

WEST VIRGINIA LEGISLATURE

JOINT COMMITTEE ON HEALTH

2012- 2013 Interims

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Senator William R. Laird IV, Vice Chair
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Senator Roman W. Prezioso, Jr.
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Delegate Amanda Pasdon
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Final Report of

JOINT COMMITTEE ON HEALTH

The Joint Committee on Health was established and appointed by the Joint Committee on Government and Finance, following the 2011 Regular Session of the 80th Legislature. The Committee was assigned the following Resolutions and topics for study during the course of the 2012-2013 Interim Period:

HCR 132. Requesting the Committee on Government and Finance to study the feasibility of developing a state pilot program for school age expectant mothers.

SCR 60. Requesting Joint Committee on Government and Finance study compilation of birth parents' nonidentifying social and medical histories prior to adoption.

SCR 70. Requesting Joint Committee on Government and Finance study access to hearing aid devices and accessories.

HCR 140. Requesting a study for strategies for ensuring that individuals who are deaf or hard of hearing have access to necessary and appropriate hearing aid devices and accessories.

HCR 109. Requesting a study on the feasibility or requiring coverage for eosinophilic disorders.

HCR 150. Requesting a study of residential rehabilitation facilities to provide intensive and consistent rehabilitation to meet the needs, challenges and issues facing persons who sustain a traumatic brain injury.

SCR 59. Requesting Joint Committee on Government and Finance study expedited partner therapy.

SCR 81. Requesting Joint Committee on Government and Finance study mandatory immunization exemptions.

Strengthening primary care, loan forgiveness, reimbursement.

Concerns of children born addicted.

Obesity and chronic disease and coordinated approach to address

Practice of dentistry

Mandate overtime in nursing homes

At the first meeting of the Joint Committee all the Resolutions were presented by Kate White and Jeff Johnson, Committee Counsel.

The Co-Chairs of the Committee requested and received permission from the President of the Senate and the Speaker of the House of Delegates to appoint necessary subcommittees to study some of these issues. Two (2) Subcommittees were created, members were appointed, and topics were assigned for study as follows:

SUBCOMMITTEE A

SENATE MEMBERS

Senator Dan Foster, Chairman
Senator Ronald F. Miller, Vice Chairman
Senator Art Kirkendoll
Senator Gregory A. Tucker
Senator Donna J. Boley
Senator Ron Stollings, *Ex Officio*

HOUSE MEMBERS

Delegate David G. Perry, Chairman
Delegate Denise L. Campbell
Delegate Linda Goode Phillips
Delegate Anna Border
Delegate Joe Ellington
Delegate Don Perdue, *Ex Officio*

TOPICS FOR STUDY

HCR 109 -Requesting a study on the feasibility or requiring coverage for eosinophilic disorders.

SCR 70 - Requesting the Joint Committee on Government and Finance study access to hearing aid devices and accessories.

HCR 140 -Requesting a study for strategies for ensuring that individuals who are deaf or hard of hearing have access to necessary and appropriate hearing aid devices and accessories.

Strengthening primary care, loan forgiveness, reimbursement.

Obesity and Chronic disease and coordinated approach to address.

A copy of the Final Report of Subcommittee A is attached and incorporated into this report by reference.

SUBCOMMITTEE B

SENATE MEMBERS

Senator William R. Laird, IV, Chairman
Senator Robert H. Playmale
Senator Mark Wills
Senator Jack Yost
Senator Mike Hall
Senator Ron Stollings, *Ex Officio*

HOUSE MEMBERS

Delegate Barbara Hatfield, Chairman
Delegate Clif Moore
Delegate Ricky Moye
Delegate Meshea L. Poore
Delegate Carol Miller
Delegate Don Perdue, *Ex Officio*

TOPICS FOR STUDY

HCR 132 - Requesting the Committee on Government and Finance to study the feasibility of developing a state pilot program for school age expectant mothers.

SCR 60 - Requesting Joint Committee on Government and Finance study compilation of birth parents' nonidentifying social and medical histories prior to adoption.

A copy of the Final Report of Subcommittee B is attached and incorporated into this report by reference.

The remaining topics were retained and studied by the full Joint Committee on Health.

The Committee **REPORTS** as follows:

ASSIGNED STUDY TOPICS

Senate Concurrent Resolution. No. 81. - Requesting Joint Committee on Government and Finance study mandatory immunization exemptions.

The Committee first heard from Lori Lee on this issue. Ms. Lee is the President of the West Virginia Chapter of the National Vaccination Information Center. She offered the Center's concern over vaccinations and provided the Committee with some data on a national level. Following her presentation the Committee heard from Marian Swinker, M.D., Commissioner for the Bureau for Public Health. Dr. Swinker presented the Bureau perspective and discussed the Bureau's interpretive rule regarding compulsory immunization. She was joined by Ann Goldberg, Counsel to the Bureau for Public Health who discussed the legal authority upon which the rule was drafted. The Committee also heard from Claudia Ramer, M.A. Ms. Ramer is the Co-Founder of We The Parents. She was joined by Dr. James Fick, D.O. They discussed the concerns of the organization regarding the lack of a philosophical exemption in West Virginia's compulsory immunization statute. Finally, the Committee heard from Dr. Raheel Khan an Assistant Professor of Pediatrics at West Virginia University. Dr. Khan discussed safety concerns related to immunizations.

Following this presentation, the Committee **RECOMMENDS** that no action be taken on this resolution at the current time. The Committee is aware that there is currently an appeal pending at the West Virginia Supreme Court of Appeals regarding the legality of the interpretive rule regarding compulsory immunizations promulgated by the Bureau for Public Health. It is the Committee's intention to remain aware of the progress of the appeal and to potentially revisit this issue once the court has acted and issued an order.

House Concurrent Resolution No. 150 - Requesting a study of residential rehabilitation facilities to provide intensive and consistent rehabilitation to meet the needs, challenges and issues facing persons who sustain a traumatic brain injury.

On this issue the Committee heard firsthand from a family that had struggled both financially and emotionally following a traumatic brain injury. Teresa Harvey spoke to the Committee regarding the recovery of her son, Brad Anderson. She informed the Committee of how her family had to travel out of state to receive recovery services following her son's accident due to the lack of services available in West Virginia. The Committee also heard from Brad who discussed the progress he was able to make with proper treatment, but that most of it was unavailable in West Virginia. Dr. Mark Clingan, Associate Director of the West Virginia University Center for Excellent in Disabilities also addressed the Committee. Dr. Clingan gave an overview of the services currently

available at West Virginia University to traumatic brain injury survivors.

At this time the Committee **RECOMMENDS** that no action be taken on this resolution. The Bureau for Medical Services has recently begun work on a traumatic brain injury waiver program and the Committee would like to afford them an opportunity to make progress on that newly created waiver prior to taking any legislative action. Considering that, the Committee does request that the Resolution continue to be studied during the course of the 2013-2014 Interim Period.

The Practice of Dentistry

The Committee heard from Richard Duff Smith, D.D.S. Dr. Smith is the Executive Secretary of the Board of Dental Examiners. He offered this Committee his thoughts on an update of the Dental Practice Act. He indicated it has been some time since the statute had been revised and that a rewrite would help by making the statute easier to understand and interpret. He also felt that the changes within the practice required some statutory modifications to bring the statute up to date with current practice standards. The Board was particularly concerned that the legislative rules promulgated by the Board were out of date and that changes to the statutory construction were necessary to accomplish this.

The Committee **RECOMMENDS** that a rewrite of the Dental Practice Act is necessary and recommends legislation for passage during the 2013 Regular Session of the Legislature that would rewrite the act making it easier to understand and to reflect a more modern approach to the practice of dentistry. A copy of draft legislation is attached to this report. The Committee **FURTHER RECOMMENDS** that in addition to the Dental Practice Act, the a rewrite of the Pharmacy Practice Act may also be necessary and would recommend passage of legislation during the 2013 Regular Session to rewrite that act as well.

Senate Concurrent Resolution No. 59 - Requesting Joint Committee on Government and Finance study expedited partner therapy.

The Committee was given background on this issue from Committee Counsel, Jeff Johnson. Mr. Johnson discussed a bill that had been introduced during the course of the 2012 Regular Session of the Legislature pertaining to this issue. He informed the Committee that the bill conflicted with other bills that had already begun to move through the process and the decision was made not to take this bill up but give it further consideration during the interim process. There were also questions regarding drug interactions and drug allergies that had caused concern with this concept. Those questions were forwarded to the State Medical Association to address.

Dr. Allan Chamberlain, appeared to address the questions posed of the State Medical

Association. He also provided the Committee with some background on the prevalence of sexually transmitted diseases and discussed the logic in why expedited partner therapy was necessary. He informed the Committee that in other states where this practice was allowable they had seen little or no incidents of drug interactions or any reported allergic reactions. It was his opinion that this was a safe practice.

The Committee **RECOMMENDS** the passage of a bill during the 2013 Regular Session of the Legislature which would allow for expedited partnership therapy in West Virginia.

Concerns of Children Born Addicted and Mandatory Overtime in Nursing Homes

The Committee suggested to the leadership of the Senate and the House of Delegates that they Select Committee on Children and Juveniles was a better fit to study the issue of children who were born addicted and asked that this issue be reassigned to that committee. The President of the Senate and the Speaker of the House declined to reassign the issue and this issue was subsequently taken up by Subcommittee B. Their recommendations with respect to that topic of study are included within their final report which is attached to this report. Additionally, the Committee did not take up the issue of mandatory overtime in nursing homes.

MISCELLANEOUS ISSUES

The issue of chronic disease and potential solutions to this problem continued to be an issue for the Committee. On two separate occasions the Committee heard from Helen Matheny, Chair of the West Virginia Healthy Lifestyles Coalition. Ms. Matheny discussed the work of the Coalition. She updated the Committee on the membership of the Coalition, its mission and focus and provided them with the goals and desired outcomes of the Coalition's work. Legislatively, she suggested that the Coalition would like to see a repeal of West Virginia Code §18-2-6a which allowed the sale of sugar sweetened drinks in the school system in specific instances. It was the desire of the Coalition that sugar sweetened drinks be entirely banned.

The Committee also heard from Eloise Elliott, PhD. Dr. Elliott is the Distinguished Professor at West Virginia University for Physical Activity and Sport Sciences. She presented an overview of the West Virginia Physical Activity Plan that was completed by the West Virginia CARDIAC Project.

Finally, the Committee heard from Jessica Wright from the Office of Health Lifestyles within the Department of Health and Human Resources. Ms. Wright is the Physical Activity Coordinator. She discussed the efforts being made to encourage greater physical activity and movement, particularly in school age children.

The Committee **RECOMMENDS** for passage during the 2013 Regular Session of the Legislature a bill that would repeal West Virginia Code §18-2-6a this should completely eliminate sugar sweetened drinks from the school system. A draft copy of that legislation is attached to this report. The Committee also supports all the non-legislative issues which are recommended by the Coalition.

The Committee also heard from representatives of the oral health community who presented the findings of a statewide oral health report. Dr. Jason Roush, Dr. David A. Felton and Gina Sharps updated the Committee on the oral health needs and status of the state. They presented statistical data and offered ideas for improving West Virginia's oral health. None of their recommendations required legislative action. Therefore, the Committee **RECOMMENDS** that no action be taken.

Although the Committee did not hear a presentation regarding the issue of sterilization of mental defectives, the Committee was made aware of an archaic statutory provision which allows a person who has been declared mentally incompetent to be forcibly sterilized if a court finds it is in their best interest and the best interest of society. The Committee **RECOMMENDS** that this provision be repealed from our state code and would propose a bill for passage during the 2013 Regular Session of the Legislature which would make that code change.

Finally, the Committee received an update on the move by the Bureau for Medical Services to patient centered medical homes. Nancy V. Atkins, Commissioner for the Bureau for Medical Services provided a status update on the request for a state plan amendment from the Center for Medicare and Medicaid Services. She also discussed what the next steps would be, the timeline for the project and the future plans. She was joined by Christine St. Andre of the West Virginia Health Improvement Institute. Ms. St. Andre is a contractor with the Bureau for Medical Services currently working on the patient centered medical homes project.

This presentation was informational in nature. No action is necessary.

Copies of all proposed legislation for passage during the 2013 Regular Session of the Legislature are attached to this report.

Respectfully submitted:

Senator Ron Stollings
Co-Chair

Delegate Don Perdue
Co-Chair