reported, passed Senate 3/4; House Health reported, on 2<sup>nd</sup> reading 3/9.

**HB 2493** McCuskey+ **Prohibits higher copayments, deductibles or coinsurance for oral anti-cancer medications** *Thirty-four states have passed similar legislation, including all surrounding states except PA. Supported by all leading cancer and medical groups.* (see **SB 289**) Insurance reported, Health reported Com. Sub., passed House 2/24; to Senate Health

[HB 2728](#) McCuskey+ **Adopts NAIC standards on risk-based capital reporting for health organizations** (see [SB 368](#)) *This bill provides for the early detection of a potentially hazardous financial condition of a health organization to protect its enrollees and the general public.* To Insurance amended, Finance reported Com. Sub.; passed House 3/2; to Senate Finance

#### MEDICAL LIABILITY

[SB 6](#) Ferns+ **Needed revisions to Medical Professional Liability Act (MPLA)** *Supported by all leading health care, hospital, long-term care and medical groups. Opposed by trial lawyers.* (see [HB 2006](#)) Judiciary reported Com. Sub. , passed Senate 2/2; House Judiciary amended; passed House 2/17; Senate amended 2/20; House concurred 2/27; Governor vetoed 3/5; Senate amended and re-passed 3/6; to House

[SB 377](#) Boso+ **Limiting civil liability of pharmaceutical manufacturers or sellers providing warning to learned intermediary** *WV is the only state in the U.S. without the well-established “learned intermediary” doctrine, which holds that prescription drug manufacturers satisfy their obligation to warn patients about the risks and benefits of their products by providing warnings to prescribing physicians. Physicians are in the best position to provide warnings to their patients. The doctrine would not shift manufacturer liability to physicians or other health care providers.* Judiciary reported Com. Sub., passed Senate 2/27; to House Judiciary

[SB 532](#) Trump+ **Provides civil immunity for clinical practice plans, and medical and dental schools** Judiciary reported, Finance reported, passed Senate 2/27; House Judiciary amended, on 3<sup>rd</sup> reading 3/9.

[SB 580](#) Trump+ **Provides statute of limitations on health care injury claims for minors** Judiciary Committee originate bill, passed Senate 3/3; to House Judiciary

[HB 2002](#) Wagner+ **Predicates actions for damages upon comparative fault principles** (see [SB 2](#)) Judiciary reported Com. Sub., floor amendment adopted; passed House 1/27; Senate Judiciary amended; passed Senate 2/9; Conference committee filed report 2/20; passed Legislature 2/24; approved by the Governor 3/5, effective May 25.

[HB 2811](#) Westfall+ **Deletes obsolete provisions in code regarding Physicians Mutual Insurance Co.** *This bill provides that the company need not operate as a nonprofit, so long as it remains a domestic company.* Insurance amended, Finance reported Com. Sub., passed House 2/28; to Senate Insurance

#### MISCELLANEOUS

[SB 30](#) Hall, D.+ **Permits shared ownership agreements to consume raw milk** Agriculture reported Com. Sub. , Health reported Com. Sub., passed Senate 2/20; House Health amended, on 2<sup>nd</sup> reading 3/9.

[SB 425](#) Plymale+ **Provides WVU, MU and WVSOM more authority to invest assets** (see [HB 2815](#)) Education reported, passed Senate 2/20; House Education reported, to Finance

[SB 488](#) Williams+ **Re-establishes Broadband Development Council to focus on underserved areas** (see [HB 2922](#)) Gov. Org. reported Com. Sub., passed Senate 2/28; to House Gov. Org.

[HB 2595](#) McGeehan+ **Redefines “affected persons” in certificate of need requirements** *This bill prevents the state Health Care Authority from considering the testimony of out-of-state hospitals and providers when reviewing certificate of need applications.* Health reported, Judiciary reported, passed House 3/4; on 2<sup>nd</sup> reading to Senate Health

[HB 2795](#) Westfall+ **Permits release of medical records without court order** Judiciary reported Com. Sub., passed House 3/4; on 2<sup>nd</sup> reading to Senate Judiciary

[HB 2797](#) Campbell+ **Changes terminology in code to “intellectually disabled” and “disabled”** Health reported, Judiciary reported, passed House 3/3; to Senate Health

#### NURSING HOMES, LONG TERM CARE & SENIORS

[SB 583](#) Hall, M.+ **Increases the tax rate on providers of certain nursing facility services** *This bill increases the current rate to 5.72% of the gross receipts received or receivable by providers of nursing facility services after June 30, 2015, and shall again be decreased to 5.5% of the gross receipts received or receivable by providers of nursing services after June 30, 2016.* Finance originated 3/2, passed Senate 3/4, to House Finance

## **PRESCRIPTION MEDICATIONS & DRUG USE/ABUSE/DIVERSION**

- SB 335** Cole+ **Creates Access to Opioid Antagonists Act** *Bill proposed by Governor. (see **HB 2009, HB 2543**) Allows initial responders to possess and administer opioid antagonists in suspected opioid-related overdoses; ensures opioid antagonists are made available to individuals at risk of overdose, as well as to relatives, friends and caregivers; and establishes responsibilities for licensed health care providers who prescribe opioid antagonists. Provides for data collection, training and rule making. Passed Senate 2/2, passed House 2/11; Governor vetoed 2/24; repassed Senate 2/26; repassed House 2/26; pending approval by the Governor.*
- SB 523** Cole+ **Good Samaritan: Alcohol and Drug Overdose Prevention and Clemency Act** (see **HB 2631**) *Bill proposed by Governor. The bill provides limited immunity to a person who seeks emergency medical assistance for someone experiencing a drug or alcohol overdose. It also provides immunity to the overdose victim upon completion of a drug rehab program. It also provides limited immunity to law enforcement. Judiciary reported Com. Sub., passed Senate 2/25; House Health amended, to Judiciary*
- HB 2648** Pasdon+ **Allows businesses to stock epinephrine auto-injectors for emergencies** (see **SB 494**) *This bill allows what are commonly known as EpiPens to be obtained, stocked and stored by certain businesses in the state to be used following training in emergency situations involving anaphylaxis (severe allergic reaction) for a customer, visitor or employee. It follows similar legislation passed in Fla. and other states. Supported by major medical and health organizations, Cancer Treatment Fairness Coalition, WV Chamber of Commerce and WV Hospitality & Travel Association. Health amended, Judiciary reported Com. Sub., passed House 2/24; Senate Judiciary adopted technical amendments, on 3rd reading 3/9*
- HB 2733** Ellington+ **Following FDA guidelines - moving certain hydrocodone combination drugs from Schedule III to Schedule II** Health amended, passed House 2/24; to Senate Health
- HB 2776** Stansbury+ **Permits certain optometrists, APRNs and PAs to prescribe Schedule II hydrocodone combination drugs for up to three days per 30-day period** (see **SB 248**) *Bill originated in House Health. Passed House 2/18; Senate Health reported; on 3rd reading 3/9*
- HB 2880** Stansbury+ **Creates addiction treatment pilot program** Health originated bill, House amended, passed House 3/3; Senate Health amended; on 3rd reading 3/9
- HB 2931** Ashley **Expands WV's Schedule I hallucinogenic drug list** Health reported, Judiciary reported, passed House 3/4; to Senate Health

## **PROFESSIONALS: HEALTH & MEDICAL**

- SB 88** Stollings+ + **Requires state and federal criminal background checks for providers in WVCARES program** (see **HB 2613**) Health reported Com. Sub., Finance reported Com. Sub., floor amendment adopted, passed Senate 2/25, to House Judiciary
- SB 343** Blair+ **Exempts chiropractors from CE on veterans' mental health conditions** *This bill now requires physicians, PAs, APRNs, pharmacists and optometrists to undergo CE requirements for prescribing and administering opioid antagonists. Gov. Org. reported Com. Sub., Judiciary reported, passed Senate 2/20; House Gov. Org. amended, on 3<sup>rd</sup> reading 3/9 - on inactive calendar*
- HB 2829** Householder+ **Defines "midwife," "certified midwife" and "midwifery," and requires annual report to the Bureau for Public Health** Health reported Com. Sub., passed House 3/2; to Senate Health
- HB 2976** Pasdon+ **Expands master's/doctoral programs for nursing scholarship** Education reported, passed House 2/28; to Senate Education

## **REPRODUCTIVE RIGHTS & ABORTION**

- SB 277** Miller+ **Requires issuance of certificate of birth resulting in stillbirth** Health reported Com. Sub., Judiciary reported Com. Sub., passed Senate 2/18; House Judiciary reported, on 3<sup>rd</sup> reading 3/9
- HB 2568** Sobonya+ **The Pain-Capable Unborn Child Protection Act** *The bill prohibits abortions when the gestational age of the fetus reaches 22 weeks, or 20 weeks from conception, except when the fetus is not medically viable or the patient has a condition that, on the basis of a reasonably prudent physician's medical judgment, so complicates the mother's medical condition as to necessitate the abortion of her pregnancy to avert death or serious risk of substantial and irreversible physical impairment of a major bodily function. The bill does not include any exceptions in cases involving rape or incest. Health amended, Judiciary reported Com. Sub., passed House 2/11; Senate Judiciary reported, Senate passed 2/25; vetoed by Governor 3/3; House override 3/4; Senate override 3/6.*

## **RESOLUTIONS FOR LEGISLATIVE INTERIM STUDY**

*The following resolutions may be considered by the Joint Committee on Government and Finance during its April or May meeting for assignment to various legislative interim study committees:*

**SCR 11** – Workplace safety for employees at state-operated behavioral health facilities

**SCR 37** – Pharmaceutical benefits management industry

**HCR 81** – Workplace safety for employees at state-operated behavioral health facilities

**HCR 108** – Recovery Kentucky program to reduce drug problem and homelessness

## **RULE MAKING & LEGISLATIVE REVIEW**

*State agencies, boards and commissions are often given statutory authority to promulgate rules. These are known as “legislative review” during the interim period by the Legislative Rule-Making Review Committee, and if approved, then are introduced for legislative consideration in individual rules-bills. The rules-bills are then assigned to various committees, eventually ending up in the Judiciary Committees of the Senate and House of Delegates. There they are bundled into categories of rules-bills.*

## **SENATE RULES BILLS**

**SB 175** Rules Bundle. Authorizes Department of Health and Human Resources (DHHR), to promulgate legislative rules. *This rules-bill bundle now includes these individual rules previously contained in the following bills: Judiciary reported Com. Sub. ; passed Senate 2/3; House Health amended, Judiciary amended, passed House 2/27; pending approval by the Governor*

DHHR **SB 171** Chronic pain management licensure. (see **HB 2293**).

DHHR **SB 173** Medication administration. (see **HB 2329**)

DHHR **SB 176** Nursing home licensure. (see **HB 2328**)

DHHR **SB 177** Statewide trauma / emergency care system. (see **HB 2331**)

**SB 199** Rules Bundle. Authorizes various health-related boards to promulgate legislative rules. *This rules bundle now includes individual rules previously contained in the following bills: Judiciary reported Com. Sub., passed Senate 2/25; to House Judiciary – on agenda 3/7.*

MEDICAL BOARD **SB 197** PA licensure. (see **HB 2341**)

PHYSICAL THERAPY BOARD **SB 200** Fees for PTs and PT assistants. (see **HB 2300**)

OSTEOPATHIC MEDICAL BOARD **SB 201** Board fees. (see **HB 2299**)

OSTEOPATHIC MEDICAL BOARD **SB 202** PA licensure. (see **HB 2348**)

PHARMACY BOARD **SB 203** Immunizations administered by pharmacists. (see **HB 2350**)

PHARMACY BOARD **SB 204** Pharmacy technician registration. (see **HB 2351**)

PHARMACY BOARD **SB 205** Controlled substances monitoring. (see **HB 2352**)

PHARMACY BOARD **SB 223** Licensure and practice of pharmacy. (see **HB 2349**)

## **TOBACCO**

**SB 109** Blair+ Exempts veterans’ and active duty military groups from indoor smoking rules *This bill has significant opposition. Military reported Com. Sub., Judiciary reported Com. Sub., Senate amended, passed Senate 2/25; to House Health, then Judiciary*

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

... Dr. Mark Bates received the American Heart Association’s prestigious 2015 Heart of Gold Award during the association’s annual “Heart Ball” on Feb. 28 at the Charleston Marriott. Honorees are selected based on their career and contributions to cardiology and cardiac science. They have been instrumental in improving the health and well-being of West Virginians. The state’s first coronary stent, renal stent and drug-eluding coronary stent procedures were performed by Dr. Bates. ...

... Geri Dino, Ph.D., director of the West Virginia Prevention Research Center at West Virginia University, has been presented the American Lung Association of West Virginia’s Breath of Life Award in recognition of her years of work and dedication to helping teens kick their tobacco habits. ...

# *Health Care Highlights*®

**Thom Stevens, Editor**

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

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

## ***March Capitol Health Care Events***

March 10	American Red Cross Day
March 11	Fair Shake Network Ice Cream Social (House side)
March 12	Health Science Technology Academy Day

## ***Quotes of the Week:***

... ***“I think every fiscal note that comes through this Legislature is baloney.”***

- Delegate Patrick Lane, on a fiscal note attached to a bill before the House Committee on Health and Human Resources.

... ***“I’m glad I get to vote on this bill three times.”***

- Delegate Mike Pushkin, on **SB 523**, the Alcohol and Drug Overdose Prevention and Clemency Act, similar to two other bills.

... ***“One thing we’ve found out about the Amish – they’re kind of prolific!”***

- Delegate Roy Cooper, during debate over the benefits and hazards of consuming raw milk.

... ***“It ain’t perfect. Very little of what we do up here is.”***

- Delegate Jim Morgan, during lengthy debate Wednesday on HB 2688 on forced pooling / lease integration.

... ***“I don’t think you can love your neighbor and steal from him.”***

- Delegate Pat McGeehan, during that same floor debate.

## **Inside Health Care Highlights This Issue**

**Welcome to the 8th Issue in 2015**

**2015 Key Legislative Dates**

**Final Week of Session Will See Flurry of Activity**

**Interim Legislative Study Resolutions Begin to Surface**

**MPLA Going Back to Governor**

**CPR Bill Signed by Governor**

**House Health Acts on Hospital Board Measure**

**House, Senate Override Veto on Abortion Bill**

**CHIP to Transfer to DHHR**

**Planned Obsolescence – Boards Bid Adieu**

**Health Exchange Info Benefits Consumers**

**House Health Moves Senate Bills**

**Organ Donation Brings Hope from Tragedy**

**Senate Health Advances House Bills**

**VERA Déjà vu**

**Complete Analysis of All Health Care Bills**

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

**March Capitol Health Care Events**

**Quotes of the Week**