WEST VIRGINIA CODE CHAPTER 26 ARTICLE 1

WV Legislature

§26-1-1. Department of Health Facilities.

(a) Beginning January 1, 2024, the Department of Health Facilities is comprised of the agencies as provided in §5F-2-1a of this code, is charged with the administration of this chapter, and shall have those powers and duties respecting the administration of the assistance programs as authorized, granted and imposed by this chapter and elsewhere by law.

(b) The department is not subject to the requirements of §5A-3-1 *et seq*. and §5A-10-1 *et seq*. of this code.

(c) Employees hired on or after January 1, 2024, are not eligible for civil service as provided in §29-6-1 *et seq*., of this code.

(d) Beginning January 1, 2024, as used in this chapter, "department" and "Department of Health and Human Resources" means the Department of Health Facilities.

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§26-1-2. Secretary to be administrative head of department; appointment, qualifications, etc.; not to hold other office or engage in political activity.

(a) (1) The Secretary of the Department of Health Facilities is the chief executive officer of that department and beginning January 1, 2024, is charged with the administration of this chapter. The Governor shall appoint the secretary, by and with the advice and consent of the Senate, for the term for which the Governor is elected, and the secretary shall serve at the will and pleasure of the Governor. The Secretary shall be paid an annual salary not to exceed $175,000. Upon his or her initial appointment, which may be at any time after the effective date of this act, the Secretary shall take the oath of office described in this section and commence his or her duties. If appointed before January 1, 2024, the Secretary shall take the oath of office described in this section and commence such duties as determined by the Secretary to be necessary to prepare for the administration of this chapter.

(2) Before entering upon the duties of his or her office, the secretary shall take and subscribe to the oath of office prescribed by section five, article four of the state Constitution.

(3) The secretary shall not be a candidate for, or hold, any other public office or public employment under the federal government or under the government of this state or any of its political subdivisions, or be a member or officer of any political party committee, or serve as an election official, or engage in any political activity, other than to vote, in behalf of, or in opposition to, any candidate, political party or public issue involved in an election. Any violation by the secretary of the provisions of this section shall automatically vacate his or her appointment as secretary.

(b) Beginning January 1, 2024, as used in this chapter, “secretary” means the secretary of the Department of Health Facilities.

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§26-1-3. Secretary of Department of Health Facilities; powers and duties.

(a) In addition to the authority provided in §5F-2-2 of this code, the secretary shall:

(1) Coordinate efforts with the Secretary of Human Services and the Secretary of Health, including authority to share the expense of administrative services through a memorandum of understanding established by agreement of the secretaries as required under §5F-2-1a of this code;

(2) Manage, direct, control, and govern state owned health facilities;

(3) Operate state health facilities and adopt rules pertaining to their operation;

(4) Protect the rights of clients served by state health facilities;

(5) Develop and implement critical performance indicators to be used to hold state hospitals accountable. The performance system indicators shall be implemented no later than January 1, 2025; and

(6) Cooperate with the Office of the Inspector General and take action on its findings.

(b) The Secretary may:

(1) Acquire by condemnation or otherwise any interest, right, privilege, land, or improvement and hold title to the land or improvement, for the use or benefit of the state or a state hospital or facility, to sell, exchange or otherwise convey any interest, right, privilege, land, or improvement acquired or held by the state, state hospital, or state facility Any condemnation proceedings shall be conducted pursuant to §54-1-1 *et seq*. of this code;

(2) Receive donations;

(3) Accept, allocate, and spend any federal funds that may be made available to the state by the federal government; and

(4) Transfer residents between the facilities. The clinical director may accept transfer of residents from correctional institutions, subject to the provisions of §28-1-1 *et seq*. of this code.

(c) Any contract, agreement or memorandum of understanding between the secretary and West Virginia University, West Virginia School of Osteopathic Medicine or Marshall University for services is exempt from the provisions of §5A-3-1 *et seq*., of this code.

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§26-1-4. Supervision of each facility by administrator and clinical director.

Each facility shall have a chief executive officer denominated an "administrator." The administrator shall have the fiscal responsibility for the facility and the authority to manage and administer the financial, business, and personnel affairs of the facility under the direction of the secretary.

Each facility shall have a clinical director who shall have the responsibility for decisions involving clinical and medical treatment of patients.

WV Legislature