# WEST VIRGINIA CODE CHAPTER 16 ARTICLE 5P

WV Legislature

## §16-5P-1. Purpose of article.

The purpose of this article is to create a bureau in state government which promotes services to enhance the health, safety and welfare of West Virginia's senior population and serves as the primary agency within state government to provide services to the senior population.

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## §16-5P-2. Short title.

This article may be cited as the "Senior Services Act of 1997".

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## §16-5P-3. Definitions.

"Bureau" means the Bureau of Senior Services.

"Care management" means the planning, arrangement for and coordination of appropriate community-based, in-home services and alternative living arrangements for the frail elderly, disabled, or terminally ill.

"Care services" means housekeeping, personal care, chore, escort/transportation, meals, in-home nursing, day care and/or respite services.

"Commissioner" means the Commissioner of the Bureau of Senior Services.

"Community care" means a system of community-based, in-home services, and alternative living arrangements which provide a full range of preventive, maintenance, and restorative services for the frail elderly, disabled, or terminally ill.

"Comprehensive assessment" means the assessment of needs, counseling in the development of a case plan, arrangements for services, and on-going monitoring of the frail elderly, disabled, or terminally ill.

"Continuum of care" means a system of services which has a primary emphasis on in-home care and community service, and which includes services such as nursing, medical, transportation, and other health and social services available to an individual in an appropriate setting over an extended period of time.

"Disabled" for the purposes of this act means a person who has temporary or permanent impairments which require services within the continuum of care.

"Frail elderly" for the purposes of this act means any person 60 years of age or older, with limitations which restrict the person's ability to perform the normal activities of daily living.

"Senior", "Elderly" or "Aging" means any person 60 years of age or older as defined by the term "older individual" in the Older American's Act of 1965, as amended.

"Sliding fee scale" means a fee for services provided based on an individual client's ability to pay.

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## §16-5P-4. Appointment of commissioner; term of office; reporting; qualifications; oath.

(a) There is hereby established the Bureau of Senior Services. As of the effective date of this article, all references to the commission on aging shall be construed to mean the Bureau of Senior Services.

(b) The bureau shall be under the supervision of a commissioner of the Bureau of Senior Services. The commissioner shall be appointed by the Governor, with the advice and consent of the Senate, and shall hold office subject to the will and pleasure of the Governor. The commissioner shall be selected with consideration to training and experience in senior issues.

(c) The commissioner shall devote his or her entire time to the duties of his or her office, and may not be a candidate for nor hold any other public office or trust nor be a member of a political committee.

(d) The commissioner, before entering upon the duties of office, shall take and subscribe to the oath prescribed by article IV, section five of the state Constitution. The oath shall be filed with the Secretary of State.

(e) The commissioner shall report directly to the Governor or the Governor's designee.

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## §16-5P-5. Compensation; traveling expenses.

The Commissioner of the Bureau of Senior Services shall receive an annual salary as provided in section two-a, article seven, chapter six of this code and the necessary traveling expenses incident to the performance of his or her duties. Requisition for traveling expenses shall be accompanied by a sworn itemized statement which shall be filed with the Auditor and preserved as a public record.

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## §16-5P-6. Powers and duties generally.

The commissioner shall be the executive and administrative head of the bureau and shall have the power and duty to:

(a) Exercise general supervision of the bureau;

(b) Propose legislative rules for the effective and expeditious performance and discharge of the duties and responsibilities placed upon the commissioner by law;

(c) Conduct and coordinate studies of the problems of the state's older people;

(d) Encourage and promote the establishment of local programs and services for the aging;

(e) Conduct programs of public education on the problems of the aging;

(f) Review state programs for the aging, and annually make recommendations to the Governor and the Legislature;

(g) Encourage and assist governmental and private agencies to coordinate effective efforts on behalf of the aging;

(h) Coordinate statewide local and voluntary efforts to serve the aging and develop programs at the local level;

(i) Supervise fiscal management and responsibilities of the bureau;

(j) Keep an accurate and complete record of all bureau proceedings, record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the bureau;

(k) Submit an annual report to the Governor on the condition, operation and functioning of the bureau;

(l) Invoke any legal or special remedy for the enforcement of orders or the provisions of this chapter;

(m) Standardize administration, expedite bureau business, revise rules and promote the efficiency of the service;

(n) Provide a program of continuing professional, technical and specialized instruction for the personnel of the bureau and local service providers; and

(o) Receive on behalf of the state any grant or gift and accept the same, so that the title shall pass to the state. All moneys from grants or gifts shall be deposited with the State Treasurer in a special fund and shall be used for the purposes set forth in the grant or gift.

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## §16-5P-7. Creation and composition of the West Virginia council on aging; terms of citizen representative; vacancies; officers; meetings.

[Repealed.]

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## §16-5P-8. Expenses of citizen representatives.

[Repealed.]

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## §16-5P-9. Programs and services for the aging.

(a) The bureau may establish local programs of services for the aging as needed throughout the state. Insofar as possible, services shall be designed to foster continued participation of older people in family and community life and to avoid or postpone the onset of dependency and the need for long-term care.

(b) Any allocations by the bureau of appropriations for local programs may be made contingent upon local appropriations or gifts in money or in kind for the support of such programs. The county commission of any county or governing body of any municipality in this state may appropriate and expend money for establishing and maintaining programs. Funds appropriated by the county commission or by the governing body of any municipality in this state may be contributed from time to time to any committee or organization approved by the bureau for the purposes authorized by this section.

(c) The bureau as provided hereunder may receive and expend funding, including the state's share of federal funds, designated for the construction, acquisition and renovation of senior centers.

(d) The Legislature may appropriate funds on a matching basis or funds from any other source to be used for the purposes stated in this section.

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## §16-5P-10. Community care services.

The bureau shall, within available funds, administer programs, including care management, comprehensive assessment and community and in-home care services, based on a sliding fee scale.

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## §16-5P-11. Prevention of crimes against the elderly.

(a) It is the intent of the Legislature that all state agencies cooperate with the bureau and the State Police in carrying out the provisions of this section.

(b) In planning and developing programs and recommendations relating to the prevention of crime and the fear of crime, including fraud, against elderly persons, the bureau shall, within existing appropriations, evaluate the need for new or improved programs, including:

(1) Public education and awareness;

(2) Community coordination in areas of social services and criminal justice;

(3) Voluntary involvement of elderly persons and retired professionals in the criminal justice system;

(4) Victim and witness assistance;

(5) Reduction of the economic and physical consequences of crime against the elderly; and

(6) Reduction of isolation of the elderly in the community.

(c) State agencies shall cooperate with and assist the bureau, within their available resources, in gathering statistical data and implementing programs which have the potential to prevent crime against elderly persons.

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## §16-5P-12. Designated state agency for handling federal programs.

The bureau shall constitute the designated state agency for handling all programs of the federal government relating to the aging requiring action within the state, which are not the specific responsibility of another state agency under the provisions of federal law or which have not been specifically entrusted to another state agency by the Legislature. The bureau shall be empowered to comply with all regulations and requirements to qualify for federal grants and to administer such federal funds.

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## §16-5P-13. Records and files, existing programs and contracts; rules.

(a) All records, files and other property belonging to the West Virginia commission on aging pursuant to article fourteen, chapter twenty-nine of this code shall be turned over to the bureau herein created and shall be continued as part of the records, files and other property thereof.

(b) All contracts, programs and agreements entered into or offered by the state commission on aging prior to the effective date of this statute shall continue in legal force and effect under the Bureau of Senior Services.

(c) All existing rules promulgated by the state commission on aging shall remain in effect and be administered and interpreted by the commissioner until such time as they are revoked or modified.

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## §16-5P-14. Reports.

The bureau shall submit a report on the condition, operation and functioning of the bureau to the Governor and to the members of the Legislature on or before January 1, of each year, in addition to such other recommendations, studies and plans as it may submit from time to time.

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## §16-5P-15. Establishment of In-home Care Registry.

(a) There is continued within the Bureau of Senior Services an in-home care worker registry which is to be maintained by the bureau. The purpose of the registry is to provide the public a list of in-home care workers, along with their qualifications, who voluntarily agree to be included and who have obtained a criminal background check.

(b) "In-home care worker" means an unlicensed person who provides personal care or other services and supports to persons with disabilities or to the elderly in order to enhance their well-being and which involves face-to-face direct contact with the person. Functions performed may include, but are not limited to, assistance and training in activities of daily living, personal care services, and job-related supports.

(c) The bureau shall propose rules for legislative approval during the 2014 legislative session in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish the following:

(1) The registry of in-home care workers;

(2) The requirements for inclusion on the registry as an "in-home care worker", including educational attainment;

(3) A fee schedule: Provided, That the Commissioner of the Bureau of Senior Services shall waive the initial registration fee for the first sixty days the registration is active;

(4) Requiring an applicant to obtain a state or federal criminal background check, as determined in legislative rule by the bureau;

(5) How a person obtains information from the registry; and

(6) Any other requirement necessary to implement the provisions of this section.

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