

WEST VIRGINIA BOARD OF MEDICINE
Legislative Committee Minutes
February 26, 2025

The West Virginia Board of Medicine's Legislative Committee met at 5:00 pm on February 26, 2025 via Zoom.

The following committee members attended the meeting:

Ashish P. Sheth, MD, Legislative Committee Chair
Douglas S. Dockery, DPM
Jonathan P. Lilly, MD
Victoria L. Takubo, PA-C

The following staff members attended the meeting:

Mark A. Spangler
Jamie S. Alley, Esq.
Greg S. Foster, Esq.
Jamie C. Frame

With a quorum of members present, Dr. Sheth called the meeting to order, and attendance was documented by Ms. Frame. **CALL TO ORDER**

Mr. Spangler reported that **Senate Bill 385** and **House Bill 2305**, Board of Medicine rule relating to waiver of initial licensing fees for certain applicants, have been introduced. Senate Bill 385 has been bundled into **Senate Bill 369**, authorizing miscellaneous boards and agencies to promulgate legislative rules. Senate Bill 369 has passed Senate Judiciary Committee and is scheduled for second reading on the Senate floor tomorrow, February 27, 2025. House Bill 2305 has not yet been placed on the House Government Organization Committee agenda.

Mr. Spangler reported that **Senate Bill 29**, allowing physician assistants to own a practice, has been introduced. This bill would permit physician assistants to own professional limited liability companies and foreign medical corporations seeking authorization to practice in West Virginia. The bill has passed Senate Health and Human Resources Committee and is scheduled for first reading on the Senate floor tomorrow, February 27, 2025.

Mr. Spangler asked Mr. Foster to speak to **Senate Bill 43**, relating to the administration of anesthetics. Mr. Foster reported that during previous legislative sessions, bills were introduced

which provided that “The administration of anesthesia may be provided by a certified registered nurse anesthetist in cooperation with a physician, podiatrist or dentist.” The Board of Medicine advocated for podiatrists to be stricken from such bills. This year’s bill, Senate Bill 43, would update the required credentials for a certified registered nurse anesthetist to administer anesthetics in cooperation with a physician or dentist; podiatrists are not included in the bill. Board staff will continue to monitor Senate Bill 43,

Mr. Spangler reported that **Senate Bill 86**, Creating Unmatched Medical Graduate Advisory Council, has been introduced. The proposed legislation would create a council “to examine the issue of medical school graduates who are not placed in a residency program, and to provide recommendations regarding how to assist these individuals to continue their medical training while also filling a critical need for medical professionals within the state.” The council would consist of the Chancellor for Higher Education or his or her designee, the President of the Board of Medicine or his or her designee, and the President of the Board of Osteopathic Medicine or his or her designee. Committee members were in support of Senate Bill 86.

Dr. Dockery joined the meeting at this time, and Mr. Spangler recapped the information that Mr. Foster previously reported with regard to Senate Bill 43, relating to the administration of anesthetics.

Mr. Spangler reported on **Senate Bill 92**, Glucagon for Schools Act. This bill would permit a licensed health care provider to prescribe undesignated glucagon in the name of the school. Trained school personnel could administer the undesignated glucagon if the student’s prescribed glucagon is not available on-site or is expired. Senate Bill 92 has passed the Senate and is awaiting consideration by the House Education Committee.

Mr. Spangler reported that **Senate Bill 115**, establishing a tax credit for certain physicians who locate to practice in West Virginia, has been introduced. This bill would establish a tax credit for eligible physicians who locate in West Virginia, as a resident, to practice medicine in a medically underserved or health professional shortage area. The physician must remain and practice in West Virginia for a period of at least six years. Committee members were in support of Senate Bill 115.

Mr. Spangler reported on **Senate Bill 117**, exempting certain physicians for specified traffic laws when responding to emergencies. This bill would permit allopathic and osteopathic physicians to be exempt from specified traffic laws in emergency situations when responding to an emergency call. The bill authorizes the Board of Medicine and the Board of Osteopathic Medicine to proposed rules which “set forth criteria to request an emblem from the respective boards, grounds to use the emblem, and an administrative penalty if the emblem is used in inappropriate circumstances.” The Legislature requested that the Board submit a Fiscal Note for Senate Bill 117, for which the Board reported an estimated expenditure impact of \$75,000. Dr. Lilly moved that the Committee support Senate Bill 117 so long as the Board has rulemaking authority and is able to assess a fee. Dr. Dockery seconded the motion, and the motion carried without opposition.

Mr. Spangler reported that **Senate Bill 159**, prohibiting certain medical exams on anesthetized patients, has been introduced. This bill would add a new section to the West Virginia Medical Practice Act, which would prohibit medical providers from performing pelvic, prostate, rectal, and breast exams on an anesthetized or unconscious patient except in specified circumstances. The bill provides that a person who violates this section of code “is subject to suspension of his or her license or other authorization to practice medicine and surgery for no less than five years, including limiting the practice of that person to, or by the exclusion of, one or more areas of practice, including limitations on practice privileges.” and “is subjected to a fine of no less than \$1,000 and no more than \$10,000 to be deposited into the West Virginia Foundation for Rape Information and Services.” As written, this bill would limit the Board from revoking a license if it desired to do so and does not address who would collect the fine. Following discussion, Dr. Lilly moved that the Committee authorize Board staff to consult with the bill sponsor and senate legal staff to seek an amendment which would provide clarity and discretion with regard to the discipline to be imposed and the fine. Dr. Dockery seconded the motion, and the motion carried without opposition.

Mr. Spangler reported on **Senate Bill 167**, permitting care of patients by telemedicine across state lines. This bill seeks to permit medical providers who are located outside of West Virginia to practice telehealth and telemedicine in this state, as was previously permitted under the

COVID-19 State of Emergency. Mr. Spangler spoke with the bill sponsor and explained the Board's interstate telehealth registration process; thereafter, the sponsor indicated that she would like for the Board to increase the initial interstate telehealth registration application fee and eliminate the renewal application fee. The Committee expressed concern that if this bill passes it could increase the unauthorized practice of medicine. Ms. Takubo moved that the Committee oppose Senate Bill 167, as well as the concept of eliminating of the interstate telehealth registration renewal application fee. Dr. Lilly seconded the motion, and the motion carried without opposition.

Mr. Spangler reported that **Senate Bill 177**, Pharmacist Prescribing Authority Act, has been introduced. This bill would authorize pharmacists to prescribe low-risk medications to patients. Ms. Takubo moved that the Committee oppose Senate Bill 177. Dr. Dockery seconded the motion, and the motion carried without opposition.

Mr. Spangler reported that **Senate Bill 204** would make opioid treatment programs unlawful and would provide penalties for violation. Dr. Dockery moved that the Committee not support Senate Bill 204. Dr. Lilly seconded the motion, and the motion carried without opposition.

Mr. Spangler asked Mr. Foster to speak to **Senate Bill 248**, increasing availability of prescription non-opioid medications. Mr. Foster reported that this bill would modify the Opioid Reduction Act to require practitioners prior to issuing a prescription for a Schedule II opioid medication to inform the patient of available prescription nonopioid alternatives for the treatment of pain, discuss with the patient the advantage and disadvantage of the use of prescription nonopioid alternatives, and provide the patient with an educational pamphlet to be developed by the West Virginia Department of Health regarding the use of prescription nonopioid alternatives for the treatment of acute nonoperative, acute perioperative, subacute or chronic pain. Committee members were in consensus that the standard of care should be determined by the practitioner rather than set forth in statute; for this reason, Dr. Lilly moved that the Committee not support Senate Bill 248. Dr. Dockery seconded the motion, and the motion carried without opposition.

Mr. Spangler asked Ms. Alley to speak to **Senate Bill 263**, relating to the use of criminal records as a disqualification from authorization to practice a particular profession. Ms. Alley reported that among other things this bill would prohibit licensing boards from "considering, or

from requiring, an individual to disclose an arrest not followed by conviction in an application for initial licensure or determination of qualification for license.” The Committee authorized Board staff to seek a carve-out for the Board of Medicine.

Mr. Spangler reported that **Senate Bill 458**, Universal Professional and Occupational Licensing Act of 2025, would require every board of examination or registration to issue an occupational or professional license, registration or certificate without examination in the discipline applied for and at the same practice level as determine to a person who establishes residence in West Virginia or is married to an active-duty member of the armed forces of the United States and has accompanied the member to an official permanent change of station to a military installation located in this state. Board staff have concerns with this bill as drafted because it does not require primary source verification of education and post-graduate training. Additionally, pursuant to this bill, a practitioner may obtain an unrestricted license while participating in a post-graduate training program, which may make them eligible for a license having never practiced independently without clinical supervision. Mr. Spangler reported that he has attempted to, and will continue to request to, meet with staff of the Governor’s Office to discuss this bill and the Board’s concerns related thereto. Dr. Lilly moved that the Committee authorize Board staff to seek a carveout for all physicians and physician assistants. Dr. Dockery seconded the motion, and the motion carried without opposition.

Mr. Spangler reported that **Senate Bill 517** and **House Bill 2954**, requiring medical professionals to report injuries and side effects from vaccines to the Bureau for Public Health, have been introduced. Board staff will continue to monitor these bills.

Mr. Spangler reported on **Senate Bill 526**, Creating the Pharmacist Prescribing Authority Act. This bill, like Senate Bill 177, would authorize pharmacists to prescribe low-risk medications to patients. Dr. Dockery moved that the Committee oppose Senate Bill 526. Dr. Lilly seconded the motion, and the motion carried without opposition.

Mr. Spangler reported that the following bills have been introduced, have not yet been placed on an agenda, and are being monitored by Board staff:

- **Senate Bill 557**, Relating to licensing by the West Virginia Board of Medicine

- **House Bill 2049**, Relating to midlevel practitioners
- **House Bill 2072**, Allowing healthcare workers to refuse to perform procedures related to sex reassignment or gender identity transitions for religious or conscientious objection
- **House Bill 2144**, Requiring substance use disorder inpatient providers to offer patients transportation to certain places upon discharge.

Mr. Spangler asked Mr. Foster to speak to **House Bill 2209**. Mr. Foster reported that this bill would remove the requirement that an opioid antagonist be reported to the West Virginia Board of Pharmacy Controlled Substance Monitoring Program. Additionally, the bill would remove a the requirement that the amount of medication dispensed by a practitioner may not exceed an amount adequate to treat the patient for a maximum of 72 hours with no greater than 72 hour cycles dispense in any fifteen day period. The Committee elected to remain neutral with regard to House Bill 2209.

Mr. Spangler asked Ms. Alley to speak to **House Bill 2544**, to remove restrictions for supervising physicians for nurse practitioners or physician assistants in West Virginia. Ms. Alley reported that this bill would:

- eliminate the definition of “collaboration” and “collaborating physician”
- prohibit the Board from proposing any rule that would prohibit physician assistants from practicing without supervision of a physician
- eliminate practice notifications
- add a definition for “certified nurse practitioner”
- provide language related to the administration of anesthetics

Ms. Takubo moved that the Committee oppose House Bill 2544. Dr. Lilly seconded the motion, and the motion carried without opposition.

Mr. Spangler reported on **House Bill 2631**, to require all medical providers to orally explain any and all medical treatments and procedures and all possibilities or potential problems or complications or side effects to patients before proceeding with treatments. This bill would require that upon being advised of all options and possible problems, complications, or side effects that the medical practitioner obtain the patient’s signature to attest that they have received the

information. Additionally, the bill would authorize the Board to impose an administrative fine against a health care practitioner for failing to comply with the statute. Dr. Lilly moved that the Committee oppose House Bill 2631. Dr. Dockery seconded the motion, and the motion carried without opposition.

Mr. Spangler reported on **House Bill 2672**, which would modify the West Virginia Medical Practice Act to require all hospitals and medical offices to send a notice to all former or current patients when they turn 18, informing them that if they have had any negative or adverse side effects of a procedure that was performed on them as a child to contact the hospital or office to inform them of the issue. The bill would require rulemaking. As the intent of this bill is unclear, Dr. Dockery moved that the Committee oppose the bill. Dr. Lilly seconded the motion, and the motion carried.

Mr. Spangler reported that **House Bill 2820**, to allow patients to refuse residents and medical students from observing or performing medical care on patients, has been introduced. Board staff will continue to monitor this bill.

Mr. Spangler asked Ms. Alley to speak to **House Bill 2975**, changes to the practice of optometry. Ms. Alley reported that this bill would allow optometrists to perform ophthalmic laser procedures. Dr. Lilly moved that the Board oppose House Bill 2975. Dr. Dockery seconded the motion, and the motion carried without opposition.

ADJOURNMENT

There being no further business to consider, the meeting adjourned by consensus.



Ashish P. Sheth, MD
Legislative Committee Chair