

# Health Care Highlights<sup>©</sup>

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

**March 23, 2015**

**VOLUME 27, ISSUE 10**

Welcome to the 10<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.

## **Lawmakers Go Home Following End of Extended Session**

The first regular session of the 82<sup>nd</sup> Legislature ended at midnight March 14. Lawmakers returned last week to work only on the state fiscal year 2016 budget during an extended session authorized by Gov. Earl Ray Tomblin. The extended session ended on Wednesday, March 18.

During this year's regular session, lawmakers introduced 1,022 bills in the House of Delegates and 585 bills in the state Senate. Of the 1,607 total bills introduced this session, about 282 were health care-related bills (17.5%). The Legislature enacted a total of 261 bills (16%) during the session, including 55 (20%) health care bills sent to the Governor for approval that are profiled in this issue. Many already have been signed into law by Gov. Earl Ray Tomblin; others await his approval. Now that the regular legislative session has ended, the Governor has 15 days following the receipt of a bill to veto, sign or allow it to become law without his signature. On the other hand, 227 health-related bills did not pass.

In addition, the Legislature considered 18 resolutions requesting health-related interim studies. These do not require passage by the Legislature or approval by the Governor. They simply "request" that the Legislature create interim study committees. The Legislature may decide to study any topic during the interim period between now and next January, even if there has not been a resolution proposed or adopted. Decisions on interim study topics will be made by the Joint Committee on Government and Finance in April or May. See inside this issue for a preview of the resolutions.

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## ***Health Care Budget Expenditures Approved by Legislature***

Last week during an extended legislative session, the West Virginia Legislature passed a State Fiscal Year 2016 Budget Bill (**HB 2016**), after budget conferees easily reached a compromise on separate House and Senate versions passed during the 60-day session. The conference committee approved the state's new spending plan (for the period from July 1, 2015 - June 30, 2016) on Wednesday morning and that evening the Legislature completed the extended session and went home.

The budget does not contain tax or fee increases and it does not call for any employee layoffs or furloughs. It does tap all surplus accounts and transfers dollars from current accrued or excess funded accounts. The revenue and spending allocations in the budget appear to close a \$195 million original estimate revenue gap.

It also borrows about \$23 million out of the state's "Rainy Day" fund, but this is much less than the Governor's original estimate of \$68 million from that fund. The "Rainy Day" fund, also known as the Revenue Shortfall Reserve Funds, has a current account balance of over \$862 million.

The total \$22.68 billion budget from all funds includes \$4.3 billion in general revenue spending, but is less than the current year's base budget for the first time in recent memory. The Governor has line-item veto power over the budget bill.

In reviewing the new SFY 2016 Budget Bill, about 26%, or more than \$1 billion, is allocated for the Department of Health and Human Resources. Estimated expenditures from DHHR by bureau reflect approximately: 70% for Medical Services (Medicaid); 13% for Children and Families; 7% for Behavioral Health; 7% for Public Health; 2% for Administration; and 1% for Child Support Enforcement.

Budget forecasts for next year look much better as this may be the last year that an annual \$350 million has to be used for the debt portion of the old Worker's Compensation fund, freeing that money for other expenditures in future budgets.

## ***A detailed analysis of health spending in the SFY 2016 Budget Bill is provided below:***

### **Teaching Hospitals**

The budget continues current year funding of \$6,356,000 for Tertiary Safety-Net Services at the major teaching hospitals, including Charleston Area Medical Center, Cabell Huntington Hospital, St. Mary's Medical Center, and West Virginia University Hospitals. These hospitals provide services to about 40% of all Medicaid patients in the state. The funds are of important assistance to the Medicaid program and are matched by the federal government. The primary purpose of this needed teaching hospital funding is to assist critically ill children in neonatal intensive care, pediatric intensive care, trauma, and burn services.

### **Rural Hospitals & EMS**

The Rural Hospitals under 150 beds line-item in the budget includes \$2,596,000, which is the same as the current SFY budget allocation. The budget reduced \$1,350,995 to \$1,348,136 for State EMS Technical Assistance; reduced from \$961,580 to \$959,098 for Statewide EMS Support; and increased from \$1,848,077 to \$1,987,034 for the State Trauma and Emergency Care System.

### **PEIA/Medicaid Swap, CHIP & GO-HELP**

The budget continues the current year allocation for the PEIA/Medicaid swap at \$6.8 million. The line-item allocations for CHIP and GO-HELP were removed as a result of legislation transferring these offices to DHHR.

### **Substance Abuse**

While the budget does maintain current level funding of \$5 million for "Substance Abuse Continuum of Care," the additional \$2.5 million from previously budgeted accrued surplus funds were eliminated in the SFY 2014, 2015 and 2016 Budget Bills. The budget does maintain \$11,592,430 to the Division of Health for substance abuse and treatment.

### **Medicaid MR/DD & Senior In-Home Waiver Programs**

There is an appropriation of \$88,753,483 in the MR/DD Waiver Program which is the same as current year base funding. The new budget remains the same at \$13,593,620 for the Title XIX waiver program for seniors.

## **A detailed analysis of health spending in the SFY 2016 Budget Bill continues below:**

### **Health Programs – Including End-of-Life Center, Children’s Diabetes**

The WV Center for End-of Life Care funding was maintained at \$420,198 for operations and to provide for the new secure voluntary electronic registry for advance directives and for enhanced education and communication programs for physicians, health care providers and patients. The Diabetes Education and Prevention Program remained unchanged \$97,125, with these funds intended for innovative children’s diabetes initiatives because no federal funds are available.

### **Health Programs**

Budget funding is maintained at current SFY spending levels as follows: \$757,804 for the Poison Control Center; \$146,282 for the Healthy Lifestyles Program; \$427,500 for the CARDIAC Project; \$100,000 for Adolescent Immunization Education; \$100,000 for the Healing Place of Huntington; \$100,000 for the West Virginia Cancer Coalition; \$50,000 for the West Virginia AIDS Coalition; \$50,000 for the Hospital Hospitality House of Huntington; \$400,000 for the Breast and Cervical Cancer Diagnostic Treatment Fund; \$800,000 for the Traumatic Brain Injury Waiver; \$73,065 for the Informal Dispute Resolution (IDR) of Nursing Home Administrative Appeals; and \$125,000 for Sexual Assault Intervention and Prevention.

The budget lowers funding for the following: \$4,064,219 to \$3,000,000 for Health Right Free Clinics; \$4,871,887 to \$4,870,309 for the Tobacco Education Program; \$333,815 to \$333,311 for Vaccines for Children; \$158,918 to \$158,366 for the Osteoporosis/Arthritis Program; \$47,068 to \$46,895 for the Maternal Mortality Review Program; \$198,335 to \$197,761 for the Cancer Registry; and \$5,488,315 to \$5,476,995 for the Chief Medical Examiner’s Office.

### **Medical Schools**

General spending allocations for higher education is decreased under the new budget, but the three medical schools had a much higher percentage reduction in some funded accounts.

- School of Osteopathic Medicine is increased \$7,058,218, to \$7,458,334.
- Marshall University Medical School is reduced from \$13,416,420, to \$12,541,389, but maintained within the appropriation \$417,351 for the Forensic Lab and \$275,061 for the Center for Rural Health. There is no specified funding for Graduate Medical Education which may be transferred to Medicaid for matching federal funds.
- West Virginia University School of Health Sciences for the WVU Medical School is reduced from \$17,447,465 to \$16,711,414, with specified funding within this appropriation of \$2 million for the School of Public Health; Graduate Medical Education; multiple sclerosis programming/research; the Blanchette Rockefeller (Alzheimer's) project; and \$82,000 for the WVU National Center for Excellence in Women's Health. Any funds used for GME may be transferred to Medicaid to gain federal matching funds upon approval of the Chancellor for the Higher Education Policy Commission and the DHHR Cabinet Secretary.
- The WVU Medical School - Charleston Division will receive a reduction from \$2,412,341 to \$2,374,260; and the Eastern Panhandle Division is reduced from \$2,337,058 to \$2,303,985 for this fiscal year.
- There is a decrease from \$533,232 to \$525,687 for the Medical Schools Rural Health Outreach Programs, including rural health activities and programs, rural residency development and education, and rural outreach activities. These funds will be dispersed among the three medical schools as follows: WVU \$175,720; MU \$174,600; SOM \$175,367. There is also a separate appropriation of \$418,652 down from \$424,662 for the SOM Rural Health Initiative - Medical Schools Support.

### **Doc for a Day Program**

New line-items have been created within the Senate and House budgets of \$5,000 each to be used for the *Doc for the Day Program* as sponsored by the West Virginia Academy of Family Physicians. These replace prior line-items in the WVU-Charleston Division Medical School and the MU Medical School budgets. The new legislative budgeted amounts are to be used for family medicine physician teaching faculty and medical resident education and training from these two medical schools for participation and support of the *Doc for a Day Program*. The program just completed its 26th year of service during the regular legislative session with free medical care provided to a total of almost 50,000 patients.

## ***Tomblin Signs MPLA, Patient Protection Bills***

Gov. Earl Ray Tomblin last week signed the Medical Professional Liability Act (**SB 6**) after an earlier veto over technical issues. The bill modernizes medical liability reforms and averts a potential health care crisis. It places caps on the amounts that juries can award to successful plaintiffs in malpractice lawsuits for trauma and non-economic damages. It also broadens those covered under MPLA to include physician assistants, advanced practice registered nurses, pharmacies, pharmacists and nursing homes.

The Governor also signed the Patient Protection and Transparency Act (**SB 366**) which requires information be made available to consumers when purchasing health coverage through an insurance exchange about covered services, network providers and prescription drugs on a non-discriminatory basis.

The Governor also signed in part and vetoed in part three appropriation bills – **HB 2766**, **HB 2769** and **HB 3022**.

## ***Reboot Required on Health Legislation***

Several key pieces of health-related legislation were vetoed by Gov. Earl Ray Tomblin last week because of technical flaws. Fortunately, lawmakers corrected the flaws and repassed the bills before final adjournment of the extended session.

Among those requiring a tweak were the much debated **SB 286**, streamlining the process for medical exemptions from compulsory immunizations for students; **HB 2648**, allowing businesses to stock and administer, with training, epinephrine auto-injectors for use in emergency anaphylactic reactions; and **HB 2880**, which creates a pilot program to study the use of Vivitrol® or naltrexone, as a long-release, non-narcotic alternative to methadone or suboxone in treating addiction.

The Governor also had a substantive concern with the latter bill. “This bill is well-intentioned, and I commend the Legislature for tackling West Virginia’s opioid addiction predicament by establishing two new drug treatment pilot programs,” the Governor wrote in his veto message on **HB 2880**. “However, the bill contains certain issues that should be corrected before it becomes law.” The Legislature agreed and made appropriate modifications to the bill.

The Governor’s concern was the Legislature’s delegation of executive functions to the state Supreme Court of Appeals. Tomblin suggested amending the bill to provide that the executive branch of the state Department of Health and Human Resources and its Bureau for Behavioral Health and Health Facilities administer the addiction treatment services in the pilot programs. He noted that DHHR and BBHFF already administer addiction treatment services for the state Department of Corrections and, “are experts in determining eligibility for Medicaid and other health benefit programs.”

## ***WVUHS Names New Chief Medical Officer***

G. Daniel Martich, MD, has been named chief medical officer of the West Virginia United Health System. His role will be to coordinate efforts across the system to improve health care quality – both in hospitals and in physician offices. Martich also will hold a faculty appointment in the Department of Medicine in the West Virginia University School of Medicine. He will begin work in June.

Christopher C. Colenda, MD, MPH, president and CEO of the WVUHS, said Martich, “will coordinate services and service lines so that patients have easier access to the care they need and that their experiences are always positive.”

Martich currently serves as vice president for physician services and chief medical information officer at the University of Pittsburgh Medical Center (UPMC). He coordinates a call center that facilitates 30,000 patient transfers into UPMC hospitals annually. He is a 1985 graduate of the WVU School of Medicine and completed postgraduate training at The Ohio State University and the National Institutes of Health. He holds board certifications in internal medicine, critical care medicine, and medical informatics and has held an increasingly responsible series of teaching and administrative posts since joining the UPMC medical faculty in 1992. Martich earned his undergraduate degree at Bethany College and has served on the College’s Board of Trustees since 2011.

The West Virginia United Health System, the state’s second-largest private employer, encompasses six acute-care hospitals -- including the flagship Ruby Memorial Hospital on the campus of WVU, dozens of medical offices, and a diverse network of affiliated organizations. WVUHS member hospitals provide about 25% of the inpatient hospital care in the state of West Virginia.

## ***Senate Confirms Health Care Appointees***

The state Senate on March 14 confirmed the appointments of 207 individuals as submitted by Gov. Earl Ray Tomblin. The list included Robert A. Fala of Chapmanville as director of the Division of Natural Resources and Patricia S. Reed of Beckley as commissioner of the Division of Motor Vehicles.

Here are some of the other health-related gubernatorial appointees confirmed by the Senate:

### **West Virginia Board of Medicine:**

- Ahmed Faheem, Daniels, for the term ending Sept. 30, 2019
- Cathy Funk, Martinsburg, for the term ending Sept. 30, 2019
- Mustafa Rahim, Beckley, for the term ending Sept. 30, 2019

### **West Virginia School of Osteopathic Medicine Board of Governors:**

- Greg A. Burton, Charleston, for the term ending June 30, 2018
- J. Fred Earley II, Parkersburg, for the term ending June 30, 2017

### **West Virginia United Health System, Inc., Board of Directors:**

- William Stone, Danville, for the term ending Oct. 15, 2020
- Jose Sartarelli, Morgantown, for the term ending Oct. 15, 2020

### **Statewide Independent Living Council:**

- Donald Carson, Beckley, for the term ending June 30, 2017
- Michelle Norweck, Barboursville, for the term ending June 30, 2017
- Vanessa Vangilder, Charleston, for the term ending June 30, 2017
- David George, Wheeling, for the term ending June 30, 2017
- Nancy Tyler, Charleston, for the term ending June 30, 2017
- Aaron Morris, Cannelton, for the term ending June 30, 2017
- Greg Bilonick, Morgantown, for the term ending June 30, 2017
- Todd Rundle, Fairmont, for the term ending June 30, 2017
- Bob Waybright, Webster Springs, for the term ending June 30, 2017

### **West Virginia Board of Dentistry:**

- Charles L. Smith, Charleston, for the term ending June 30, 2017
- Byron Black, Ripley, for the term ending June 30, 2019

### **WV Board of Risk and Insurance Management:**

- Bobby Mitts, Lavalette, for the term ending June 30, 2017
- James Wilson, Grafton, for the term ending June 30, 2016
- Bruce Martin, Fairmont, for the term ending June 30, 2018

### **Children's Health Insurance Plan Board:**

- Kellie Wooten-Willis, Logan, for the term ending June 30, 2016

### **Medical Imaging and Radiation Therapy Technology Board of Examiners**

- Eva Hallis, Charleston, for the term ending June 30, 2016
- Tuanya Layton, Charleston, for the term ending June 30, 2016
- Jamie S. Browning, West Logan, for the term ending June 30, 2017
- Howard W. Lafferty, Charleston, for the term ending June 30, 2015
- Tonya Painter, Fairlea, for the term ending June 30, 2015
- Kristi Justice, St. Albans, for the term ending June 30, 2017
- Paul H. Blom, Barboursville, for the term ending June 30, 2017

## ***Tonkin Honored for Public Service, Dedication***

The state Senate on March 9 passed a resolution honoring Nancy Stuart Tonkin for her dedicated public service and many contributions to the citizens of West Virginia. Tonkin, a native of Harrison County and a graduate of Washington Irving High School and West Virginia University, has dedicated the past 35 years of her life to advocating for women, children and families.

Tonkin, who holds a master's degree in social work, began her career in public service as a head page in the Legislature. She continued in leadership positions with the Community Council of Kanawha Valley, the West Virginia Hospital Association and as founder and president of the Tonkin Management Group.

"I've had many opportunities to work with, for and against Nancy," Senate Minority Leader Jeff Kessler observed. "She always treated me the same."

Sen. Daniel Hall called Tonkin, "a brilliant woman, a true professional, in advocating for her issues." Sen. Ron Stollings noted, "She has passion, and exceptional leadership skills. She has the ability to think strategically." Sen. Ryan Ferns heralded her efforts to mentor young lawmakers.

Tonkin served as the first executive director of the West Virginia Human Resources Association and as communications director for the West Virginia Healthy Kids Coalition when the WV Children's Health Insurance Program (CHIP) was first formed. During her time at the Healthy Kids Coalition, she implemented a successful grassroots and communication plan, which resulted in more than 20,000 children being enrolled in CHIP.

While at the WV Hospital Association, Tonkin established HOSNET, a grassroots organization of hospital staff and volunteers for legislative action, and developed community educational programs.

"Tonkin has exemplified the ingredients of being a successful advocate through her passion, leadership, coalition building, strategic thinking and perseverance at the state Capitol," the resolution states, "earning her a reputation as a trusted source on rural health and children welfare issues and resulting in numerous policy victories for women, children and families throughout the state of West Virginia."

Tonkin was in the first graduating class of Leadership West Virginia and has given her time and talent to volunteering for many civic and nonprofit organizations. She has served as president of the Board of Directors for the Children's Home Society of West Virginia and currently serves on the YWCA Charleston board as the chair of public policy.

## ***KCHD Names New Health Officer***

The Kanawha-Charleston Health Department last week named Col. Michael Brumage to serve as its new executive director and health officer, according to media reports. A Fairmont native, Brumage currently serves as the deputy commander of the Brigadier General Crawford F. Sams U.S. Army Health Clinic at Camp Zama in Japan. He will retire from the military after 25 years and join the department in early August.

Brumage replaces Dr. Rahul Gupta, who left KCHD in January to become the state's Chief Health Officer and Commissioner of the state Bureau for Public Health.

"I saw an opportunity to work with a very professional staff; the Kanawha-Charleston Health Department is very well known, and was very well-administered under Dr. Gupta," Brumage told *The Charleston Gazette*. "The opportunity to come, and to bring my military experience, was key for me. Charleston is a great town, and it has a lot to offer."

Brumage graduated from the West Virginia University School of Medicine in 1986, and earned his master's degree in public health from the University of Washington in 2003. He was an internal medicine resident at the University of Florida from 1987 to 1990, and a resident in preventive medicine at the Madigan Army Medical Center and the University of Washington. He is a fellow in the American College of Physicians and a member of the Order of Military Medical Merit.

Dr. Art Rubin, a KCHD board member, will continue to divide the duties as interim director and health officer.

## West Virginia Legislature

### ACTIVE\* Health Care Bill Status as of 3/20/15

*\*Only ENACTED bills are listed, except the Budget Bill. All others are considered INACTIVE or DEAD because they were not passed by the Legislature by midnight on the 60<sup>th</sup> day – March 14.*

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 463\*\*](#) Cole+ **Supplemental appropriation to Medicaid** Governor's bill to provide \$14.7 million for fiscal 2015. Completed legislation, approved by Governor, effective from passage.

[\*\*SB 471\*\*](#) Cole+ **Supplemental appropriation to Human Rights Commission and Medicaid** Governor's bill to provide \$42,845 to HRC and \$100 million in federal funds to Medical Services. Completed legislation, approved by Governor, effective from passage.

[\*\*HB 2016\*\*](#) Armstead+ **Budget Bill SFY 2016** Bill proposed by Governor. Of note; 26.3% of all state expenditures are allocated for Health and Human Resources. Finance reported Com. Sub., passed House 3/12, Senate amended to include provisions of **SB 233** budget bill, passed by Senate 3/13; Senate asks House to concur; House refuses to concur, asks Senate to recede, Senate refuses to recede. Conference committee appointed. Members include Sens. Mike Hall, Chris Walters, Dave Sypolt, Greg Boso, Roman Prezioso, Ron Stollings and Robert Plymale; and Delegates Eric Nelson, Bill Anderson, Bob Ashley, Brent Boggs, Ray Canterbury, Harry Keith White and Larry Williams. Completed legislation, pending approval by Governor.

[\*\*HB 2760\*\*](#) Armstead+ **Supplemental appropriation to the Bureau for Senior Services for Medicaid** Governor's bill to transfer \$31.36 million from fiscal 2015 lottery profits to Lottery Senior Citizens Fund. Completed legislation, approved by Governor, effective from passage.

[\*\*HB 2766\*\*](#) Armstead+ **Expires funds to State Fund, General Revenue** Governor's bill to expire funds from Joint Expenses and DHHR, DHS, TRIP Fund. Completed legislation, approved by Governor with deletions, effective from passage.

[\*\*HB 2769\*\*](#) Armstead+ **Expires appropriations and cash balances in State Fund, General Revenue** Governor's bill to expire funds from various accounts for fiscal 2015. Completed legislation, approved by Governor with deletions, effective from passage.

[\*\*HB 2770\*\*](#) Armstead+ **Supplemental appropriation Medicaid** Governor's bill to provide \$9.7 million for fiscal 2015 from State Excess Lottery Revenue Fund. Completed legislation, approved by Governor, effective from passage.

[\*\*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. Completed legislation, approved by Governor, effective from passage.

[\*\*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. Completed legislation, approved by Governor with reductions, effective from passage.



## **BOARD LICENSURE AND REGULATION**

- SB 255** Cole+ **Eliminates unnecessary boards, councils, task forces, commissions and committees** *Bill proposed by Governor. Eliminates WV Sheriffs' Bureau; Clinical Laboratories Quality Assurance Advisory Board; Care Home Advisory Board; Comprehensive Behavioral Health Commission; Public and Higher Education Unified Educational Technology Strategic Plan, including the Governor's Advisory Council for Educational Technology; WV Consortium for Undergraduate Research and Engineering; Governor's Commission on Graduate Study in Science, Technology, Engineering and Mathematics; WV Rural Health Advisory Panel; Ohio River Management Fund Advisory Board; Occupational Safety and Health Review Commission; Occupational Safety and Health Advisory Board; Environmental Assistance Resource Board; Commercial Hazardous Waste Management Facility Siting Board; Workers' Compensation Board of Managers; State Medical Malpractice Advisory Panel; WV Steel Futures Program, including Steel Advisory Commission; WV Health Insurance Plan Board; Alternative Dispute Resolution Commission; and Sexually Violent Predator Management Task Force. Completed legislation approved by Governor, effective May 21.*
- SB 294** Cole+ **Eliminates unnecessary boards, etc.** *Bill proposed by Governor. Eliminates Council for Community and Economic Development, transferring powers and duties to the executive director of the West Virginia Development Office; Statewide Intrastate Mutual Aid Committee, while also making technical corrections to the code to reference a state of preparedness; Principals Standards Advisory Council; and West Virginia Health Insurance Plan Board. Completed legislation approved by Governor, effective June 1.*
- 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** *Under this bill, the state Board of Medicine and the state Board of Osteopathic Medicine are authorized and encouraged to the best of their ability to issue a license to practice medicine and surgery in WV without examination - to a physician who currently holds a license to practice at a federal Veterans' Administration Hospital, in order to practice in a nursing home operated by the WV Department of Veterans' Assistance in the same county. The physician must maintain a valid, unrestricted license to practice medicine in another state. Completed legislation, to Governor March 18, pending approval by Governor.*
- HB 2233** Walters+ **Requires review of legislative rules 5 years after initial approval** *This bill requires that legislative rules be reviewed five years after initial approval by the Legislative Rule-Making Review Committee and the Legislative Auditor's Office, and directs the committee to report findings and recommendations to the Legislature via the Joint Committee on Government and Finance. Completed legislation, pending approval by Governor.*
- 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. Completed legislation, to Governor March 16, pending approval by Governor.*
- HB 2432** Ellington+ **Allows Board of Pharmacy to license felons** *This bill allows the Board of Pharmacy to decide whether a felon is qualified for licensure on a case-by-case basis. The individual would have to wait at least five years from conviction to apply. Completed legislation, to Governor March 16, pending approval by Governor.*
- 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. Completed legislation, to Governor March 18, pending approval by Governor.*
- 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. Completed legislation, to Governor March 18, pending approval by Governor.*



## CHILDREN

**SB 7** Stollings+ **Requires CPR and care for conscious choking instruction in schools** *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. Completed legislation, approved by Governor, effective July 1.*

**SB 286** Ferns+ **Streamlines medical exemptions to compulsory immunizations and vaccine boosters of students** *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. The medical exemption process is streamlined and improved, including the appointment of an Immunization Officer under BPH. Completed legislation, pending approval by Governor.*

**HB 2669** Ellington+ **Eliminates compulsory tuberculosis testing for low-risk school children and personnel** *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. Completed legislation, approved by Governor, 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 for purposes of certificate of need review and provides exemption from moratoriums on certain nursing facilities. Lilly's place in Huntington is an example. Completed legislation, to Governor March 16, pending approval by Governor.*

## 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. Completed legislation, to Governor March 18, pending approval by Governor.*

**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** *This bill increases the tax rate for the Upper Payment Limit (UPL) program from .62% to .72%. It also provides for disbursement of any funds remaining in the Eligible Acute Care Provider Enhancement Account. The West Virginia Hospital Association supported the bill. Completed legislation, approved by Governor, effective July 1.*

**HB 2100** Williams+ **Permits hospital patients to designate a lay caregiver to provide aftercare** *Interim bill recommended by Select Committee on PEIA/Seniors/Long-Term Care. This AARP inspired 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. Completed legislation, to Governor March 16, pending approval by Governor.*

**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. Completed legislation, to Governor March 18, pending approval by Governor.*

## INSURANCE & HEALTH COVERAGE

**SB 262** Cole+ **Transfers CHIP and Children’s Health Insurance Agency from Department of Administration to DHHR** *This bill was proposed by the Governor. 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. Completed legislation, approved by Governor, effective May 19.*

**SB 267** Cole+ **Eliminates GOHELP** Bill proposed by Governor; would save \$250,000 from current budget. Two remaining employees and a third “on loan” from the state Health Care Authority transition to DHHR’s Health Innovation Collaborative. Completed legislation, to Governor March 18, pending approval by Governor.

**SB 274** Cole+ **Allows flexibility to DHHR in complying with TANF** Bill proposed by Governor. Specifically, the bill will improve DHHR’s monitoring capabilities to ensure appropriate assistance is provided to those individuals who qualify and need help with education, training, and identifying avenues to employment. Completed legislation, pending approval by Governor.

**SB 295** Ferns+ **Establishes appeal process for DHHR Board of Review and for Medicaid decisions** Appeals shall be filed with the circuit court of Kanawha County, or the circuit court in the county in which the petitioner resides or does business and shall be determined under the clearly wrong, abuse of discretion standards. Completed legislation, pending approval by Governor.

**SB 363** Cole **Allows Court of Claims to set max rate/service limitations for health reimbursement** The Court of Claims would reimburse providers for claims filed to it 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. Completed legislation, pending approval by Governor.

**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. Completed legislation, approved by Governor.

**HB 2493** McCuskey+ **Prohibits higher copayments, deductibles or coinsurance for oral anti-cancer medications** The bill brings West Virginia in line with 34 other states and the District of Columbia, including the surrounding states of Ohio, Kentucky, Virginia and Maryland. The West Virginia Cancer Treatment Fairness Coalition strongly supported the bill, which removes the cost disparity between oral and intravenous anti-cancer medications, ensuring access to all anti-cancer medications for all cancer patients. The disparity occurs because traditional intravenous therapies are covered under the medical provisions of health policies. Oral anti-cancer medications, taken at home, are covered under a policy’s pharmaceutical provisions, which on a percentage basis may have higher copays and deductibles. State parity laws don’t apply to Medicare or Medicaid. Health plans covered under the federal Employee Retirement Income Security Act (ERISA), also are exempt. The bill doesn’t apply to PEIA. Requirements under the bills would apply to policies or contracts issued or renewed after Jan. 1, 2016. The bill also allows for health insurance company cost containment measures if the cost of compliance exceeds 2% of the total cost of coverage. Completed legislation, to Governor March 18, pending approval by Governor.

#### **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. The bill modernizes medical liability reforms and averts a potential health care crisis. It places caps on the amounts juries can award to successful plaintiffs in malpractice lawsuits for trauma and non-economic damages. It broadens those covered under MPLA to include physician assistants, advanced practice registered nurses, pharmacies and pharmacists and nursing homes. Completed legislation, approved by Governor, effective from passage.

**SB 532** Trump+ **Provides civil immunity for clinical practice plans, and medical and dental schools** Completed legislation, pending approval by Governor.

**HB 2002** Wagner+ **Predicates actions for damages upon comparative fault principles** This legislation sets limits on fault when multiple defendants are involved. The bill requires defendants to only pay for their share of damages, and not to be held liable for damages that were caused by others. Completed legislation, approved by Governor, 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. Completed legislation, pending approval by Governor.

## MISCELLANEOUS

**SB 30** Hall, D.+ **Permits shared ownership agreements to consume raw milk** *This bill permits shared ownership agreements in order to consume raw milk. It requires a written document acknowledging the inherent dangers of consuming raw milk, provides immunity to the herd seller, who agrees not to distribute raw milk. It prohibits the sale or resale of raw milk, requires herd-sharing agreements be reported, and requires physicians to report any disease or diagnosis related to consumption of raw milk to a local health department. Opponents say raw milk consumption is dangerous for children, pregnant women and the elderly, and can lead to the spread of communicable diseases such as E-coli. Completed legislation, pending approval by Governor.*

**SB 425** Plymale+ **Provides WVU, MU and WVSOM more authority to invest assets** Completed legislation, pending approval by Governor.

**SB 488** Williams+ **Re-establishes Broadband Development Council to focus on underserved areas** *This bill has implications for the future of telemedicine in West Virginia. Completed legislation, pending approval by Governor.*

**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. Completed legislation, to Governor March 18, pending approval by Governor.*

**HB 2797** Campbell+ **Changes terminology in code to “intellectually disabled” and “disabled”** *Replaces outdated code using the terms “mentally retarded” and “handicapped. Completed legislation, to Governor March 18, pending approval by Governor.*

## 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. Completed legislation, pending approval by Governor.*

## PRESCRIPTION MEDICATIONS & DRUG USE/ABUSE/DIVERSION

**SB 335** Cole+ **Creates Access to Opioid Antagonists Act** *Bill proposed by Governor. 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. Completed legislation, approved by Governor, effective May 27.*

**SB 523** Cole+ **Good Samaritan: Alcohol and Drug Overdose Prevention and Clemency Act** *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. Completed legislation, pending approval by Governor.*

**HB 2648** Pasdon+ **Allows businesses to stock epinephrine auto-injectors for emergencies** *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, WV Chamber of Commerce and WV Hospitality & Travel Association. Completed legislation, pending approval by Governor.*

**HB 2733** Ellington+ **Following FDA guidelines - moving certain hydrocodone combination drugs from Schedule III to Schedule II** *Brings WV into compliance with federal changes; also extends the NPlax tracking system through June 30, 2017. Completed legislation, to Governor March 18, pending approval by Governor.*

**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** *Bill originated in House Health. The bill became necessary when the federal government moved these drugs from Schedule III to Schedule II last year. Completed legislation, to Governor March 16, pending approval by Governor.*

**HB 2880** Stansbury+ **Creates addiction treatment pilot program** *The bill, originated in the House Health Committee allows a 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. A selected research partner will assist in the program. The partner could be a state university or a nationally recognized criminal justice research institute. 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. Completed legislation, pending approval by Governor.*

**HB 2931** Ashley **Expands WV's Schedule I hallucinogenic drug list** *This bill adds a series of synthetic hallucinogens, tryptamines and psychoactive chemicals / stimulants to the Schedule I classification of drugs. Completed legislation, to Governor March 18, pending approval by Governor.*

### **PROFESSIONALS: HEALTH & MEDICAL**

**SB 88** Stollings+ **Requires state and federal criminal background checks for providers in WVCARES program** *Completed legislation, pending approval by Governor.*

**HB 2976** Pasdon+ **Expands master's/doctoral programs for nursing scholarship** *Completed legislation, to Governor March 18, pending approval by Governor.*

### **REPRODUCTIVE RIGHTS & ABORTION**

**SB 277** Miller+ **Requires issuance of certificate of birth resulting in stillbirth** *Completed legislation, to Governor March 16, pending approval by Governor.*

**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 mother faces severe medical risk. The bill does not include any exceptions in cases involving rape or incest. Completed legislation, vetoed by Governor; Legislature voted to override the veto.*

### **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

**SCR 58** – Small business group retirement savings program (VERA)

**SCR 64** – State occupational safety and health plan

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

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

**HCR 120** – The James "Tiger" Morton catastrophic illness fund

**HCR 121** – DHHR managed care contracting strategy

**HCR 128** – Health policy coverage to encourage opioid abuse-deterrent technologies

**HCR 134** – Health Care Authority and certificate of need process

**HCR 135** – State hospitals and the Hartley case

**HCR 136** – Insurance coverage of topical ophthalmic treatment early refills consistent with CMS guidelines

**HCR 137** – Access and costs associated with cancer clinical trials

**HCR 138** – Medicaid managed care

**HCR 143** – Public-private partnership model for operation and maintenance of state hospitals and nursing facilities

[HCR 145](#) – Direct primary care

[HCR 151](#) – Licensure of athletic trainers

[HCR 154](#) – Financial implications and benefits of marijuana

### **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: Completed legislation, approved by Governor, effective from passage.*

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: Completed legislation, to Governor March 20, pending approval by Governor.*

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**)

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

... The annual West Virginia Immunizations Summit is scheduled June 16-17 at the Charleston Civic Center, in partnership with the KidStrong Conference. The summit is targeted toward public and private sector organizations with an interest in addressing and resolving immunization issues in West Virginia. Various sessions at the Summit will be targeted toward health care and public health professionals, educators, students, business leaders, consumers, and others interested in reducing vaccine-preventable diseases in West Virginia. Planned sessions include: 2015 Immunization Update; Storage and Handling; Pneumococcal Vaccination; Engaging Patients and Families Through Social Media; HPV; and Responding to requests for Delayed Vaccine Schedules. Visit <http://wvruralhealth.org> for details. ...

... AstraZeneca Health Care Foundation recently awarded a \$191,028 grant to West Virginia Health Right, Inc., to implement its “Sustainable Change and Lifestyle Enhancement (S.C.A.L.E.)” program, which promotes cardiovascular health for sustainable weight loss and lifestyle changes, and to raise awareness across the Mountain State. According to the U.S. Centers for Disease Control and Prevention, cardiovascular disease accounts for 23% of all state deaths. ...

... The state Department of Health and Human Resources’ Office of Health Facilities Licensure and Certification has revoked the licenses of Hope Clinic's Charleston branch, Beckley Pain Clinic and the pain management operation of Med-Surg Group in Beckley, according to *The Register-Herald* in Beckley. The three chronic pain management clinics have been closed since January for failing to comply with a 2012 law aimed at reducing substance abuse. The law gave DHHR oversight over pain clinic licensure and codified patient and health safety. Spokeswoman Allison Adler told the newspaper that the licensing office will continue a review of applicants until all facilities either achieve compliance or transition patients to other facilities. ...



# ***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***

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

***“We must live within our means.’ While the statement is imminently logical, it begs the question of what exactly do we do with all the human inventory shelved because it’s either damaged, past its expiration date or not commercially appealing.”***

- Delegate Don Perdue, during budget deliberations last week, as quoted by *MetroNews*.

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

**Welcome to the 10th Issue in 2015**

**Health Care Budget Expenditures Approved by Legislature**

**Tomblin Signs MPLA, Patient Protection Bills**

**Reboot Required on Health Legislation**

**WVUHS Names New Chief Medical Officer**

**Senate Confirms Health Care Appointees**

**Tonkin Honored for Public Service, Dedication**

**KCHD Names New Health Officer**

**Complete Analysis of Enacted Health Care Bills**

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

**Quotes of the Week**