

Health Care Highlights[©]

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

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Welcome to the 12th issue of award-winning *Health Care Highlights* for 2016. This year marks the 28th 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 18-20 2016
- December 4-6 2016
- January 9-11 2017

The 2017 regular session of the West Virginia Legislature convenes on Wednesday, February 8, 2017.



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Legislators Hear Pitch on Direct Primary Care

The Joint Committee on Health last Monday explored the concept of direct primary care as an innovative alternative to the current third-party, fee-for-service system. Gerry Stover, executive vice president of the West Virginia Academy of Family Physicians, said 13 states, including West Virginia, already have passed direct primary care legislation; our state's law needs to be updated to take full advantage of this model of care.

"Is this going to be a good rural model? We don't know yet," Stover told lawmakers. "But I think there's some fertile ground for this."

Under direct primary care, patients pay a flat monthly fee in exchange for unlimited access to their doctor – in person, by telephone or via email. They receive a full range of comprehensive primary care services, including acute and urgent care, regular checkups, preventive care, chronic disease management and care coordination. Patients still maintain a level of health insurance to cover specialty care and catastrophic events that may require hospitalization. But primary care doctors would be able to scale back significantly on overhead costs, which currently soak up nearly 65% of revenue, while spending more time with individual patients, focusing on quality of care rather than volume.

"Doctors can spend more time to properly diagnose and prevent disease," said Jay Keese, executive director of the Direct Primary Care Coalition. "Right now, 47 cents on the dollar is spent paying to get paid."

Keese and other presenters emphasized that direct primary care is not health insurance. Proponents seek legislation at the federal level to define direct primary care as a qualified health expense under the tax code, allowing employees to use their health care spending accounts (HSAs) to pay for services, while their employer can offer higher deductible health insurance plans more expensive aspects of the health care system, such as surgeries, specialist care, urgent care, emergency rooms, advanced imaging and preventable hospitalizations.

"With this model, there's real hope to move into that double-digit savings range," Keese said. In today's medical world, fewer and fewer physicians operate independently, choosing instead to work directly for hospitals. He said the direct primary care concept, "makes primary care a viable career option again."

Although there are direct primary care practices in 47 states and the District of Columbia (the median monthly fee is \$70), only one such practice operates in West Virginia – Primary Care One, founded by Dr. Vic Wood in Wheeling in 2003. His practice includes lab services and X-rays, EKG, some injectable medications and vaccinations, limited generic drugs (some of which require a \$10 copayment), gynecological care and other services.

Wood said he has not raised his prices in 13 years. Wood charges \$83 a month for individuals, \$125 for families. Those with pre-existing conditions are accepted, as are those with workers' compensation cases. "It still works, and I challenge the insurance industry to say the same thing," Wood said. "This is health care; it's not insurance. I basically cut out the middle man. I do not have to chase that dollar around and increase by costs."

Rule-Making Review Addresses Backlog

The Legislative Rule-Making Review Committee last Monday approved eight new or modified rules, although Sen. Mark Maynard, the committee chair, noted that 80 rules bills remain to be considered during interims in September, December and January. Jeff Johnson, counsel to the Senate Health Committee, outlined the provisions of the Regulatory Reform Act of 2016 (**SB 619**), which requires that rules written or modified after April 1 include a five-year sunset date.

Many of the rules bills approved Monday included provisions requiring criminal background checks. Among them were: Medicine - Licensing and Disciplinary Procedures for Physicians and Podiatrists (**11 CSR 01A**); Medicine - Licensing and Disciplinary Procedures, and Continuing Education, for Physician Assistants (**11 CSR 01B**); Registered Professional Nurses – Requirements for Registration and Licensure and Conduct Constituting Professional Misconduct (**19 CSR 3**); and Registered Professional Nurses – Limited Prescriptive Authority for Nurses in Advanced Practice (**19 CSR 8**).

The latter rules bill references the controversial **HB 4334** passed during the 2016 regular session. The state Board of Medicine filed a letter of concern about lifting restrictions on prescription of benzodiazepines, which account for about 40% of overdose deaths, according to Executive Director Robert Knittle. A 13-member Joint Advisory Council on Limited Prescriptive Authority as called for in the new law has yet to be appointed.

Weirton Medical Center Seeks Reimbursement Help

Weirton Medical Center, enjoying dramatic organizational growth in recent years, last week asked the Legislative Oversight Commission on Health and Human Resources Accountability for help in obtaining fair reimbursement rates from both commercial and government insurers. WMC, located just 30 miles west of downtown Pittsburgh, operates six locations in Ohio, four in Pennsylvania and 37 in West Virginia.

“We need help. We need some evening of the playing field,” Vince Deluzio, managing director of R&V Associates, told legislators. “We’re being treated like we’re in Pennsylvania for some things, and West Virginia for others.”

Deluzio, CEO John Frankovitch and CFO Eugene Trout said WMC is seeking “legislation that creates some parity on how we’re reimbursed in West Virginia.” For example, Deluzio outlined in a PowerPoint presentation a “massive, unfair disparity in commercial payment rates across WV.” He said Weirton Medical Center is the lowest paid hospital in the state by nearly every commercial insurer. “We’re getting hammered from both sides. They tell us, ‘take it or leave it.’”

Although Medicare is 55% of the medical center’s business, he said, it receives less reimbursement than all Pennsylvania and Ohio hospitals, and less than Wheeling Hospital to the south. Ohio’s Medicaid program restricts access to West Virginia hospitals, Deluzio noted, but West Virginia’s program allows full access to Ohio hospitals. “Almost all Medicaid babies from Brooke and Hancock counties are delivered in Ohio at the expense of West Virginia taxpayers,” he said.

The lack of reciprocity struck a chord with Delegate Joe Ellington, chair of the House Health Committee and a practicing physician in Southern West Virginia. He said he has experienced similar issues with patients along the Virginia border.

Deluzio acknowledged that 34% to 40% of WMC’s business comes from Ohio and Pennsylvania patients – “importing dollars back to West Virginia” – and WMC’s net revenues have grown from \$88 million to \$160 million within four years. WMC employs more than 1,400 people and is the largest employer in Hancock and Brooke counties. Nevertheless, “despite all of this growth, we’re barely at break-even,” he said.

Frankovitch said the average West Virginia hospital payment rate is higher than the average Weirton Medical Center commercial rate by 243%. If Weirton Medical Center was reimbursed at that average rate, it would have \$50 million to invest back into the community. The disparity, he concluded, “is starting to destroy the whole health infrastructure in the Northern Panhandle. It’s not just us.”

A bill (**SB 572**) introduced by Sen. Ryan Ferns during the 2016 session to define criteria for private insurers to set rates was not taken up by the Senate Health and Human Resources Committee.

Home Modification Tax Credit Proposed

A Home Modification Tax Credit would ease the financial burden on family caregivers who provide as much as \$2.8 billion in unpaid care to their loved ones each year, proponents told the Select Committee on PEIA, Seniors and Long-Term Care last Sunday. The figure includes not only the value of care provides, but considers out-of-pocket expenses and lost wages as well.

Ashley Chapman Kenneth, senior manager of advocacy for the National MS Society, said the cost of home modifications can range from \$100 to \$50,000 depending on the scope of work. But it’s still more affordable than moving to an assisted care facility. She said the average cost of a one-bedroom assisted living unit in West Virginia is \$3,500 per month or \$42,000 annually. A skilled nursing facility costs \$8,562 per month or more than \$102,000 per year. “It makes financial sense for many families to keep their loved ones in their own homes for a long as possible, and make any necessary adjustments to the living space,” she said.

A long-established program in Virginia provides 50% of the cost of a retrofit up to \$5,000 to individuals modifying their homes. Developers and those buying an accessible, new home also can receive up to \$5,000. The program has a \$1 million cap, with \$500,000 dedicated to homeowners and \$500,000 to developers. Maine passed legislation earlier this year to allow homeowner with incomes up to \$55,000 to seek reimbursement for a percentage of the retrofit expenditures.

The committee also heard a presentation from Senate Judiciary Committee staff member Beth Lovell regarding intergenerational learning centers.

Interims: Legislative Issues to Watch

Prior to last week's interim legislative committee meetings, the West Virginia Legislature held brief meetings in Charleston on May 19-20, with planned sessions for the most part usurped by the special session on the State Fiscal Year 2017 budget. Legislators held a more broad range of interim meetings in June, also in conjunction with budget talks. Gov. Earl Ray Tomblin signed the \$4.2 billion State Fiscal Year 2017 budget on June 17 after 17 days of special session.

Senate President Bill Cole and House Speaker Tim Armstead finalized the list of health-related topics to be considered by committees during this interim period between the end of the 2016 legislative session in March and the beginning of the first session of the 83rd West Virginia Legislature next January.

Among the health-related study topics to be considered by the Joint Committee on Health are:

- The Controlled Substances Monitoring Program;
- Programs within the state Department of Health and Human Resources; analyze programs for effectiveness; consider eliminating programs which may be inactive, unnecessary or redundant;
- The organizational structure, board structure and authority, and consider modernization of the WV Health Care Authority;
- Implementation of direct primary care;
- Hospital care reimbursement;
- Funding of community-based substance abuse treatment programs; and,
- Medical loss ratios.

Several other interim committees plan to study issues that merit scrutiny in the coming months. These include:

- **Joint Standing Committee on Finance:** Review all special revenue accounts to determine purpose, history, use and methods whereby excess funds flow into the general revenue; Review the consolidation of various governing authorities and commissions, including Chapter 30 boards.
- **Joint Standing Committee on Government Organization:** Restructuring of professional and occupational licensing boards based upon the ruling of the *NC Dental Board v. FTC* case decided by the U.S. Supreme Court.
- **Joint Standing Committee on the Judiciary:** Collection of medical records and other civil discovery matters; Status of State Police Forensic Lab; Internet and broadband issues; Controlled substances, including sentencing evaluation, data collection and related crimes; and, Consideration of physician-directed civil commitments for mental health issues.
- **Select Committee on PEIA, Seniors and Long-Term Care:** Review current law, procedure and public services intended to protect against senior citizens financial abuse; Issues, needs and challenges facing senior citizens; Feasibility of home modification tax credit to make homes more accessible for older adults and the disabled; and, Review impact of minimum wage reforms and improve funding for home meal delivery programs.

The remaining legislative interim committee schedule through January 2017 will consist of two-day or three-day sessions. The schedule is subject to additions and modifications by the Senate President and Speaker of the House, and some committees such as the Rules Committee can meet outside of the regular interim schedule.

Stadelman Named Chief of Staff

Staffing changes tend to accelerate as an administration draws toward its conclusion, and Gov. Earl Ray Tomblin's administration is no exception. Especially worthy of note was the Governor's June appointment of Chris Stadelman as chief of staff.

Gov. Tomblin said Stadelman's "years of communications experience combined with a keen understanding of public policy make him a tremendous asset to my administration, and I look forward to working with him in this new role."

Stadelman, who joined the administration as communications director in May 2014, replaced former chief of staff Charlie Lorensen, who was appointed chief of staff in April 2013. Lorensen returned to the private sector.

Replacing Stadelman as communications director is Jessica Tice. A native of Preston County, Tice has worked in state and federal government communications roles for 13 years. She served as acting communications director, deputy state director and state press secretary for U.S. Sen. Jay Rockefeller. She most recently served as associate vice chancellor for communications at the state Higher Education Policy Commission and previously worked for the public information office of the West Virginia Legislature.

Addiction & Rx Drug Abuse Conference in October

The Appalachian Addiction and Prescription Drug Abuse Conference scheduled Oct. 20-22 at Embassy Suites in Charleston offers medical professionals from West Virginia and around the country a forum to discuss addiction and treatment issues, and share best practices.

The WV State Medical Association and the CAMC Health Education and Research Institute provide this annual educational event. Sponsors include the WV Board of Medicine and the WV Board of Osteopathic Medicine, the WV Osteopathic Medical Association, DHHR, and the WV Medical Professionals Health Program.

This year's focus is, "Pain & Addiction, Best Practices & Proper Prescribing." Topics include:

- WV integration and collaboration in addressing the epidemic;
- American Medical Association task force update;
- Using science to address the stigma of addiction and the opioid crisis;
- Safe prescribing for pain patients with substance abuse disorder and comorbidities;
- Interventional pain treatment options;
- Addiction and the hijacked brain;
- Physician wellness and burnout;
- Current WV overdose statistics, laws, rules and regulations, and the Prescription Drug Monitoring Program; and,
- Marijuana – Cannabis conundrums and medical use.

The conference satisfies the state-mandated continuing medical education requirement for physicians and many other disciplines in this area. For those unable to attend, the WVSMA condenses the program into a three-hour webinar accessible to all physicians. There is additional CME /CEU credit for multiple other disciplines as well.

Medical professionals must work together with government and law enforcement to mitigate the drug abuse crisis plaguing West Virginia. "To ensure success, we need to reach all physicians," said conference organizer Dr. P. Bradley Hall, director of the WVMPPH. Hall is also a member of the Governor's Advisory Council on Substance Abuse and president of the WV Society of Addiction Medicine.

A preliminary conference agenda is available at www.wvsma.org and www.wvmpph.org. For more information, email karie@wvsma.org or call (304) 925-0342, ext. 12.

In Other Health Care Highlights ...

... The Legislature has appointed a new Joint Government Accountability, Transparency and Efficiency Committee, nicknamed GATE, to begin looking at potential state government budget cuts and revenue enhancement opportunities in anticipation of another tough budget session in 2017. The GATE committee is co-chaired by Sen. Mitch Carmichael and Delegate Daryl Cowles. Members include Sens. Craig Blair, Ed Gaunch, Mike Hall, Charles Trump, Corey Palumbo, Roman Prezioso, Ron Stollings and Bob Williams; and Delegates Jim Butler, Paul Espinosa, Gary Howell, Eric Nelson, Amy Summers, Frank Blackwell, Brent Boggs and Kenneth Hicks. The committee met for the first time last Monday, and we'll be sure to watch for developments in future interim meetings. In recent weeks, media reports indicate that lawmakers will give at least passing consideration to a host of ideas, among them an increase in the state's 1-cent soda tax, in effect since 1951; legalization and taxation of medical marijuana; and privatization of the West Virginia School for Osteopathic Medicine. ...

... West Virginia continues to battle against substance abuse and opioid addiction on many fronts. Efforts just since June have included a roundtable discussion hosted by Gov. Earl Ray Tomblin and Sen. Joe Manchin; the Governor's participation in a special plenary session, "Governors Unite Against the Opioid Crisis," at the National Governor's Association meeting in July; community summits hosted by Delegate Chris Stansbury; public service announcements by Attorney General Patrick Morrisey; and free training sessions on the administration of Naloxone to treat overdose victims. More than two dozen Huntington residents suffered heroin overdoses in a matter of hours earlier this month. Now comes word that drug dealers may be lacing heroin not just with fentanyl, deadly enough in its own right, but with even stronger carfentanil, or elephant tranquilizer. Naloxone, or Narcan, may not be enough to offset the effects of these additives. ...

... Interesting to note that AARP has withdrawn its membership from the American Legislative Exchange Council, known as ALEC. On its Facebook page, AARP noted, "After hearing from many of you, we've decided not to renew our membership to ALEC. We would never work against the interests of older Americans and our engagement with ALEC was NOT an endorsement of the organization's policies, but an opportunity to engage with state legislators and advance our members' priorities." ...

... As a requirement of the Affordable Care Act, state Medicaid agencies must revalidate the enrollment of all providers by Sept. 24. West Virginia Medicaid has established an application submission deadline of Aug. 31 to enhance the chance providers will meet the federal deadline for continued enrollment. If a revalidation application has not been completed by Sept. 24, the provider will not be reimbursed by West Virginia Medicaid for dates of service on and after Sept. 25. The Molina Medicaid Solutions provider enrollment web page contains helpful information and documents related to re-enrolling/revalidation in WV Medicaid. For information, call Molina's Provider Enrollment Unit at 1-888-483-0793. ...

... HealthNet Aeromedical Services is celebrating its 30th anniversary this year. The critical care transport service, formed through a partnership of Charleston Area Medical Center, Cabell Huntington Hospital and West Virginia University Medicine, has safely transported more than 70,000 patients during the past three decades. ...

... Speaking of Cabell Huntington Hospital, shortly after the last round of interim legislative meetings in June, Attorney General Patrick Morrisey and the state Health Care Authority approved the long-pending merger of that facility with St. Mary's Medical Center. The Federal Trade Commission dismissed its complaint shortly thereafter. As faithful readers recall, during the 2016 session, the Legislature approved **SB 597** to allow "cooperative agreements" involving academic medical centers, exempting the HCA and hospitals involved in such agreements from state and federal anti-trust laws. ...

... The board of directors of HHA, Inc., parent company of Highland Hospital Association and other Charleston-based Highland companies, announced approval this month of a letter of intent to sell Highland to Tennessee-based Acadia Healthcare, Inc., according to a *MetroNews* report. The sale will be completed by the end of September and finalized by the end of the year. "Highland has recognized for some time that health care is constantly changing. We must adapt to those changes to continue to provide high-quality behavioral health care services to our community," said HHA President and CEO Cynthia Persily. "We firmly believe Acadia will enhance the ability of Highland to serve our community's behavioral health needs and provide us the best path forward to meet our mission within the ever-changing healthcare landscape." Highland includes Highland Hospital Association, High Health Center, Inc. and Process Strategies. The transaction does not include Highland Hospital in Clarksburg, which is a separate entity. ...

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Thom Stevens, Publisher

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Your Best Source for West Virginia Legislative & Governmental Health Information

Quotes of Note:

... ***“We live in a world of acronyms.”***

- Gerry Stover, executive vice president of the WV Academy of Family Physicians, during a presentation last week before the Joint Health Committee.

... ***“If you see one of us, you see what a dinosaur looks like.”***

- Sen. Ron Stollings, on the state’s dwindling number of independently practicing primary care physicians.

... ***“I know we don’t wait around for the federal government to do things. I don’t. We get more done here.”***

- Angela Vance, associate state director for advocacy for AARP, discussing the feasibility of a home modification tax credit to make home more accessible for older adults and the disabled.

... ***“I’m not a politician. I’m not going to get involved in the national political circus.”***

- Gubernatorial candidate Jim Justice, declining to endorse a presidential candidate.

... ***“How many rules are out there?” “We have volumes.”***

- Exchange between Delegate Larry Rowe and Senate Health counsel Jeff Johnson regarding the logistical implications of the Regulatory Reform Act of 2016, which requires all rules created or modified after April 1 to have a 5-year sunset date.

... ***“I appreciate you all working on a Sunday. Lawyers don’t often do that.”***

- Attorney Steve Fowler addressing the Select Committee on PEIA, Seniors and Long-Term Care, during last week’s interims.

Inside Health Care Highlights This Issue

Welcome to the 12th Issue in 2016

Upcoming Legislative Interim Meetings

Legislators Hear Pitch on Direct Primary Care

Rule-Making Review Addresses Backlog

Weirton Medical Center Seeks Reimbursement Help

Home Modification Tax Credit Proposed

Interims: Legislative Issues to Watch

Stadelman Named Chief of Staff

Addiction & Rx Drug Abuse Conference in October

In Other Health Care Highlights . . .

Quotes of Note